SENATE—*Thursday, June 27, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteous lips are the delight of kings; and they love him that speaketh right.—Proverbs 16:13.

When the righteous are in authority, the people rejoice * * *.—Proverbs 29:2.

* * * *the righteous are as bold as a lion.*—Proverbs 28:1.

God of our fathers, perfect in righteousness and justice, on this morning after the formal presentation of Senator BYRD's second volume of "The History of the Senate," with profound gratitude we express our appreciation for this uncommon man, this bold statesman, and for the labor of his hand. At this contradictory time in world affairs, as cynicism about our political system grows in America, half the world covets the secret of America's greatness and the effective working of its government for more than 200 years. Thank you for this book which not only reveals the facts about the U.S. Senate but reflects the respect and the reverence in which the Senate is held by the author.

Grant, mighty God, that this history will enjoy extensive and intensive examination by the people and their leaders.

In the name of the Lord of history. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time between 9 o'clock and 9:20 under the control of the Senator from Nevada [Mr. BRYAN]; the time between 9:20 and 9:40 under the control of the Senator from Louisiana [Mr. JOHNSTON]; the time between 9:40 and 10 under the control of the Senator from Maine [Mr. MITCHELL].

Mr. BRYAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. BRYAN. Mr. President, I yield myself 8 minutes.

NATIONAL ENERGY SECURITY ACT

Mr. BRYAN. Mr. President, it has been 11 months since the armies of Saddam Hussein abruptly reminded us that we are too dependent on foreign oil. In those months immediately following the August 2 invasion of Kuwait, we watched as oil spiraled to prices not seen since the 1970's. We heard commentary about how vulnerable the Persian Gulf oil fields were to military attack. We are now in a recession that many analysts believe was made deeper by the Iraqi invasion.

America was reminded night after night through the network news of the high price we paid because of our dependence on foreign oil. We were reminded by the sight of the military buildup, and then the clash of arms that followed.

The shocking element in this story is that America has been there before. Three times in two decades America has been shown that tying our economic umbilical cord to the Middle East is too dangerous.

Beginning in 1973, the OPEC nations sought to punish America for our support of the State of Israel by imposing an oil embargo. Gas lines, shortages, and recession followed.

Again, in 1979, the fall of the Shah in Iran led to a massive runup of oil prices. Recession and inflation followed.

And then the third oil shock came with Saddam Hussein's invasion last year. Price runups and a plunge in consumer confidence followed, leading to a deeper recession.

While America's involvement in the Persian Gulf conflict has many causes, there is little doubt of the importance of oil. Our dependency on imported oil played no small part in the deployment of half a million American men and women to the gulf.

Three oil shocks, recession, inflation, and war—this is the cost of our dependence. It does not take a crystal ball to look at what America will face in the future, growing more dependent on a region in the world which has not known peace in a millennium.

It would be the height of arrogance and wishful thinking to believe that we will not face additional crisis and instability in this troubled region of our world.

Congress and the President must address this dangerous dependence. We must move away from our dependence on oil and move toward the use of renewable and alternative fuels. Mr. President, we must conserve.

S. 1220 does not address what should be our fundamental energy policy goals.

We cannot drill our way out of this dependence, even if we were willing to put aside our concern for the environment. It is worth noting that the advocates for increased drilling in the Arctic National Wildlife Refuge and other sensitive coastal regions do not claim that drilling will reduce our dependence. The oil industry poses a false choice between taking environmentally risky actions or increasing our dependence.

But that is not the choice we face.

We can move toward renewable and alternative fuels. We can increase energy conservation, especially with the automobile fleet. An improvement of 40 percent in the automobile fuel economy standards will save America 25 percent of all the oil we are importing today. A saving of 2.5 million barrels of oil per day as a result of improving automobile fuel economy is as much as eight times the amount of oil we may possibly gain from drilling in the Arctic Wildlife Refuge.

S. 1220 poses several false choices. It is argued that damaging the Arctic refuge and running risks on the Outer Continental Shelf is necessary. That reducing nuclear licensing requirements is necessary and can be done safely in order to increase electrical generation. That reducing consumer oversight of utilities is necessary to in-

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

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crease electric power generation. These, Mr. President, in my judgment, are all false choices and are lightning rods for opposition.

The so-called Public Utility Holding Company Act [PUHCA] reform is a deceptive measure which would actually encourage utility monopolies, and reduce State oversight and consumer protection. This provision of the bill encourages construction of new conventional baseload generating facilities, while diminishing incentives for least-cost utility planning, energy efficiency, and renewable energy sources. This provision threatens the consumer as well as the financial soundness of the electric utility industry, at the same time doing virtually nothing to improve our energy security.

S. 1220 is an energy industry bill, not an energy strategy for the Nation. Senators who want to see an approach emphasizing reducing oil consumption, protecting the consumer, and not sacrificing environmentally sensitive areas must say "no."

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BRYAN. Mr. President, I yield to the distinguished Senator from Connecticut 7 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

NATIONAL ENERGY POLICY

Mr. LIEBERMAN. I thank the Chair and I thank my colleague from Nevada.

Mr. President, on the floor of the Senate, we join the national debate over energy policy. It is a critical debate to our Nation's future. It is not surprising that this is a debate and we approach it from different points of view, because what is involved is a pressing need to change and how to change. A controversy always occurs when change is necessary.

May I say, Mr. President, that while on this occasion I speak in disagreement of the work of the chairman of the Energy Committee, the distinguished senior Senator from Louisiana, I do so with great respect and, may I say, affection. We share a common interest. We just approach it from different directions.

Mr. President, our Nation is in need of an energy policy and strategy that will lead us into the 21st century. Our present policy relies too much on oil, particularly foreign oil. And our strategy is to buy, produce, and burn more of it. That is neither the policy nor the strategy designed to deliver our Nation a secure economy or a healthy environment. The war in the Persian Gulf should be ample reminder of the threat this reliance on oil poses to our national security.

The response of the administration to these concerns has been to propose legislation which would not only continue our reliance on oil and other polluting sources, but increase it by proposing programs for petroleum exploration and production, as if we could produce enough oil at home to lessen our dependence on oil abroad. I spoke out against that plan when it was first released earlier this year, and now I must speak out again—this time against the same plan in a different form. S. 1220, the National Energy Security Act, has been reported out of the Energy and Natural Resources Committee, and it may come to the floor soon for a vote. In my view, this act is not the national energy plan our country desperately needs.

Mr. President, the Senate is a remarkable body, but we cannot legislate geology. No matter what bills we pass, the great bulk of the Earth's oil will lie under the Middle East. No matter what incentives we provide for domestic production, the United States will still have—at most—only 3 percent of the Earth's oil reserves. The Persian Gulf region, by comparison, has as much as 70 percent of the Earth's oil reserves. As long as we, in this country, continue to use 25 percent of those reserves, we will be dependent on foreign oil—no matter how much we produce at home. We cannot wean ourselves from dependence on foreign oil unless we wean ourselves from dependence on oil itself. Any national energy policy or strategy must move us in that direction. That is why I am so concerned about the plan which may soon come before us—it does precisely the opposite.

Consider the centerpiece of S. 1220 and of the administration's energy bill—opening up the Arctic National Wildlife Refuge to oil exploration. The administration's most optimistic estimates of how much economically recoverable oil there might be in the Arctic refuge adds up to a 200 days' supply for our country—if there's any oil there at all, which is not certain. But say there is; 200 days of domestic oil would not ease our dependence on foreign oil. Two hundred days of domestic oil would not lower the price of oil or protect us from price shocks. Two hundred days of oil would, however, provide the oil industry with a tidy profit at the expense of one of the great natural areas of the world.

I am not against companies making profit, Mr. President; I just don't think the U.S. Government should be giving away one of its great remaining natural treasures in the guise of energy policy. Just when this country should be seeking ways to move away from dependence on oil the administration comes forward with a plan to dig up a national treasure in order to produce a limited supply. I hope Congress will not go along with it.

Consider for a moment what the Arctic National Wildlife Refuge is and what it represents. It is the only conservation unit in the world which protects a complete working wilderness ecosystem from the boreal forests through the mountains to the high Arctic. That is to say, Mr. President, America is privileged to possess the world's most complete and productive Arctic ecosystem. It is home to one of the last great migratory game herds in the world. The porcupine caribou, 180,000 strong, migrate across Canada and the Brooks Range to the coastal plain of the Arctic National Wildlife Refuge to calve. The U.S. Department of the Interior has called their migration, arrival, and calving an extraordinary spectacle. The caribou, however, are not solely responsible for the extraordinary nature of this refuge. Polar bear den on the coastal plain. Musk oxen, moose, wolves, arctic foxes, wolverines, and grizzly bear, snow geese, waterfowl, and a variety of shorebirds share the tundra and its rivers. These animals exist on a fragile and limited ecosystem that would be destroyed for a century or more, according to the U.S. Department of the Interior, if we were to allow full oil leasing in this area. Also threatened are the native peoples who rely on a healthy Arctic ecosystem for subsistence. Sarah James, a Gwich'in, testified on behalf of her people before the Subcommittee on Environment and Public Works:

> In my village, about 75 percent of our protein comes from caribou. It's not just what we eat * * * Caribou are * * * in our stories and songs and the whole way of the world * * * it is who we are.

I spend this much time on the value of the Arctic National Wildlife Refuge because Energy Secretary Watkins testified before the Senate Energy and Natural Resources Committee that President Bush would veto any energy legislation that did not include the destruction of the refuge. Is this "who we are," Mr. President, when we urge Brazil not to burn down its rainforests? Is this who we are when we counsel China against reliance on coal or try to guide developing countries away from dependence on chlorofluorocarbons? If the destruction of the last intact and productive ecosystem of its kind in the world in exchange for 200 days' supply of oil and more profits for a handful of oil companies is who we are, how can we hope to convince other countries to join us in an effort to reduce reliance on fossil fuels or chemicals which are proven dangerous to our health and our planet?

Mr. President, the American people exhibit common sense when it comes to energy policy. A nationwide poll conducted by the Alliance to Save Energy found that three out of four Americans believe that reducing energy demand makes more sense than increasing energy supplies—particularly when those supplies are largely comprised of oil. The centerpiece of energy policy legislation coming out of the Congress

should respect and reflect those American values. Sound energy policy should begin with strong conservation measures and effective energy efficiency measures.

The largest user of oil in this country is transportation. While records show that oil consumption has declined in many major sectors of our economy—in electricity generation it is down 50 percent, and industrial use of oil has dropped 10 percent—the use of petroleum in transportation has grown 20 percent since the boycott of 1973. In 1989, transportation accounted for 63 percent of the total oil consumed in this country every day, with more than half the amount allocated to transportation consumed by automobiles.

The Energy and Natural Resources Committee has an opportunity to mandate fuel efficiency in its bill, but it declined. Senator BRYAN has a bill which would raise the fuel economy of automobiles to 40 miles per gallon by the year 2000. Any serious energy policy would have as its centerpiece a strategy such as this. The Department of Transportation estimates that if we pass the Bryan bill this year we could save more than 49 billion gallons of gasoline by the year 2000. By 2005, these fuel economy measures would save more than 10 times the most optimistic estimates of oil to be found in the Arctic National Wildlife Refuge.

Mr. President, these savings would certainly improve the independence of our economy and our ability as Americans to protect the quality of our lives and our standard of living. Eighty-four percent of the American people support increasing the fuel efficiency of automobiles.

But there is another reason we should be seeking to curb our dependence of oil—it is not just the money it will save us or the independence from foreign influence it will secure us. By making millions of automobiles burn less gas, we could dramatically reduce—by 500 million tons—the amount of carbon dioxide that goes into the atmosphere and greatly boost our efforts to slow the threat of global warming.

The very last thing we need right now, Mr. President, is an energy policy that encourages sending more carbon dioxide into the air. But by encouraging more oil exploration, development, and consumption, that is what S. 1220 does.

Carbon dioxide is, everyone agrees, a dangerous greenhouse gas. It accounts for 55 percent of the gases that contribute to global warming. The United States, with about 5 percent of the world's population, generates more than 20 percent of all manmade emissions of carbon dioxide. A recent report by the Congressional Office of Technology concludes that present carbon dioxide levels are already higher than at any time in the past 160,000 years. The National Academy of Sciences in its report, "Policy Implications of Global Warming," notes that the atmospheric concentration of carbon dioxide has increased 25 percent during the last century and is currently increasing at about 0.5 percent per year.

There is widespread agreement among scientists that, in the absence of strong actions, the levels of carbon dioxide will continue to rise dramatically. The International Panel on Climate Change, comprised of scientists from countries around the world, and the U.S. Environmental Protection Agency, have concluded that an immediate 60- to 80-percent reduction in CO_2 emissions is necessary to stabilize concentrations at current levels, in addition to significant reductions in other greenhouse gases.

Mr. President, the National Academy of Sciences states:

> Despite the great uncertainties, greenhouse warming is a potential threat sufficient to justify action now.

The OTA report concludes with this warning:

> We cannot yet predict the magnitude of climatic effects from greenhouse gas emissions with accuracy. But it is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emissions of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects. Today's emissions thus commit the planet to changes well into the 21st century.

Eighty-four percent of the American public wants automobile fuel efficiency—to save money and gasoline. The leading scientists in the world are telling us we must reduce CO_2 emissions in order to slow global warming. And yet S. 1220 does not mandate fuel economy. Worse, it encourages a costly and dangerous dependence on oil.

It is bad enough, Mr. President, that the administration has failed to come up with an energy policy and the strategies needed to take our Nation into the 21st century; let's not see Congress fail as well. Sound energy policy should begin with strong conservation measures, effective energy efficiency measures, and the means to develop renewable energy sources. And the Federal Government should take the lead in implementing these strategies.

Administration policymakers seem intent on removing the Government as much as possible from the energy marketplace, but they cannot deny this reality—the Government is, at a cost to taxpayers of $4 billion each year, the single largest consumer of energy. At the same time, in the past 10 years, Federal funds for the research and development of alternative fuels has been slashed by nearly 90 percent. There is a way we could make the Federal Government conserve fuel and help develop at least one new alternative energy source. We could mandate that the Federal Government use alternatives such as fuel cells—in a limited way at first—in our Federal facilities. This use would demonstrate their value and stimulate larger markets for their use.

I mention fuel cells, Mr. President, because this technology and our handling of it seems to me to demonstrate just one more way in which a lack of a national energy policy which is responsive to our present dependence on oil is hurting us. Fuel cells are clean, renewable batteries; they are at the leading edge of energy technology, and they were developed largely in this country. But it is other countries—Japan and Germany—which are spending millions to refine and market them. The point is this, Mr. President, we have the technology and the inventiveness; we can develop alternative energy sources such as fuel cells ourselves, or we will end up having to buy them from our competitors in the global market.

Energy policy is economic growth policy. America wastes energy. American industry is the least energy efficient in the world. Our firms are 100 percent less energy efficient than our competitors in Japan and Germany. Than means our products are correspondingly less competitive. I support a new direction in energy policy—not just because our environment demands it, but because our long-term economic growth requires it.

The lack of a comprehensive national energy policy has hurt our Nation in four important ways: Our trade deficit goes up and our domestic economy suffers whenever world oil prices increase; other nations are winning a competitive edge in the development of new energy technologies; human health and the environment suffer because of our continuing use of polluting energy sources; and by continuing our dependence on oil which exists largely in unstable areas of the world, we put our national security at risk. The administration has done nothing to solve these basic problems. Neither does S. 1220 do anything to solve these basic problems—and worse—it has as its centerpiece the demeaning of the Arctic National Wildlife Refuge. We need to make a dramatic departure from the policies of the past and embark on a path toward a more conserving, efficient, clean, prosperous, and secure America. Mr. President, we do not yet have before us the legislation which will accomplish those goals.

I thank the Chair. I yield the floor.

Mr. BRYAN. Mr. President, I yield the remainder of time under my control to the distinguished Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator has until 9:20. The Senator from Minnesota is recognized.

A NATIONAL ENERGY POLICY

Mr. WELLSTONE. Mr. President, first of all, let me just echo the eloquent remarks of the Senators from Nevada and Connecticut.

This Nation desperately needs an energy strategy that responds to the very serious problems we can all foresee: threats to our environment, including global warming caused by our addiction to fossil fuels; vulnerability to energy supply disruptions and the sudden price increases resulting from our heavy dependence on foreign oil; and the decline in economic prosperity and international competitiveness which will be the hallmark of the 21st century if we fail to commit our resources to achieving world leadership in energy efficiency and renewable energy supply technologies.

The time is right for a new strategy. With public attention focused on these problems, with the American people supportive of major shifts to energy conservation, energy efficiency, and renewable energy sources, we have a historic opportunity to redirect our Nation's energy policies to shaping and managing the transition to a sustainable energy future.

Unfortunately, S. 1220 is not a new energy strategy. What began as a very promising Department of Energy effort 2 years ago when Secretary Watkins sponsored public hearings all around our country has been captured and led astray by interest group politics and, I think, White House ideologues.

This bill is fundamentally flawed. It does not change the dangerous direction of our current energy course, and it would be a disastrous framework for U.S. energy policy in the 1990's and on into the 21st century.

Mr. President, instead of the new energy strategy America needs, what has emerged from the Senate Energy Committee is a Christmas tree bedecked with presents energy industries have wanted for years. This bill would allow the Department of Transportation to establish future automobile fuel economy standards, the same agency that has vigorously opposed any increase in standards, the agency that has already rolled back CAFE standards when it had the opportunity.

This bill would mandate that the Arctic National Wildlife Refuge be leased and developed for its possible oil resources. One of the last remaining pristine wilderness areas in the United States would be sacrificed to the oil companies so that they could reap enormous profits for what would amount to at best a meager addition to our Nation's total oil reserves.

This bill would accelerate the licensing of nuclear powerplants by eliminating key public participation provisions and insulating Nuclear Regulatory Commission decisions from judicial review. In its rush to resurrect the moribund nuclear power industry, the bill would trample the rights of the public, and that is wrong.

This bill would authorize billions of tax dollars for nuclear energy and synthetic fuels demonstration projects in the name of advancing nuclear reactor and clean coal technologies.

This bill would advance deregulation of the electric utility industry, reopening the door to monopolistic practices in the wholesale generation of electricity, undermine promising State efforts to promote least-cost electric utility service, and encourage, I fear, the construction of unnecessary new generating capacity.

This bill would expedite gas pipeline construction by running roughshod over the rights of farmers and other property owners, restricting rights of citizens to participate in public hearings, and eliminating environmental review.

This bill would weaken the Clean Air Act under the guise of pollution control. It would allow refurbished power plants to ignore the emission control standards and exempt from public review the air pollution problems that would be caused.

This bill would cancel over $10 billion in debt owed to the U.S. Treasury by the nuclear industry for past uranium enrichment services and subsidize industry costs for cleaning up active uranium processing sites.

These are just some of the problems of this bill which have led me to the decision to vote against it in committee and to oppose it here on the Senate floor.

Mr. President, this is not the energy strategy that the American people want. It is not farsighted, and that is why I believe the bill has to be opposed.

ENERGY EFFICIENCY INITIATIVES IN S. 1220

Mr. JOHNSTON. Mr. President, S. 1220, the National Energy Security Act of 1991 contains the most comprehensive package of energy efficiency proposals currently before Congress. The table of contents of title VI of the bill lists over 25 provisions, including provisions designed to:

Increase energy efficiency in the industrial, commercial and residential sectors of the economy;

Encourage the Federal Government to use energy more efficiently;

Provide incentives to utilities to aggressively promote efficiency;

Assist State and local governments in implementing energy efficiency programs; and

Establish a program for the collection and resuse of used oil that is improperly dumped into the Nation's soil and water.

Virtually all of the energy efficiency proposals presented for the committee's consideration have been included in S. 1220 in some form. While the full Senate may debate how specific provisions should be strengthened or modified, S. 1220 puts nearly all viable nontax energy efficiency policy options into play for consideration by the 102d Congress.

Energy efficiency is an attractive policy option because it is a proven energy resource, and because it provides substantial environmental and economic benefits to the Nation in addition to enhancing national energy security. Since 1973, U.S. energy use has increased by 8 percent, while GNP has increased by 46 percent. This is a 30-percent reduction in energy use below that projected in 1973. The Department of Energy estimates that this efficiency increase resulted in annual energy savings in 1986—relative to 1973 trends—worth $180 billion.

A 1990 Oak Ridge National Laboratory study reports that the use of existing, cost-effective energy efficiency improvements could produce similar savings in the future.

Title VI of S. 1220 authorizes numerous initiatives designed to help achieve this potential. Some highlights are—

UTILITIES

The Nation's utilities are in a unique position to promote energy efficiency because of their technical ability to evaluate energy efficiency opportunities, their unique ability to communicate with their customers regarding such opportunities, and their ability to assist in financing energy efficiency improvements. Regulation of utilities is primarily a State, rather than a Federal function. Unfortunately, in most States a utility's profits are linked to its energy sales. Therefore, there is an institutionalized disincentive for utilities to promote measures that reduce sales even though they result in more efficient use of energy.

S. 1220 would reverse this situation, and would encourage utilities to aggressively promote energy efficiency, by directing States to consider allowing utilities to earn at least as much profit from energy efficiency program investments as they earn from energy production investments. Such a shift in State policy would convert the current disincentive into a powerful incentive.

In addition, S. 1220 encourages the States to consider directing utilities to adopt integrated resource planning and imposes integrated resource planning requirements on certain Federal power marketing agencies and the Tennessee Valley Authority. Integrated resource planning is a decision-making process that considers all of the alternatives for meeting utility service needs—including energy efficiency alternatives—before final investment decisions are made. Given the cost-effectiveness of many energy efficiency projects, the adoption of integrated resource planning by utilities and Federal power marketing agencies will result in more energy efficiency initiatives by utilities. Preliminary estimates by the American Council for an Energy Efficiency Economy are that these initiatives will save the Nation 1.3 quadrillion Btu (quads) per year by the year 2010.

APPLIANCE STANDARDS

Appliance and equipment standards established under the Energy Policy and Conservation Act [EPCA], are one of the most cost-effective Federal energy efficiency programs. The annual cost of the program to the Department of Energy is less than $5 million annually. However, the savings that result from the elimination of the least efficiency models of appliances are substantial. For example, the savings from the residential appliances under existing law, such as furnaces, water heaters, and air-conditioners, will reach nearly 1 quad annually by 2000.

S. 1220 expands this residential appliance program by establishing maximum flow rates for showerheads that would result in additional energy savings estimated at nearly 0.4 quads annually by 2010. Perhaps more importantly, S. 1220 establishes or authorizes standards for commercial and industrial equipment for the first time. It is estimated that the inclusion of commercial air-conditioning and heating equipment, lamps, and utility distribution transformers in the appliance standards program will save the Nation over 0.5 quads annually by the year 2010.

BUILDING SECTOR

Buildings consume roughly 36 percent of the Nation's energy, 30 quads, with 60 percent used in residential buildings and 40 percent used in commercial buildings. S. 1220 includes an extensive package of proposals to spur energy efficiency improvements in buildings. The bill requires the Department of Energy to establish voluntary National energy efficiency standards for residential A commercial buildings. Additional provisions include the establishment of voluntary national home energy rating guidelines, the promotion of energy efficient mortgages to assist in the purchase of energy efficient housing, the encouragement of stronger energy efficiency standards for manufactured housing by the Secretary of Housing and Urban Development, and the development of labeling programs for important building components such as windows and lighting.

Building standards have an enormous potential for energy savings, but are slow to produce results because of the slow rate of turnover in the Nation's housing stock.

These are just some of the highlights of the energy efficiency initiatives of S. 1220 with some preliminary energy savings estimates. As more specific estimates of the bill's impact on energy savings and production are developed they will be presented in the RECORD. I ask unanimous consent that a side-by-side comparison of energy efficiency provisions of the three principal Senate energy bills: S. 1220, S. 741, and S. 570, be printed in the RECORD, and finally, a summary of S. 1220 is available from the committee, and the committee report (S. Rept. 102–72) and copies of the bill are available from the Senate Document Room.

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

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Establishes a nonexclusive list of policies to be considered in devising a strategy for stabilizing greenhouse gases. Sets guidelines for U.S. policy with respect to an international framework convention on global climate change.	Sec. 1201	Sec. 5	Not included.
Requires that DOE's biennial National Energy Plan include a "Least-Cost National Energy Strategy" designed to outline policies and assign priorities among the energy resources that the Secretary determines to be the most cost-effective.	Sec. 1202	Sec. 101	Do.
Requires the Secretary to appoint a Director of Climate Protection to serve as the Department's representative on all interagency and multilateral policy discussions regarding global climate change.	Sec. 1203	Sec. 111	Do.
Designates additional duties for the Committee on Renewable Energy Commerce and Trade (CORECT) in order to promote the U.S. manufacture and export of renewable energy technologies.	Sec. 5101	Sec. 311	Do.
Establishes a complementary interagency working group—the Committee on Energy Efficiency Commerce and Trade (COEECT)—for the promotion and export of energy efficient technologies.	Sec. 5101	Not included	Do.
Expands the comprehensive data base and technology information dissemination system under CORECT. Establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and Caribbean.	Sec. 5102	Sec. 312	Do.
Requires comprehensive technology evaluation and report on technologies, services, etc., for renewable energy exports.	Sec. 5103	Sec. 313	Do.
Establishes an advanced research and development information computer network to provide information on energy efficiency and renewable energy.	Not included	Sec. 304	Do.
Expands the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act to include biofuels energy systems, high-temperature and low-temperature geothermal energy systems, solar water heating technologies, photovoltaic and wind energy systems, biomass direct combustion or gasification technologies, fuel cell technologies, and utility-scale photovoltaic systems.	Sec. 5201	Sec. 305 and Sec. 235. Joint ventures limited to photovoltaics and fuel cells. See Sec. 235.	Do.
Directs the Secretary to conduct a program to promote and demonstrate the commercial application of fuel cell systems in Federal buildings.	Not included	Sec. 235	Do.
Directs the Secretary to conduct a joint venture for energy technology export training.	Sec. 5201(a)	Not included	Do.
Grants authority to the Secretary of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.	Sec. 5201(c)	do	Do.
Requires the Secretary to undertake a report evaluating opportunities to minimize waste outputs from production processes in United States industry.	Sec. 5202	do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Amends EPCA to encourage the development and implementation of renewable energy and energy efficiency projects at the State and local level.	Sec. 5203	Sec. 302	Do.
Establishes a facility—the Spark Matsunaga Renewable Energy and Ocean Technology Center—for cooperative research and development in Keahole Point, Hawaii.	Sec. 5204	Not included	Do.
Authorizes funds to enable the Federal labs to better provide current information on renewable energy and energy efficiency to industry, the public, and Government.	Not included	Sec. 303	Do.
Authorizes funding of 4 pilot programs for demonstration of renewable energy and energy efficiency.	.....do	Sec. 303(b)	Do.
Establishes a program at the Department of Energy, in consultation with the National Academy of Sciences, for awarding cash prizes for technical achievement in the following technologies: solar thermal; photovoltaics; windpower; sustainable biomass; and geothermal.	Sec. 5205	Not included	Do.
Directs the Secretary of the Interior to study and implement water use efficiency measures at Federal reclamation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish and wildlife.	Sec. 5304	.....do	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for renewable energy research and devlopment programs.	Sec. 13109	Sec. 301	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for energy efficiency research and development programs.	Sec. 13110	Sec. 201	Do.
Requires the Secretary of Energy to issue a Federal building energy code to assure that all new Federal buildings include energy efficiency measures that are technically feasible and economically justified.	Sec. 6101	Not included	Do.
Requires all buildings receiving Federal mortgages to meet or exceed the Federal Residential Building Code.	Sec. 6102	Section 221. All *new* construction must meet updated State building codes.	Do.
Requires the Secretary to support and participate in the upgrading of the voluntary industry building energy codes, and authorizes incentive funding to States and localities which adopt energy building codes at least as stringent as the voluntary industry code.	Sec. 6101	Sec. 224	Do.
Directs States and localities to certify that they have reviewed and updated their residential and commercial building codes to be at least as stringent as the voluntary industry code with respect to energy efficiency.	Not included	Sec. 221	Do.
Directs the Secretary to issue voluntary guidelines to be used by States, local organizations and others to develop energy rating systems for residential buildings. Authorizes technical assistance to encourage the adoption of rating systems.	Sec. 6102(a)	Sec. 222	Do.
Encourages the use of energy efficient mortgages to maintain housing affordability by authorizing a requirement that homebuyers be notified of the availability of energy efficient mortgages at the time of mortgage application. Provides credits for solar energy.	Sec. 6102(c). Links uniform mortgage financing plan to Federal building codes.	Sec. 222. Homes must include efficient mortgage provisions and standards.	Do.
Requires the Secretary to make recommendations to the National Commission on Manufactured Housing and HUD regarding energy efficiency improvements to manufactured housing (mobile homes).	Sec. 6103(a)	Sec. 223	Do.
Requires the Secretary to test the performance of manufactured housing.	Sec. 6103(b)	Sec. 223	Do.
Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.	Sec. 6104	Sec. 212	Do.
Directs the Secretary to prepare a report evaluating the potential of current energy efficiency policies to decrease overall U.S. energy use and oil consumption per unit of GNP.	Sec. 6105	Sec. 202	Do.
Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities.	Sec. 6106	Sec. 213	Do.
Authorizes the Secretary to establish a program to establish reporting requirements and energy consumption targets for certain energy intensive industries.	Sec. 6108(c). Requires the Secretary to submit a report on the costs and benefits of such a program.	Sec. 214. Program is mandatory.	Do.
Requires the Secretary to provide financing for the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems. Requires the FTC to develop such a program if it is not done voluntarily within two years.	Sec. 6107	Sec. 225	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Directs the Administrator of the EIA to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.	Sec. 6108	Sec. 215	Do.
Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for lamps and luminaires. Requires the FTC to develop such a program if it is not developed voluntarily within 2 years.	Sec. 6109	Not included	Do.
Adds lamps, commercial air conditioning and heating equipment, motors and utility distribution transformers to the appliance energy efficiency program, and requires the Secretary to conduct a study of the potential benefits of upgrading utility distribution transformers at the time of their routine maintenance.	Sec. 6110. Does not include electric motors. Sets an industry standard for package heating and cooling systems.	Sec. 226	Not included. Precludes standards for lighting systems.
Requires the Secretary to support the development of a voluntary labeling system for commercial office equipment.	Sec. 6110	do	Not included.
Establishes energy efficiency standards for showerheads	Sec. 6111	do	Do.
Requires Federal agencies to install energy efficiency improvements with pay-back periods of 10 years or less and establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities. Encourages shared savings contracts.	Sec. 6201(a,d)	Sec. 231. Prohibits funding for agency construction in States where energy efficiency requirements have not been met.	Do.
Requires that all government leased space constructed after January 1994 meet the Federal building code under EPCA.	Sec. 6201(b)	Not included	Do.
Directs agencies to participate in utility energy efficiency incentive programs.	Sec. 6201(f)	Sec. 231	Do.
Directs GSA to identify the energy cost-effectiveness of items listed in the GSA Federal Product Schedule.	Sec. 6201(d)	do	Do.
Prohibits Federal acquisition of cars with fuel economy less than CAFE for the previous model year. Exceptions for armed forces, law enforcement, and emergency vehicles.	Sec. 6201(f). Only requires consideration of fuel economy.	Sec. 232	Do.
Authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy.	Sec. 6201(f)	Sec. 231. No limit on awards.	Do.
Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.	Sec. 6202	Sec. 234	Do.
Directs the Secretary to report on the potential of using Federal purchasing power to encourage the development and commercialization of new energy efficient products.	Sec. 6203	Sec. 236	Do.
Requires State commissions to consider decoupling regulation of utility profits from power sales in order to remove the disincentives for utilities to pursue demand side management and energy efficiency resources; requires State commissions to consider requiring utilities to engage in integrated resource planning (IRP).	Sec. 6301. Includes cost of environmental *compliance* in utility's least cost plan.	Sec. 241. Includes cost of environmental *degradation* in utility's least-cost plan.	Do.
Considers measures to increase the efficiency of energy use as "qualifying facilities" and thus eligible for programs under PURPA.	Not included	Sec. 241(c)	Do.
Establishes grant program for encouraging the consideration by State utility commissions of demand-side management measures in order to meet future demand for electricity.	Sec. 6302. Grants limited to $500,000 per State.	Not included	Do.
Requires Southwestern Power Administration and the Southeastern Power Administration to consider requiring nonregulated utility customers to implement IRP as a condition of future power contracts.	Sec. 6303	do	Do.
Directs Power Marketing Administrations and customer utilities to acquire all feasible and cost-effective power from energy efficiency.	Not included	Sec. 242. Adds triennial program review and includes environmental costs.	Do.
Requires the Tennessee Valley Authority to employ Integrated Resource Planning in exercising its functions.	Sec. 6304	Sec. 242(f)	Do.
Provides for financial assistance to Insular area governments, for the purpose of encouraging the adoption of energy efficiency and renewable energy measures.	Sec. 6501	Not included	Do.
Authorizes the Secretary to provide up to $1 million per State to capitalize a revolving fund for energy efficiency projects in State and local government buildings in those States which have demonstrated a commitment to improve building energy codes.	Sec. 6502	do	Do.
Authorizes supplemental grants to Weatherization Program grant recipients to cover the costs of arranging private sector contributions to the program, and to cover the costs of training and educational activities between program grant recipients.	Sec. 6503	do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Authorizes State Energy Conservation Programs to use Federal funds to assist in training building designers and contractors in energy systems, energy efficiency, and renewable energy technologies.	Sec. 6504	Sec. 227	Do.
Authorizes supplemental funding under the existing State Energy Conservation Programs to increase public understanding of energy issues and to provide teacher training in energy education.	Sec. 6505	Not included	Do.
Sets guidelines for the Secretary to provide financial assistance to tribal governments to plan and implement energy efficiency and renewable energy projects.	Sec. 6506	do	Do.
Requires State Energy Conservation Plans to provide for vehicles to turn left from a one-way street onto a one-way street at a red light as a condition for receipt of Federal SECP funding.	Sec. 6507	do	Do.

Mr. JOHNSTON. Mr. President, my three distinguished friends and I agree on one set of facts I believe, that this country is in a heck of a fix. These charts which I have very graphically illustrate what our fix is.

The first red line here is U.S. petroleum consumption. Mr. President, from 1980 to 1990, we have gone up and up and the projection by the Department of Energy is for a very rapid ascent on energy consumption.

On energy production, Mr. President, it is the same kind of slant of the line, only petroleum production is going down, from a high of 10 million barrels a day in about 1985, already repidly going down. And the projections are that it is going to be even more rapidly descending. What this line tells us is that no matter what we do this country is going to be heavily dependent upon imported crude oil with or without drilling in ANWR, with or without an elephant finding of oil in Alaska. We are going to be heavily dependent.

The results of this, in terms of trade deficits are, as you would expect, frightening. Here is the trade deficit; the yellow line and the black line represents the oil import bill. The oil import bill now makes up over a third of the total trade deficit, will soon be half the trade deficit, and will grow from there.

Finally, Mr. President, what is the outlook? The outlook in term of crude oil is even worse. The outlook of things to come is shown by the rotary rigs in operation. This is what we look for when we look for what the trends will be. These are the rotary rigs, from a high of 4,000 rigs shortly after 1980 when the price was up. We have gone down now to in the neighborhood of 500 rotary rigs.

We are in a heck of a fix, Mr. President.

Mr. President, I hope I do not sound patronizing or arrogant when I point out that my three colleagues who have just spoken are all freshmen. I came here as a freshman in 1972, arrived on the Energy Committee under the late, great "Scoop" Jackson. And in the intervening 19 years I have seen just about everything tried in terms of energy, participated in much of it, and reported much of that legislation.

I was a coauthor of the first solar bill that I recall up here under the late, great Hubert Humphrey. I was here when Jimmy Carter said we are going to have 20 percent solar by the year 2000. We have a little more than the equivalent of one nuclear power plant, about 1,000 megawatts, in solar energy that has been produced, solar energy properly defined.

That does not mean we should not continue with solar. We should. And in my Appropriations Subcommittee we provide money for solar. I am for giving more money to solar, but keep it in perspective.

We tried gasohol. In my State, we subsidized gasohol at $1.60 a gallon. We had a $26 million Federal loan guarantee for one gasohol plant that was going to help our sugarcane industry as well. They could not even get it off the ground. But gasohol has a niche too.

We have tried shale oil. I remember Dr. Hammer came up here and told us shale oil was going to be the solution to this whole thing. And you might have read just the other day where Unocal shut down after losing several hundred million in their shale operation even though it was being subsidized by the Government at over $40 a barrel.

I reported the synfuels bill to the Senate floor. We passed it into law, and later the Congress saw fit not to pursue the synfuels bill. Part of that decision was good; part of it was not so good.

We have tried regulation under Nixon and Ford. We have tried deregulation under President Reagan. We have tried the free market under President Reagan. We have tried the Project Independence under President Nixon. We have tried the National Energy Act, which I reported under President Carter in five ambitious parts. We tried the Energy Security Act under President Carter, the free market under President Reagan. We have tried secondary and tertiary recovery under the Energy Policy and Conservation Act. We have tried tax benefits for stripper wells. I helped cosponsor that.

We have heard the nuclear industry in years past say nuclear energy is going to be too cheap to measure. We have tried fuel efficiency, which has worked up to a point. We have tried CAFE standards. We have done conservation. We reported more conservation bills out of our committee than any other committee, and there are literally hundreds of pages of laws respecting energy conservation. We have tried electric cars, alternate fuels, clean coal, and the list goes on and on, Mr. President. And I have participated in it.

But those charts show the inexorable trend. We are more and more dependent. We just sent 500,000 American men and women to the Middle East to risk their lives, and some did not return, because, to a large extent, of energy.

Mr. President, things need to change in this country. I have heard all this pie in the sky about this one single solution. I have heard solar energy. I have heard CAFE. I have heard it all. I have participated in almost all of it, Mr. President, over 19 years. And there is one thing that is indelibly clear—that there is no one solution.

All I heard out of my distinguished freshmen friends today is CAFE, and I agree CAFE ought to be part of that solution. But we have a bill in 15 different titles.

That is what the country needs. The Department of Energy says our bill, S. 1220 will save 6 billion barrels a day, and we do not do it all by ANWR, by the Arctic National Wildlife Refuge drilling. But, Mr. President, Arctic National Wildlife Refuge is an important part of it. There might be as much as 200 billion dollars' worth of oil there. There might be that much. There may be nothing there. We do not know. But it may be that much.

By gosh, if we have it, we ought to go see. We are told that is a pristine area. It is not. There is a village there with people living, and automobiles and laundries, food being cooked, and all of that, a village, Kaktovik. There is a radar station there. There is hunting allowed—blood sports if you will—hunting allowed out there in the Arctic National Wildlife Refuge. It is not unique.

Do you know how many acres there are in the area we want to drill? There

are 1.5 million acres, a lot of acres. Do you know how many acres are in the entire coastal plain of Alaska? There are 53 million with 8 of 19 million acres in the Arctic National Wildlife Refuge itself.

Mr. President, the tundra is one of the most prolific life forms in the world.

Get a map of the Arctic and you will see that the ice cap is surrounded by tundra. In Canada, you can go into Canada 300 miles from the U.S. border or more than that—my counsel has been there 300 miles, and he says it looks just the same, same kind of Eskimo, same habits, same tundra. Fifty-three million acres in America, in Alaska, and we want to drill on 1.5 million, and we are told it is unique, it is pristine, more valuable than anything else.

Of course, it has value, Mr. President. But I submit to you, compared to the Gulf of Mexico, where we produce 2 billion pounds of commercial seafood, it produces no commercial seafood. It produces vanishingly small amounts of sports fisheries. You might have three or four people on a given day fishing there. Tens of thousands are out in the Gulf of Mexico.

But you say drill in the gulf, in the Rockefeller Wildlife Refuge, in Mobile Bay, drill anywhere down south, but please do not drill on this piece of frozen tundra called the Arctic National Wildlife Refuge. Mr. President, that will not wash, not when we had 500,000 American men and women over in the gulf because of energy.

Mr. President, we need to do it all. We need to do it all: ANWR, nuclear, CAFE, energy efficiency, alternate fuels; everything we can get our hands on, we need to do. That is what our bill, at 6 million barrels a day, does.

The ACTING PRESIDENT pro tempore. The Senator's time is up.

Mr. JOHNSTON. I yield to my distinguished friend from Wyoming the remainder of the 10 minutes.

Mr. President, I think Senator CONRAD wanted some time, as well, but I will give it to the distinguished Senator from Wyoming, and perhaps we can find a way to let people speak.

Mr. WALLOP. Mr. President, is there 10 minutes remaining?

The ACTING PRESIDENT pro tempore. About 9 minutes.

NATIONAL ENERGY SECURITY

Mr. WALLOP. Mr. President, I doubt if there is one Member of this body that has not criticized the failure of Congress to formulate a national energy policy, or lamented the economic and trade consequences of our country's critical dependence on imported oil from the politically unstable Persian Gulf. Over the years, at one time or another, each of us has characterized the formulation of a long-term, comprehensive, and consensus-based national energy strategy as one of the most important tasks facing the Congress.

The debate over national energy policy has racked this body for more than 40 years—long before many of us entered public service. Yet we are still at it.

The Interior and Insular Affairs Committee's 1951 report, Senate Document 82-8, supported, and I quote, "the formulation of policies designed to increase the availability of reliable energy resources by drawing more heavily on those which are inexhaustible, such as water, wind, and the Sun;" what are now called renewable resources, and continuing, "by improving the methods of producing exhaustible resources; and by encouraging the more efficient consumption of energy," all the objectives that are being stated here today, 40 years later. The study then went on to cite the universal objective that all of this must be done to the, and I quote, "end that the American people may have the assurance that their energy resources will not be dealt with so improvidently as to limit the ever higher and higher level of living possible with our national genius and our wealth of resources," end quote. But that did not easily come about.

The committee was to return to the need for a national energy policy, again in 1961 and 1962, and again from 1971 through 1976, when the Senate commissioned further investigations into our Nation's energy posture and the need for a national energy policy.

In 1962, the Senate's National Fuels and Energy Study Group observed when submitting its report to the then committee chairman, Senator Clinton P. Anderson, and I quote, "we found ourselves continuously dismayed to learn how little positive information exists, how much is impression and folklore, in subject area after subject area, in industry after industry. Belief in this folklore is deep and it is held with passionate, thought honest, tenacity. Too often, to our minds, have we been forced to write: 'No one knows * * *.'" But once again, we continued to muddle forward through the 1960's into the 1970's without a comprehensive energy policy. Only with the recent Persian Gulf crisis did the need for a national energy policy again receive the attention of the Congress.

Mr. President, the National Energy Security Act of 1991 responds to this need. The measure sets forth such a strategy; one that will not only further our national security interests, but will also create American jobs, help our balance of payments, and lessen our dependence on foreign energy markets and international cartels.

Over the last few months the committee has worked closely with the Department of Energy and the White House to formulate comprehensive legislation that will set our Nation on the right course toward the more efficient use of energy and greater energy self-sufficiency. The American people deserve nothing less from their elected leaders.

As a consequence of these energy efficiency and production initiatives, oil imports are expected to be reduced in the year 2000 by an estimated 2.9 million barrels a day and in the year 2010 by over 6 million barrels a day. These savings are achieved by major energy conservation and energy supply initiatives in six complementary areas; and I emphasize, complementary areas.

Our country is fortunate to have a broad spectrum of energy resource choices—energy conservation, coal, uranium, oil, natural gas, and renewables. A successful national energy strategy should provide sufficient flexibility for all of these alternatives to compete in the marketplace. It is a balanced bill that deserves enactment this year.

At this precise moment which follows a war in the Persian Gulf, we should be in a period of unusually clear thinking. Unfortunately, however, some of our colleagues are operating in a fog.

The American people, and indeed the world, are ready for such a reexamination of our joint dependence on the Persian Gulf for those energy supplies that are critical to all of our economic futures.

Mr. President, S. 1220, the National Energy Security Act of 1991, is a balanced bill that provides a long-term, comprehensive, and consensus-based energy policy for the United States. By reporting the S. 1220, the National Energy Security Act, the committee demonstrated that it is possible for representatives of this body to address complicated issues such as national energy policies in a comprehensive and balanced manner. What now remains is for the full Senate to bring up the bill and deal with the issues before us.

I ask unanimous consent that some related materials be printed in the RECORD at this point.

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

THE DEPUTY SECRETARY OF ENERGY,
Washington, DC, June 25, 1991.

Mr. HOWARD RIS,
Executive Director, Union of Concerned Scientists, Cambridge, MA.

DEAR MR. RIS: The "legislative alert" issued by the Union of Concerned Scientists (UCS) on energy bills being considered in the Senate contains a number of misleading comparisons, glaring omissions, and incorrect data which we feel should be brought to your attention. We do this in the hope that notwithstanding UCS positions on the legislation in question, the energy debate might benefit from greater accuracy.

First, the National Security Act of 1991, reported by the Senate Energy Committee as S. 1220, contains 16 titles that address virtually every aspect of energy production, transformation, transportation, and use. Yet your summary only mentions three items

covered by the legislation, and mentions none of the provisions that deal with electricity and transportation efficiency, renewable energy, natural gas, research and development of innovative technology including electric vehicles, hydrogen, fuel cells and biomass energy.

Secondly, relative merits aside, the Motor Vehicle Fuel Efficiency Act of 1991, or S. 279, is not, and was never intended by its author and sponsors as, a substitute for S. 1220 because S. 279 addresses only one energy issue. It should be noted that S. 279 was proposed as an amendment to Title III of the National Security Act and was rejected decisively by the Committee on a bipartisan basis.

Furthermore, neither the author of S. 279, nor any of its sponsors has, to our knowledge, ever claimed that its implementation would result in oil savings of 2.5 million barrels/day of oil by 2005. It is technically impossible to obtain such savings either in 2005 or in 2010.

Thirdly, the Energy Security Act does not "reassess," as your publication claims, the President's determination to defer leasing in certain environmentally sensitive areas off the Atlantic and Pacific Coasts pending further study. On ANWR, your statements are also misleading. The fact that "only" five percent of the world's oil reserves are in the U.S., compared to 50% in the Persian Gulf is, contrary to your assertion, a very good reason for developing our domestic resources if we want to reduce our reliance on imports from insecure sources.

A further argument for the careful development of a small portion of ANWR is that without it, the entire production of Alaska oil is in jeopardy. That is so because current North Slope production of 1.9 million B/D is expected to slide to less than 500,000 B/D by 2005, thereby raising the real probability that the Trans Alaska Pipeline could no longer be operated economically. Such a prospect would have the effect of shutting in all reminaing Alaska production, and raising U.S. levels of import dependence to between 65% and 70% of consumption.

Fuel efficiency is not an alternative to ANWR. Rather, fuel, efficiency, alternative transportation fuels and technology, ANWR, and increased lower-48 oil production will all be necessary if we are to reduce our reliance on insecure supplies of oil.

Fourth, your assessment of the impact of PUHCA reform, as proposed in the Energy Security Act and by the National Energy Strategy, is contrary to every analysis known to us. PUHCA reform does not represent an alternative to efficiency investments, as you claim, but increased competition in the power generation sector. Increased competition is one of the best means of assuring that the best technology reaches the market at lowest cost to consumers, and that electricity is produced and distributed efficiently.

There is no evidence to suggest that PUHCA reform would disadvantage renewable energy technologies. On the contrary, PUHCA reform would encourage the use of innovative technologies.

Finally, neither the NES nor the Energy Security bill would in any way, as you state, "undermine nuclear reactor safety and public confidence in the nuclear industry." Nuclear safety has been a hallmark of policies pursued by Secretary Watkins, at home and abroad. The licensing reforms being sought are intended to render the process more transparent and rational for all concerned, not to shut the public out.

Furthermore it is incorrect to state, as does your legislative alert, that "neither the NRC nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings." Shoreham and Seabrook are the two most recent cases in point.

In summary, we believe that an objective reading of the Senate energy bill and of the Natinal Energy Strategy, and a rigorous examination of the data and analysis that support these comprehensive policy initiatives would lead to entirely different conclusions than those represented in your "legislative alert." We believe that your constituents deserve a more objective presentation of the issues than you have provided.

With best personal regards, I remain,

Sincerely yours,

W. HENSON MOORE.

UNION OF CONCERNED SCIENTISTS,
Washington, DC.

WHAT THE JOHNSTON-WALLOP BILL DOES

This bill has something for everyone (except the American public). For the coal industry, the bill provides incentives for 'clean coal' technologies and coal exports, and open-ended funding for a new government 'coal refining program' (shades of the late, unlamented Synthetic Fuels Corporation boondoggle!). The oil industry gets access to the Arctic National Wildlife Refuge and a 'reassessment' of those environmentally sensitive offshore areas currently protected by moratoria on oil drilling. The nuclear industry wins provisions virtually shutting the public out of the nuclear power plant licensing process and writing off nearly $10 billion in unrecovered government investments in uranium enrichment facilities.

While it includes some measures on energy efficiency and renewables, these are limited. There is no requirement for increased fuel economy standards for automobiles and light trucks (which use much of our oil), no efficiency standards for electric motors (which use half of our electricity), no major shift in federal research and development spending away from fossil fuels and nuclear power to energy efficiency and renewables (which now get only about 13% of the nearly $3 billion energy R&D budget).

Three specific provisions of S. 341 are of greatest concern:

Arctic Oil Drilling: S. 341 would allow drilling in the Arctic National Wildlife Refuge, a major arctic coastal ecosystem of global significance. Other provisions of the bill would lay the groundwork for increased drilling off the Atlantic and Pacific coasts. The bill ignores the fact that only 5% of the world's oil reserves are in the U.S., while almost 50% are in the Persian Gulf. Drilling in even the most environmentally sensitive areas will not provide a significant amount of oil to displace imports and pales in significance when compared to the amount of oil that can be saved by increasing vehicle fuel economy standards, promoting increased car and van pooling, and other conservation measures not included in the bill.

PUHCA 'Reform': S 341 would amend the Public Utility Holding Company Act in ways that will undermine recent state utility commission initiatives to advance conservation and efficiency as alternatives to new power plants. It will also reduce the ability of renewable resources to compete. The bill would allow utilities to create affiliates to build power plants and sell power back to themselves or to other utilities, largely circumventing state regulatory review. This will encourage utilities to build new coal, gas and nuclear plants rather than making more cost-effective, environmentally-sound investments in energy efficiency measures. Because the bill does nothing to address the utility monopolies' stranglehold on the electricity transmission grid, it could worsen the competitive position of independent power producers and hurt prospects for increased electricity production from renewable sources like solar and wind.

Nuclear Licensing: S. 341 would attempt to speed up the current licensing process by authorizing a one-step licensing procedure, and eliminating the right of public intervenors to raise significant new safety issues at the operating license stage. This measure is designed to encourage investment in the nuclear industry by assuring operation once a plant has been built, but it goes too far. By preventing the public from raising valid safety issues, S. 341 would undermine both nuclear reactor safety and public confidence in the nuclear industry. All this despite the fact that neither the Nuclear Regulatory Commission nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings.

Mr. WALLOP. Mr. President, it is as though we are walking down a path with Alice in Wonderland. Those who have criticized this bill have clearly not read it. There is not a Member of Congress that has not pontificated about the lack of a comprehensive national energy policy, and these Senators come in here with absolutely no alternative, except CAFE—Nothing comprehensive about it. CAFE by itself will not do it. Oil production by itself will not do it. Nuclear production by itself, as the Senator from Louisiana has said, will not do it. Conservation by itself will not do it.

But, Mr. President, it would help if the critics of this bill had alternatives that they were willing to offer. It would help if the critics of this bill would recognize that, since time immemorial, this Congress has been trying to come up with an energy strategy.

We believe in an America that has an economic future in the new age and not in the stone age. We believe in an America that is responsible.

There are 15 titles in here, almost equally divided between production and conservation There is balance, bipartisanship, and there is intelligence in this. And I say again, Mr. President, the critics come down here without a solitary thing to offer in its stead. They criticize. They, like all the rest of us, have continued to pontificate about the lack of a comprehensive national energy strategy. One single bullet will not do that.

Mr. President, in the interest of trying to save time for other Senators, I yield the subsequent 3 minutes to Senator NICKLES.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. NICKLES. Mr. President, I wish to rise and congratulate Senators WALLOP and JOHNSTON for their statements. I echo what they have said.

Mr. President, I urge the Senate to pass S. 1220, the National Energy Security Act of 1991. This measure is a comprehensive package of energy initia-

tives addressing a broad variety of initiatives in energy conservation, in research and development, and in increasing the efficient supply of energy. The bill also allows a small portion of the Arctic National Wildlife Refuge to be leased for oil production to help sustain Alaska's vital oil production, which is now in significant decline as the 15-year-old Prudhoe Bay field enters its final stages of productivity. While I disagree with a few of the provision in this package, it nevertheless represents a comprehensive and effective approach to reduce our Nation's dependence on foreign oil.

The energy bill contains strong medicine for curbing our appetite for foreign oil, yet it will not be unhealthy for the country and our struggling economy. Importantly, the National Energy Act avoids extreme measures such as mandating consumers have available for purchase only 40-mile-per-gallon cars. Like a miracle diet pill or magic elixir, a high CAFE standard, such as proposed in S. 279, the Motor Vehicle Fuel Efficiency Act of 1991, will be costly, ineffective, and injurious to the economic health of the country.

Adding S. 279, frequently referred to as the Bryan CAFE bill, will waste thousands of lives on U.S. highways, waste millions of consumer dollars on unnecessary additional costs for vehicles, eliminate from sale safe and affordable vehicles people need, and seriously damage the largest industry in the United States, the automobile manufacturing industry. All this tragic waste and destruction is certainly not intended by supporters of the Bryan CAFE bill, but it will be the consequence of the unrealistic and arbitrary mileage goals set forth in that bill.

We all share the common goal of reducing our country's dependence on foreign oil. Foreign oil imports are already almost half of our annual petroleum consumption, and over half of our trade deficit last year—costing the U.S. economy $54.7 billion. The preliminary estimates of the Department of Energy are that the Energy Committee's bill, by increasing conservation and production, will decrease oil imports in 2000 by at least 2.9 million barrels a day, and over 6 million barrels a day by 2010. By contrast, the DOE estimates the Bryan CAFE bill will reduce imports by 500,000 barrels a day by 2000, and 1 million barrels a day by 2010.

The Senate Energy Committee bill contains a number of provisions to increase the use of alternative fuels in cars and trucks. Several alternative fuels, particularly natural gas and liquefied petroleum gases, are cleaner burning than gasoline and are abundant domestic fuels that can directly replace imported oil without having to resort to mandating consumers buy diminutive 4-passenger cars.

Moreover, the Senate Energy bill contains a CAFE increase provision—one that requires the Federal agency with the technical expertise to undertake a public rulemaking to set new CAFE standards for 1996 and 2001 at the maximum feasible levels, using all known fuel-saving technologies that can reasonably be expected to be applied and maintaining model year 1990 performance levels, size mix, and interior volume.

The proponents of higher CAFE standards insist that if Congress waives a magic regulatory wand, the automakers will invent technology that will give us roomy cars that get 35 or 40 miles per gallon. After all, proponents argue, "We can make smart bombs, why can we not make fuel efficient cars?" Well, we can, and we do. Six different manufacturers make cars today that have a combined EPA rating of close to or better than 40 mpg. All seat two adults, have two rear seats and weigh about 2,000 pounds compared to the industry average of about 3,200 pounds. However, in 1989, less than 2.5 percent of the car-buying public purchased gasoline cars averaging 40 mpg or better, despite heavy incentives being offered by manufacturers.

The most significant problem with bills that order manufacturers to dramatically increase new car fuel efficiency is that most of the fuel-efficiency technology has already been incorporated in today's cars. During the past 15 years, domestic manufacturers have doubled the mileage of their fleets. This increase in fuel efficiency has been accomplished without a significant reduction in the average car's interior space. Manufacturers have aggressively reduced weight—about a thousand pounds off of the average car—primarily by reducing car length and going to front wheel drive. Manufacturers are building cars with more efficient engines and tires, front-wheel drive, computer-controlled fuel injection and aerodynamic styling.

However, most of the cost-effective measures have already been used to increase fuel efficiency. For example, almost 100 percent of all Chrysler and Honda cars sold today are front wheel drive. So, where is the dramatic fuel economy increase envisioned in the Bryan bill going to come from? It will come predominately from further downsizing, which will give the large cars of the next decade the size, comfort, and safety of today's smallest cars.

Any large increase in fuel economy—even to levels far below those in the Bryan CAFE bill—will either require smaller cars or cars made with exotic metals, such as magnesium, and advanced technology, both of which will be expensive. I think cars are already too expensive. The average car sold in 1990 was $16,017, of which over $2,500 is already the direct result of Federal safety and pollution regulations imposed since 1968, not counting the hundreds of dollars that the new clean air amendments are expected to add during the 1990's.

The proponents of higher Federal CAFE standards argue that we Americans must "change the way we do business" and learn to be happy with small cars with less carrying capability and less safety on the highways. I want to see higher gas mileage, but I firmly believe that Congress should not mandate the size of car Americans must buy. It is particularly important that Congress not be tempted to force Americans into small cars given the National Highway Traffic Safety Administration finding that the occupant death rate in the smallest cars is double the rate for the largest cars. Passage of a bill mandating a large increase in CAFE standards will have the effect of sentencing to death thousands of men, women, and children every year. There are, simply put, a number of competing interests that need to be considered along with the goal of decreased gasoline usage.

And lets look at the CAFE issue in context: The current recession has deeply hurt the domestic automobile industry. The domestic automakers—which have lost $4.6 billion in the past two quarters—have less money for subsidizing and advertising lower mpg cars, and less money available for R&D. The lack of resources is becoming acute in the auto industry because of the very significant demands being placed on fuel and engine system redesigns by the recently enacted Clean Air Act amendments, and by increased safety regulations being imposed by the National Highway Traffic Safety Administration.

The realities of the marketplace and the lessons we have learned should give us enough hindsight to avoid making the mistake of Congress setting arbitrary CAFE standards. The Senate Energy Committee bill's directed rulemaking approach injects a large dose of common sense into this CAFE debate by establishing practical criteria for a rulemaking by the appropriate agency, rather than having Members of Congress simply pull mileage numbers out of the air and put them in binding legislation.

The most economical way for the United States to reduce its dependency on foreign oil is by increasing its own oil production. Every barrel of domestic oil produced immediately replaces a barrel of oil that would otherwise be imported. Domestic oil production will help bridge the gap between today's transportation fueling infra-structure based almost exclusively on gasoline and diesel to tomorrow's infrastructure which includes a variety of alternative motor fuels, including natural gas and electricity.

The site in the United States with the largest potential for new oil pro-

duction is in a small portion of the Alaska National Wildlife Refuge. The Energy Committee bill would allow the oil leasing on selected tracts within the Coastal Plain of the 19-million acre refuge for environmentally sound oil production.

Onshore Arctic oil production has an excellent environmental record. The mere threat of serious curtailment of future oil production from Alaska's North Slope, and decades of intense governmental and private sector scrutiny has spurred the major Arctic oil producers to unprecedented levels of environmental sensitivity. In the 25 years since Prudhoe Bay, gravel pads for drilling and producing oil has been reduced in size by 70 percent, due largely to advances in directional drilling. In addition, the number of gravel roads and the size of oil and gas separation facilities have been reduced by 50 percent. Most importantly, reliance on Prudhoe and Deadhorse facilities will enable the support services areas in ANWR to be less than 10 percent of those earlier service areas.

There have also been tremendous advances in production waste management practices on the North Slope. Now, brines produced with the oil are injected into permitted disposal wells and drilling mud reserve pits are lined and continuously monitored. One company has installed new technology that allows elimination of the reserve pits on drilling pads by simultaneously reinjecting drilling muds brought up by the drilling operations.

The original arguments against opening the Coastal Plain out of concern for welfare of the caribou in ANWR has been exposed as a red herring. Detailed scientific research over the past decade years shows that the caribou will not be adversely affected by oil development in the Coastal Plain lease tracts. Moreover, the experience with the central Arctic herd near Prudhoe Bay oil fields has been overwhelmingly positive: That herd has grown over 500 percent in the last 13 years.

We need to increase domestic oil production. We must face the fact that our Nation will be dependent on oil for decades to come. Oil is and will be for decades to come the world's cheapest and most convenient energy resource. We will be heavily dependent on petroleum for transportation for many decades whether or not Congress were to mandate only tiny new cars can be sold. We should use the billions of dollars in economic activity and taxes from producing oil in ANWR for the betterment of our society and to reduce our trade deficit. Using ANWR bonus and royalty revenues to fund energy conservation or research incentives is a far better energy policy than mandating CAFE standards that are far beyond what is feasible or safe.

The Energy Committee worked hard, and we did come up with a bipartisan and a good energy package. I heard Senator WELLSTONE say this was nothing but "gifts to the energy industry." I will tell him that is exactly wrong.

Many people in my State feel like we did not do hardly anything for the independent producer, and we did not do enough to stimulate domestic production, particularly in the lower 48 States.

Senator BRYAN mentioned that we need to do much more in mandatory CAFE standards. He did not say "mandatory," but that is what is in his bill, to make all cars average 40 miles per gallon. Frankly, there are six car manufacturers right now making cars that are available to be sold in the United States that get 40 miles per gallon, but the vast majority of people do not want to buy them. So we are going to mandate that the automobile industry sell them, and mandate, I guess, that people buy them. Frankly, they probably will not, so we are going to cost a lot of jobs.

Not only that, but I heard Senator LIEBERMAN say that we cannot legislate geology. Frankly, we cannot legislate physics either. If we are going to mandate that these cars average 40 miles per gallon, they will be about the same size as the cars we are making today that get 40 miles per gallon. They are more fuel efficient, but also much more dangerous. Senator BRYAN's CAFE bill will cost lives; it will cost jobs; and it will deny consumer choice. I think that is a serious mistake.

We need a balanced energy package. Actually, we have that in the bill before us. People are saying it does not go far enough, so they are against the whole package. And I think they are being very shortsighted indeed.

Senator JOHNSTON mentioned that we are spending about one-third of our trade imbalance on oil. Actually, it is over half. Last year we spent $54.7 billion on oil imports. We need to reduce that figure. This bill we have before us today is a giant step in that direction.

I yield the floor.

THE NEED TO OPEN ANWR

Mr. MURKOWSKI. Mr. President, we are hearing today arguments that were presented in the mid-1970's, at a time when this body was debating the merits of the trans-Alaska pipeline system [TAPS]. Since TAPS was built in the mid-1970's, it has transported about 24 percent of the total crude oil produced in the United States. The doom seekers said that the caribou would not cross the pipeline, that it will be a disaster environmentally. Prudhoe Bay, today, is better than any other oil field in the United States, and we are proud of it. We can do even a better job is we open the coastal plain of ANWR to oil and gas exploration and development.

I get frustrated when I hear my colleagues from Connecticut and Minnesota make generalities with regard to the job we are doing in Alaska. We are doing a good job. The generalization that there is only a 200-day supply of oil in the 1002 area is fraught with unrealistic interpretation. If there is only a 200-day supply of oil, it would be the third-largest oil field ever found in the United States next to Prudhoe Bay and east Texas. If there is a 600-day supply, Mr. President, that would be the largest field ever found in the United States.

The caribou issue is flawed, Mr. President. We started with about 3,000 caribou before we built Prudhoe Bay. Today, there are over 18,000 caribou in the central Arctic herd. In fact, there are more caribou than people in Alaska. We take care of the caribou in Alaska.

Many of the Senators against environmentally sound oil and gas exploration and development are spouting environmental liberalism of the worst kind. Their generalizations are wrong. Many of these people have never been to my State of Alaska.

Mr. President, the Arctic National Wildlife Refuge is made up of an area that already contains 8 million acres of wilderness in perpetuity. It will never be changed unless by Congress—9 million acres are protected by the refuge. There are over 19 million acres altogether in the ANWR area. We are only proposing to open 1½ million acres of this area.

As the Senator from Louisiana said the footprint will be 12,500 acres if we find oil. That is about the size of the Dulles International Airport. That is what my colleagues on the other side do not mention. They do not mention that we can be responsible, we can develop, for the energy security of this country.

Mr. President, Prudhoe Bay is declining at 10 percent per year. Where are we going to get the additional oil? Common sense tell us that we will have to increase imports from the Middle East.

There are many things I could say, and I wish my colleagues would avail themselves of a trip up there and see for themselves. We have done a good job. We can do a better job if we are lucky enough to find oil. If we do not find oil—the whole thing is academic—the development scenario will be removed from the area, and it will return to its natural state which is basically snow and ice for four-fifths of the year.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to print in the RECORD an article from the Wall Street Journal in support of opening ANWR along with a further statement.

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

[From the Wall Street Journal, May 30, 1991]

ENERGY REALISM

Over the past 10 years there can hardly have been a more overworked phrase in pub-

lic life than—"What this country needs is a workable energy policy." Well, if the purpose of such a policy is to produce more energy for the U.S., then we've finally got one. It remains to be seen now whether Congress will manage to kill it.

Last week, the Senate Energy Committee approved the Bush blueprint for a National Energy Strategy by a remarkable 17-to-3 vote with only minor changes. The Bush program largely relies on market forces and American ingenuity to provide the energy a growing economy needs. It makes a few symbolic bows to industrial-policy programs such as ethanol boondoggles and the like, but the strategy like the Members of the Senate's Energy Committee, appears to have accepted history's lesson that markets have built-in incentives for efficiency and conservation.

The rest of the Senate and the House, however, will be a tougher sell. Some parts of the Bush bill, such as deregulating natural-gas pipelines and researching high-efficiency engines, aren't controversial. But in three key areas—nuclear power, auto mileage standards and oil prospecting—expect a knockdown, drag-out fight.

Streamlining the licensing of new nuclear plants. Not a single nuclear plant has been built for more than a decade; the hysteria whipped up over the Three Mile Island accident in 1979 saw to that. Today a new and much safer generation of nuclear reactors is now ready, but no nuclear plants, no matter how safe, can be built under current licensing rules. A process of endless public hearings exists simply to stop construction. The Seabrook, N.H., plant was delayed for three years, at a cost to the utility and rate-payers of over $1 billion. President Bush wants to allow a "one-stop" licensing system that combines the current sets of hearings into one, while still allowing full public comment.

No artificial increase in CAFE fuel-economy standards. In the 1970s, Congress imposed auto fleet-mileage standards, called CAFE, on U.S. car companies in response to the "energy crisis." Since then, CAFE has saved a little energy at enormous cost, surrendered much of the domestic luxury-car market to foreigners and forced Americans to drive smaller, more vulnerable safe cars. But austerity-worshipers, with Nevada Senator Richard Bryan as their vehicle, want to order up a new average mileage standard of 40 miles per gallon from the current 27.5. And they aren't much inclined to wait for a National Academy of Sciences study on what standards are cost-effective or even technologically feasible.

The Department of Transportation estimates that the smaller cars mandated by the Bryan bill would increase annual highway fatalities by between 600 and 1,140. Harvard public-health professor John Graham says the Bryan bill would more than wipe out the safety benefits gained from installing air bags.

Allowing oil exploration and drilling in a portion of Alaska's coast. A 20-by-100 mile stretch of Alaska's harsh northern coast may contain the last major oil deposit in North America. The Interior Department says there's a 46% chance of finding recoverable amounts of oil and a decent chance the find could rival the nearby Prudhoe Bay field, which provides 25% of the U.S. domestic oil supply.

Environmentalists bitterly oppose any intrusion into the Maine-sized Arctic National Wildlife Refuge, 92% of which is off-limits to any exploration. But in 1980 Congress agreed that the remainder could be developed with little or no risk to the environment. However, some Members want to lock it up.

To Senator Max Baucus of Montana it is "one of the five greatest places on earth." But ANWR's coastal plain is no Yellowstone. The area is a barren, marshy wilderness in the summer and a frozen desert the rest of the year. Only about 150 naturalists or outdoorsmen visit it in a given year. The experience of the nearby Prudhoe Bay field indicates that developing ANWR would affect only about 13,000 acres out of 1.5 million, a minute percentage of the whole. All equipment would be carefully removed and the ground reseeded after the extraction of any oil. Environmentalists won't even discuss the issue. "There can be no compromise," says Allen Smith of the Wilderness Society. "The refuge must not be violated, or it will be destroyed."

This sort of environmental absolutism upsets Brenda Itta Lee, and Inupiat Eskimo official from Alaska's North Slope, "Since it's our home, we care about the area even more than others," she says. "But oil revenue has meant a better life for us. If ANWR is locked up, my people lose a lot. A balance can be struck."

Finding a balance between legitimate environmental concerns and the real-life needs of people is at the heart of President Bush's energy program. Its opponents have forgotten that human beings must also be an integral part of the environmental equation.

Mr. MURKOWSKI. Mr. President, the Senate will soon be asked to decide whether to open the Arctic National Wildlife Refuge [ANWR] to oil and gas exploration and development.

Some may never have heard of ANWR. ANWR is a little 19 million acre piece of Alaska tucked away north of the Arctic Circle, next to United States-Canada border. The refuge is about the size of South Carolina, six times the size of Connecticut. Within ANWR there are 8 million acres already designated as wilderness an area the size of Massachusetts.

WHY IS IT IMPORTANT TO OPEN ANWR?

The 1.5 million acre area within ANWR, called Coastal Plain contains the single most promising on-land area in the United States for discovery of major oil and gas reserves. The ANWR Coastal Plain potential reserves could yield the third largest U.S. oil field ever. The mean estimates are 3.2 billion barrels and high estimates are 9 billion barrels. The Coastal Plain of ANWR could provide 10 percent of U.S. domestic production.

STATUS OF ANWR LEGISLATION

The Johnston-Wallop National Energy Security Act of 1991 was reported out of the Energy Committee on May 23, 1991, and contains ANWR leasing title.

S. 1220 is a balanced bill which contains provisions of energy conservation, development of alternative energy sources, and increased domestic oil and gas production.

The environmental activists want more conservation and less production. Conservation as a sole solution is simply not realistic.

I agree we need conservation, but we also need production. History has shown we need both conservation and production.

In the mid-1970's this Nation adopted CAFE standards saving roughly 1.4 million barrels of oil per day. We also brought the Prudhoe Bay field into production at 2 million barrels per day.

FIVE MAIN ARGUMENTS FOR OPENING ANWR

National Energy Security

The United States has become dependent on other countries to meet its energy needs.

The U.S. consumes 17 million barrels of oil per day but only produces 7.4 million barrels per day. Over 50 percent of our oil comes from foreign sources.

The Persian Gulf war showed that the Middle East is unstable, and the problem is getting worse. OPEC countries provide 25 percent of U.S. oil supply today, 53 percent of our imports are from OPEC countries. Compare this with 1985 when U.S. imports were only 31 percent and only 11 percent of U.S. oil supply was from OPEC. Worldwide, OPEC accounts for 33 percent of world oil production.

And U.S. production continues to decline. U.S. oil production is at its lowest point in 26 years. Domestic production is currently 7.4 million bbls/day and dropping at a rate of 3 to 4 percent per year.

Alaska's oil fields, which provide 25 percent of the total U.S. oil production, are also declining. Prudhoe Bay field, the largest oil field in the United States, is declining at 10 percent per year.

Where will our oil come from to replace lost production without opening new domestic oil fields like ANWR? Probably from oil reserves in the Middle East.

Conservation alone is simply not enough. We must make the tough decisions.

Every major oil field in the United States is declining.

Prudhoe Bay, which supplies 24 percent of our domestic oil supply is declining at 10 percent per year.

We must make the tough decisions that will allow this lost production to be replaced by domestic oil fields, not by oil reserves in the Middle East.

The U.S. consumption of oil is flat. The real growth is in the Third World.

Third world energy use is increasing by 10 percent per decade.

In fact third world oil use is expected to rise over 155 percent from 1985 to 2010.

Developing countries accounted for 17 percent of world commercial energy consumption in 1973. Now they account for 23 percent of energy consumption and this consumption is expected to grow to 40 percent by the year 2020.

There are 600 new cars a day in Singapore, Thailand, and Korea. These countries want an increased standard of living.

ANWR is cornerstone of President's NES and Johnston-Wallop bill.

In the Johnston-Wallop bill ANWR revenues fund over 60 percent of the bills conservation measures, everything from energy efficient homes, solar energy, and clean coal technologies, to tax breaks for electric cars.

Admiral Watkins testifed he will recommend a veto if the ANWR title is not in the Johnston-Wallop bill.

This leaves our friends in the environmental community faced with an interesting dilemma.

If they strip ANWR out of the Johnston-Wallop bill or succeed in putting ANWR into wilderness then they bear the responsibility for killing the entire energy strategy.

CONCLUSION

Mr. President, 150 to 200 people visit ANWR each year. How does that compare with the millions of Americans who would benefit from reducing our excessive dependence on imported oil? In addition ANWR could create 735,000 jobs nationwide and boost our GNP by $54 billion.

These are some of the important issues my colleagues need to understand as the Senate debates the merits of opening ANWR and the future of the entire national energy strategy.

Mr. WALLOP. My thanks and respects go to the chairman of the committee, Senator JOHNSTON, without whom none of these efforts would have taken place. I again point out this is a bipartisan comprehensive effort.

EXTENSION OF MORNING BUSINESS

Mr. WALLOP. Mr. President, I ask unanimous consent that the time for morning business extend for 5 minutes, with the time going to the Senator from North Dakota.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. I yield the floor to the Senator from North Dakota.

ENERGY SECURITY

Mr. CONRAD. Mr. President, I thank the Chair and the Senator from Wyoming as well.

First of all, I commend the chairman and the ranking member and the other members of the Energy Committee who have brought this bill to the floor.

Mr. President, I do not know what could be more clear than that this Nation requires an energy policy. The only policy we have had for the last decade can be summed up in one word, "import."

Today, as we meet, Mr. President, we are importing 50 percent of the oil supplies required by this country. We have spent over $50 billion importing that oil and, we have just had 500,000 young Americans put their lives on the line, at least in part because of our dependence on foreign crude oil.

What could be more clear than the time is now for a national energy strategy and a national energy policy?

What will it take before people are ready to come to this floor and cast the tough votes and to say to each and every one of these interest groups now is the time to put the national interest above the special interest?

Mr. President, do we have to wait until we are 65 percent dependent on foreign crude oil? Do we have to wait until this Nation is held hostage by a series of foreign potentates before America responds? I hope not.

Every interest group has its view on this bill, Mr. President. The administration opposes stronger fuel efficiency. The automobile industry opposes stronger fuel efficiency. The environmentalists oppose opening ANWR. The administration says if you do not open ANWR, we are against the bill. The oil industry opposes alternative fuels, and on and on it goes. Interest group after interest group is opposed to some part of this bill.

The attitude is: "This dog has fleas. Let's kill it." If that is the attitude that prevails on the floor, Mr. President, we will have no energy bill.

This is not a perfect bill. Mr. President, I strongly agree with some on the floor today who say that we should have stronger fuel efficiency standards in this bill. I fought for that in the committee. I will fight for that on the floor. It ought to be included, it ought to be part of a national energy strategy and a national energy plan.

But, Mr. President, fuel efficiency alone is not an energy policy. Fuel efficiency alone is not an energy strategy. This bill does provide the framework. This bill does provide alternative fuels, renewables, conservation, production. This bill does provide the framework.

Thirteen hearings, Mr. President, thirteen markup sessions, untold hours of effort have gone into this bill. It is a good framework. It is considered legislation, and it deserves to be considered.

Mr. President, the time is now. What could be more clear than the national interest demands a national energy strategy and a national energy bill? The chairman and ranking member have brought such legislation to the floor. They deserve our support. This bill can be improved, it should be improved, and I hope it will be. But the bottom line, Mr. President, is this bill provides the framework for moving this Nation forward. I hope my colleagues will pay close attention to the details and support it.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise today to join with a number of my colleagues to express my concern about S. 1220, the National Energy Security Act. This bill would put the Nation in overdrive for environmentally destructive energy development and leave us in neutral on increased fuel efficiency.

Today I want to discuss two of the fundamental flaws in the bill—the absence of a mandated increase in automobile fuel efficiency standards and the proposed oil and gas development of the coastal plain of the Arctic National Wildlife Refuge [ANWR].

Mr. President, we often hear talk about "the energy crisis." But the United States does not have a shortage of energy. Rather, we are too dependent on liquid fuels and too reliant on foreign oil—a reliance which makes us dependent on foreigners, and which adversely affects our balance of trade. Too much of the world's oil is under the control of the Mideast countries—37 percent of the world market, and 24 percent of U.S. imports. And U.S. oil imports are too high—around 50 percent of our oil use or roughly 8.5 billion barrels per year.

Energy use has another important dimension, its effect on our environment. Some sources of energy cause significant, adverse environmental impacts—local, regional, and global.

So, in establishing energy policy, we must reduce our reliance on unstable sources of oil and stimulate sources of energy which minimize environmental impacts. In my view, this means the heart of our policy should be energy conservation. The United States has an enormous potential to conserve energy. If the United States used energy as efficiently as Japan, we could lower our national fuel bill by $200 billion every year. Per capita energy use in the United States is more than double that of Japan, France, and Italy and close to double that of the United Kingdom and West Germany. We must tap into our energy conservation potential.

We also must develop clean alternative fuels and renewable energy sources.

Unfortunately, S. 1220 focuses on environmentally damaging energy production and gives short shrift to energy conservation.

The single most important step we can take in addressing this energy crisis is to increase automobile fuel efficiency standards. Over 60 percent of our use of oil is for transportation. So if we are going to reduce our dependence on oil, we must focus on the transportation sector and increase automobile fuel efficiency.

That is why I am a cosponsor of S. 279, the Motor Vehicle Fuel Efficiency Act. It expands on the original 1975 Corporate Average Fuel Economy [CAFE] Act which resulted in an approximate doubling in automobile fuel efficiency. Despite the auto companies' fears that the standards were unachievable, they managed to meet those standards. The increased CAFE stand-

ards in S. 279 would result in an additional savings of over 2 million barrels of oil every day by 2005. That's 2 million barrels of oil which do not have to be imported—each and every day. A renewable source of 2 million barrels of oil a day.

Increased CAFE will reduce emissions of carbon dioxide. The United States emits more CO_2 than any other nation—about 20 percent of the world's CO_2 emissions. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions. So if we are going to be serious about reducing emissions of greenhouse gases as was recommended by the National Academy of Sciences, we are going to have to increase our fuel efficiency.

Mr. President, S. 1220 does not require an increase in fuel efficiency standards. It merely gives the administration the authority to set a higher standard. That's like letting the fox guard the chicken coop. This administration has done little to hide its disdain for an increase in CAFE standards.

S. 1220 would instead open the Arctic National Wildlife Refuge to oil and gas drilling. It would have us try to produce our way out of our oil shortage. But Mr. President, we can save almost 10 times more oil each and every day by 2005 through increased CAFE standards than we can through drilling in ANWR. And even if oil is found in ANWR, it is a finite resource. It will run dry.

But even more is at stake in ANWR than energy development. After the *Exxon Valdez* spill 2 years ago, I visited both the spill and the coastal plain of ANWR.

What I saw was the best of nature and the worst of man.

I saw the best of nature in the Arctic Refuge, an area which even the Department of the Interior says, "is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America."

Beauty, wilderness, pristine. These words simply fail to capture what I saw, and what is at stake if we allow oil and gas drilling to proceed.

Unfortunately, in seeing the spill in Prince William Sound, I saw the worst of man. I saw how carelessness despoiled a rich ecosystem. Dead wildlife, oil-coated beaches.

This devastation by man stands in stark contrast to the beauty of nature I saw.

And that is what is at stake as we consider S. 1220. Do we want to preserve that unique beauty of nature? Or do we want to create an industrial complex of drill sites, waste pits, roads, pipelines, spills, and pollution?

Do we want to develop the ANWR, to keep feeding our fossil fuel appetite, or do we want to conserve fuel resources, develop alternative sources of energy and preserve our pristine lands?

Mr. President, S. 1220 fails to establish the energy policy that we need and that the American people want. I will be working with my colleagues in the days ahead to develop a policy which provides the emphasis on energy efficiency, alternative fuels and renewable energy which we need.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 1399 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any time remaining for morning business?

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for morning business be extended until 10:10 a.m. to permit the Senator from New Mexico to address the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, I want to commend Senator JOHNSTON for taking on the effort to craft a necessary and long awaited energy strategy. For the past decade the Nation's energy strategy has been no strategy at all. In stark contrast, S. 1220 addresses almost every aspect of the energy area. Senator JOHNSTON's diligence in this area, and his legislative competence, are impressive. His bill without question an impressive product. However, there are provisions in the bill that I find extremely troubling. I am not prepared today to detail my view on the whole bill, but instead would like to focus my attention on an issue of great concern to me because it undermines some of the accomplishments contained in last year's Clean Air Act.

I am very concerned with section 14201 of S. 1220 known as the WEPCO fix, because it would exempt nearly all refurbished powerplants from controls required by the Clean Air Act of 1990. This section would undermine important pollution control programs designed to curb acid rain and urban smog. If enacted into law, the amended section could result in large localized increases in sulfur dioxide and nationwide increases in nitrogen oxides and particulate emissions. As we discussed last year during the clean air debate, these pollutants harm human health, damage forests and lakes, shroud our national parks in haze, and cause urban smog. This unprecedented weakening of the Clean Air Act of 1990 would harm public health and our environment.

Last year I thought we made it abundantly clear. Sulfur emissions from coal-fired power plants combine with moisture in the atmosphere to form acid rain. Acid rain kills our rivers, lakes and streams in New England, destroys our forests and causes structural damage to our historical buildings and statues. But most important, acid rain causes thousands of premature deaths annually.

In a study known as the Harvard six-city study, it was found that exposure to acid air pollution, particularly fine particles associated with airborne sulfates, produces respiratory symptoms in children, particularly an increased incidence of bronchitis in children.

The Environment Committee concluded:

> There is no disagreement among medical researchers that precursors of acid rain are a serious health threat.

In addition to the increased health care costs, acid rain is bankrupting our environment. The Congressional Research Service reported in a study that acid rain and air pollution annually causes $1.7 billion in forest-related damage in the eastern United States. An Office of Technology Assessment study estimated that 3,000 lakes and 23,000 streams in the eastern United States are already acidified or have virtually no acid neutralizing capacity left. Fishing and tourism industries also suffer.

Mr. President, powerplants also spew nitrogen oxides (NO_x) into the air, which causes four air pollution problems. First, NO_x combines with moisture to form acid rain. Second, and more deadly, NO_x combines with hydrocarbons in the presence of sunlight to form ground level ozone, often called smog. Third, NO_x contributes to the growing threat of global warming by trapping heat in the atmosphere. Fourth, airborne NO_x emissions are responsible for one quarter of the nitrogen pollution in the Chesapeake Bay, and pollutes other bodies of water as well.

Ozone is a major lung irritant, and can cause or exacerbate respiratory ailments. Children, senior citizens, and people already suffering from lung ailments are particularly vulnerable to harm from smog. Scientific evidence indicates that over the long term,

chronic exposure to ozone may produce an accelerated aging of the lung analogous to that produced by cigarette smoke exposure.

Over 80 metropolitan areas around the country currently violate Federal health standards for urban smog, exposing over 100 million Americans to unhealthful levels of air pollution. Recent studies by Harvard public health researchers determined that 2 to 4 percent of excess deaths in New York City were due to air pollution.

Particulate emissions also pose a direct threat to human health. A recent study by the Environmental Protection Agency [EPA] determined that particulates cause tens of thousands of premature deaths annually.

The Clean Air Act regulates emissions of these pollutants from new powerplants fairly strictly, but grandfathers most existing sources permitting them to avoid complying with the stricter requirements. This dual system of regulation was based on the utility industry's assertion that many older powerplants would soon be retired, so the industry argued that it made little sense to require the installation of expensive pollution controls on aging plants. The retirement of existing sources over time would mean that eventually all sources would operate under tighter new-source rules.

Once this dual system was established, however, many utilities then wanted to evade the stricter controls required for new powerplants by significantly refurbishing the old plants to extend their lives. To eliminate this loophole which allows continued high levels of pollution from refurbished plants, the act now requires these plants to meet the same, stricter standards required for new powerplants. Section 14201 of S. 1220 creates a giant, dangerous loophole in the Clean Air Act by enabling refurbished powerplants to evade new-source-emission requirements.

Section 14201 of S. 1220 would weaken the Clean Air Act of 1990 in the following ways.

First, refurbished powerplants would be exempt from new source performance standards, the stricter emission standards required for new powerplants, even if refurbished plant increases its actual power generation and consequently its sulfur emissions.

S. 1220 allows refurbished powerplants to evade new source performance standards as long as the refurbished plant does not "increase the maximum hourly emissions of any pollutant regulated under that section above the maximum hourly emissions achievable at that unit during the last 5 years of operation prior to the change."

This provision purports to protect people from increased emissions from a refurbished powerplant. However, a powerplant could add equipment that significantly increases its emission as long as it demonstrates that it theoretically could have emitted pollution at a higher rate.

For instance, an old powerplant which was only used to provide power at times of peak demand would have a relatively low level of emissions reflecting its low level of use. If a new boiler is installed, this plant could be used to provide significantly more power than before it was refurbished, thereby significantly increasing its emissions. Nonetheless, this higher level of emissions from the refurbished plant could still be lower than what the plant theoretically could have emitted before it was refurbished. This refurbished plant would be exempt from meeting new source performance standards even though it significantly increased its emissions.

Proponents of this provision could argue that the overall cap in sulfur emissions established under the Clean Air Act of 1990 will prevent nationwide increases in sulfur emissions. However, this new loophole could lead to significant regional or local increases in sulfur emissions which would harm nearby citizens and the environment.

For instance, a midwestern utility could increase its sulfur emission from its refurbished powerplant under S. 1220. These sulfur emissions could travel to the Northeast, combining to form acid rain in New England. And although the act allows this utility to buy emission credits from a low-polluting western utility, this transfer of pollution from west to east would not have occurred without S. 1220 because the refurbished midwestern plant would have had to meet the stricter controls required of new sources. In other words, although the nationwide level of sulfur emissions would remain the same under S. 1220, there could be significant increases in regional or local levels of sulfur emissions and acid rain.

Nearly all powerplants with capital investment projects would be exempt from park protection and air quality standards.

Under the Prevention of Significant Deterioration Program of the Clean Air Act, a new source of air pollution outside a national park or other area with good air quality must undergo a review to determine the impact of its new emissions on air quality in the park. The act prohibits the operation of a new source which would significantly degrade pristine air quality in a park.

S. 1220 would exempt refurbished powerplants from the review required to determine whether it would harm air quality in parks with clean air. Under S. 1220, an existing powerplant outside the Grand Canyon could replace its boiler and expand its capacity and emissions even if it would add more pollution to the air over the Grand Canyon.

Similarly, the Clean Air Act requires a new source of pollution in a city which violates Federal air quality standards to undergo review to determine its impact on local air quality. Under S. 1220, a refurbished powerplant with increased emissions would be exempt from this review, and thus from any requirement to reduce its emissions so that it does not worsen pollution in an already dirty city. In fact, there is no limit on the size of the pollution increase allowed under this loophole.

S. 1220 would exempt any capital construction project at a powerplant from new source standards and requirements if the project is "primarily for purposes of reducing emissions"—section 14201(b). There is no requirement that the reduction must actually occur at the particular site. Thus, even if the project would lead to a decrease in emissions elsewhere, through emissions trading, there would still be a significant increase in local air pollution. And any project whose costs are barely 50 percent for pollution control with the rest for life extension of the plant would qualify for the exemption from park protection and Federal health standards.

Refurbished powerplants would be exempt from new source controls on nitrogen oxides, a major component of dangerous urban smog. These plants would also be exempt from new source controls on particulates.

This exemption would perpetuate urban smog by allowing rebuilt plants to comply with much more lenient NO_x requirements for existing sources rather than meet the stricter standards for new sources. The provision would also exempt all currently operating units, no matter how extensively they will be expanded or modified in the future. And unlike sulfur dioxide, there is no nationwide cap on NO_x emissions, so S. 1220 would lead to an unlimited nationwide increase in NO_x emissions. S. 1220 would also lead to a similar nationwide increase in deadly particulate emissions.

The WEPCO fix in S. 1220 pays lip-service to environmental protection, but its safeguards are little more than unenforceable aspirations. The reality is that S. 1220 would allow powerplants to continue high levels of pollution at the expense of the public health and the environment. Last year, Congress considered and rejected proposals to allow refurbished powerplants to evade the controls required for new sources. In effect, S. 1220 attempts to repeal major portions of the Clean Air Act only a few short months after President Bush signed it into law. Many esteemed colleagues and I have sent a letter to Senator JOHNSTON to strongly urge him to remove section 14201 from S. 1220. There are indications that he is considering doing just that. Mr. President I ask unanimous consent that the

letter be included as part of the RECORD.

In addition, S. 1220 includes many other provisions which could increase threats to human health and the environment while accomplishing little to achieve energy security. I intend to carefully examine these other provisions to determine the extent of their threat to increase pollution and global warming.

Finally, EPA recently issued a proposed rule governing refurbished powerplants. Rather than clearly defining the new source requirements for refurbished powerplants, the proposed rule creates exemptions and loopholes similar to those in S. 1220. This proposal would cause much of the same harm to the public health and the environment as caused by S. 1220. A coalition of Governors and other parties determined that the proposed rule, "goes too far in that it exempts plants from new source review for NOx and particulate emissions for an emissions cap does not exist. This could slow environmental progress in reducing emissions of these pollutants."

This proposed rule is another example of the Bush administration's efforts to undermine the Clean Air Act of 1990 by shoddy implementation out of the public's eye. I fully intend to work with my Senate colleagues to ensure that EPA's final new source rule adheres to both the spirit and the letter of the Clean Air Act of 1990.

COMMEMORATING UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, this Sunday is the 50th anniversary of the June 30, 1941, Act of the Restoration of the Independent Ukrainian State. This Sunday there will be a commemoration at the Ukrainian Cultural Center in Warren, MI, as there will be commemorations all across this country, throughout the Ukraine, and indeed throughout the world wherever there are people who love the Ukraine, and wherever there are people who love freedom.

The Ukraine's national holidays, January 22 and June 30, are celebrations of independence and freedom. This year's commemoration occurs at a time of both great hope and concern because of the sweep of historic events unfolding in the Ukraine and throughout the Soviet Union. The course that events will take is unknown, and the eventual destination is uncharted. But one thing is clear: the determination, strength, and resilience of the Ukrainian people is undeniable.

Throughout the years of struggle, the Ukrainian people have retained their culture, language, religion, identity, and pride. This is a profound achievement, and speaks to the richness and strength of what has been preserved.

In honor of this commemoration, we should pay special tribute to those Ukrainians who continue the age-old struggle, and to those patriots who went before. The unending determination of countless generations of Ukrainians will be soon realized. The flames of freedom and independence have burned in the souls of Ukrainians for a thousand years. The embers were never extinguished, and the fire burns with renewed intensity.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. BAUCUS. Mr. President, as chairman of the Senate's Subcommittee on Environmental Protection, I want to advise my colleagues of my serious substantive and jurisdictional concerns about the National Energy Security Act of 1991, which was reported by the Energy and Natural Resources Committee earlier this month.

This bill makes substantive changes in the 1990 Clean Air Act and amends directly or indirectly the Resource Conservation and Recovery Act, the Clean Water Act, and the Oil Pollution Act of 1990. I will discuss my concerns with these provisions at another time because I believe that every Senator should understand fully the complex and controversial nature of this legislation.

To me, however, the most objectionable aspect of the National Energy Security Act is that it would reduce the Interior Secretary to begin selling oil and gas leases in the coastal plain of the Arctic National Wildlife Refuge just over 2 years from now.

More than 20,000 years ago the coastal plain of northeastern Alaska was periodically covered by a large herd of caribou. Its 2 million acres of tundra were home to musk ox, polar bears, and wolves, and millions of waterfowl dotted the landscape.

Today, that area remains largely unchanged. Its pristine rivers and lakes and the lush vegetation of its meadows continue to attract an abundant diversity of wildlife.

Life continues to thrive in this wild, arctic ecosystem, often described as America's Serengeti Plain, because it currently is protected as part of the Arctic National Wildlife Refuge. But the Energy and Natural Resources Committee voted by the narrow margin of 11 to 8 to change forever a magnificent national treasure.

I have a different vision. It is one found in legislation sponsored by myself and 22 other Senators, S. 39. It is one that would preserve America's Serengeti Plain for future generations.

I intend to seek the approval of the Environment and Public Works Committee for this legislation.

I would have taken this step over 2 years ago, but before the Environmental Protection Subcommittee could begin consideration of this bill, the *Exxon Valdez* tanker dumped 11 million gallons of oil into the pristine waters of Prince William Sound. It was a disaster that we had been promised could not happen.

Once again, many promises have been made that there is no need to choose between having a wild, naturally functioning ecosystem of abundant fish and wildlife and having extensive oil and gas development.

But if that is true, then why does the National Energy Security Act prevent "further findings or determinations of compatibility by the [U.S. Fish and Wildlife Service] under the National Wildlife Refuge Administration Act" with respect to activities in one and a half million acres of the Arctic National Wildlife Refuge?

The Refuge Administration Act, which is within the jurisdiction of the Environment and Public Works Committee, restricts use of refuge lands to those activities that are found to be compatible with the primary purposes for which a refuge was established. The National Energy Security Act dismantles this key safeguard for the Arctic Refuge.

The National Energy Security Act would further facilitate the conversion of arctic wilderness to oilfields by making the determination that the Department of the Interior's final legislative environmental impact statement [LEIS] on the coastal plain is adequate and satisfies the legal requirements of the National Environmental Policy Act [NEPA].

The communication from the Secretary of the Interior transmitting this EIS on the coastal plain was referred solely to the Committee on Environment and Public Works.

I chaired a hearing before the Environmental Protection Subcommittee on May 10, 1991, to evaluate the adequacy of the Interior Department's final LEIS on the coastal plain. That hearing and my review of related information have led me to conclude that the final LEIS is, in fact, not adequate and that it fails to satisfy the legal requirements of NEPA.

The impacts to fisheries and wildlife from oil exploration, development and production were not considered fully and properly.

The report and the recommended development were not consistent with our international treaty obligations concerning caribou, polar bears, and migratory birds.

The effects on air and water quality and the supply of fresh water resources were not assessed thoroughly.

The effects of oil and gas development in the Arctic Refuge's coastal plain were not examined critically in terms of the cumulative impacts of such development in the Arctic region.

A complete review of the Coastal Plain's wilderness and recreational po-

tential was not conducted and assessed fairly.

Finally, adequate consideration was not given to alternatives to leasing the coastal plain's oil and gas resources, alternatives such as development of other potential sources of oil, development of other sources of energy, and improved energy conservation.

Let me be clear about one thing. I support wilderness designation for the Arctic Refuge's coastal plain.

But to my colleagues who are undecided on this issue, I stress the importance of assessing the impacts of development as fairly and definitively as possible before any decisions are made by Congress to change the present management of the coastal plain.

George Schaller, one of the world's foremost field biologists and conservationists, recently listed 5 areas on this Earth that should be saved for their own sake because they are so special. One of those areas is in northwestern Tibet. Two are in Africa. Yellowstone National Park is another, which comes as no surprise to those of us from Montana.

The fifth area in all of this magnificent world identified by Dr. Schaller is the coastal plain of the Arctic National Wildlife Refuge.

The oil spill in Prince William Sound has taught us that the promise of not having to choose between an intact arctic ecosystem and extensive development is a promise, that no matter how well-intentioned, cannot be kept. We do have to choose.

The mere exploration for oil and gas that would follow leasing would leave the Arctic Refuge permanently scarred. In exchange for the certainty of that harm, the Nation's major oil companies would have gained the right to roll the dice, or to flip a coin, on finding oil. And even if the oil companies win the coin toss, the amount of oil that could be economically extracted would most likely provide this country with little more than 6 months supply of oil.

I reject a policy that, for 6 months of oil, would sacrifice what the Interior Department called "the only conservative system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America." Yet, development of the wildlife-rich wilderness of the Arctic National Wildlife Refuge is the centerpiece of the National Energy Security Act and the administration's national energy strategy.

Ninety percent of the 1,100-mile northern coastline of Alaska—offshore and onshore—has already been devoted to energy exploration and possible development. Only the 110 miles of the Arctic Refuge's coastal plain remains off-limits. We do not have to develop the last and best 10 percent to have a sound energy policy for this Nation.

For 10 years the administration's policy, first under President Reagan and then President Bush, has been one that has suffered from the tunnel vision of chasing cheap oil while shunning energy conservation and efficiency. We need oil. The single-minded pursuit of oil for the past decade has made American families and businesses more vulnerable to oil price shocks.

It has reduced our ability to compete with Japan, Germany, and other nations in the world marketplace. And it has contributed to global warming, air pollution and other environmental problems.

Our problem with imported oil is its price, not its availability. Most of the world's oil reserves lie in the Persian Gulf. Instability in that region produces large shocks in the price of oil.

The United States has only 4 percent of the world's oil reserves and much of what is left is inaccessible and expensive to develop. No matter how hard we try—no matter how much of our natural heritage we destroy—the United States cannot produce its way out of our current vulnerability to oil price increases.

The road to secure this Nation's future—the road not taken by the administration—is one that lies in the opposite direction. It is one that follows increased energy efficiency and development of other energy sources. It is one that leads to enhanced security, a more competitive economy, and a cleaner environment.

Our national energy strategy should not abandon domestic oil production. This country's policy should provide economic incentives to encourage exploration and development of the tens of millions of acres already under lease in Alaska, Montana, and elsewhere. But the way to protect ourselves from huge, overnight increases in the price of oil—to prepare ourselves now for the future—is to use oil more efficiently and to become less dependent upon it. This fact is as true in our own lives as it is true for the Nation as a whole.

The less oil we need to run our businesses, drive our cars and heat our homes, the less we have to spend out of each paycheck as a result of oil price increases that we never will be able to control.

During the Reagan years, virtually every Federal energy conservation policy was dismantled. The Bush's administration's national energy strategy and the National Energy Security Act continue to shun the quickest, cheapest and most effective energy options in favor of ones that are the most costly to the Nation's economy and environment. We should weight our options and pick the best buys first.

Energy efficiency is the cheapest and most immediate means of protecting ourselves from increased oil prices. An increase in fuel economy standards to 40 miles per gallon could save as much as 22 billion barrels of oil by 2020. If homes were fully insulated and used the most efficient furnaces and water heaters, the United States could save the equivalent of 16 billion barrels of oil by that time.

Just equipping America's 1 billion light sockets with high efficiency bulbs, would save an additional 600 million barrels of oil. A sound energy policy is one that plans for the future. It is one that protects our climate and environment and promotes wise energy choices. It is not one that requires drilling in the Arctic Wildlife Refuge.

For that reason, among others, Mr. President, I am firmly opposed to the National Energy Security Act.

JULIANNE STILL THRIFT: HIGHER EDUCATION'S CHAMPION ON THE HILL

Mr. HOLLINGS. Mr. President, Julianne Thrift is well known to many of our colleagues, especially to those of us who keep a special eye on education issues and student aid appropriations. We have recently received the bittersweet news that, later this summer, she will be leaving her post as executive vice president of the National Association of Independent Colleges and Universities to become the first female president in the 219-year history of Salem College in North Carolina.

Mr. President, the country is gaining a terrific new college president, but American higher education is losing its best fighter and advocate, bar none, here on Capitol Hill. For more than a decade, now, many of us have waged on ongoing battle to prevent the gutting on Federal aid to education. Fortunately, higher education is one policy area where there really is an "iron triangle' of Senators, lobbyists, and special interests, and I can tell you that Julianne Thrift is the iron in that triangle. She has been our Joan of Arc, a woman with a mission, a fighter, and a crusader in the best sense of the word.

Thanks in large measure to Julianne and NAICU, we have seen solid increases in student aid in each of the last 3 years. In part this is thanks to the superb government relations team she has assembled, recognized in Washington as one of the best, and a good example of the maxim that first-rate people hire first-rate people.

Credit also goes to Julianne's tireless effort to mobilize hundreds of college and university presidents—high-profile community leaders representing virtually every congressional district in the country—as lobbyists for higher education in the halls of Congress. This has been an inspired effort. We respect those people; we listen to them; and their lobbying has had a tangible influence on Members' votes.

My hat is off to the search committee down at Salem College. They conducted an ambitious national search, had over 100 serious applicants, and

they quickly settled on Julianne Thrift as their first choice.

Julianne's departure for Winston-Salem will leave a void here in Washington. She has been a real pillar at NAICU. Especially during the change of NAICU presidents in 1988, she was the stabilizer and the bedrock of the association. She is much beloved there, as she is in many circles in this town.

Nonetheless, she faces a superb challenge at Salem College, challenge that she will tackle with great energy and success. Julianne is deeply committed to the special mission and purpose of a woman's college. And I have no doubt that she will work wonders for Salem.

I know how proud her husband, Ashley, and daughters, Lindsay and Laura, are of her many accomplishments. Likewise, I can tell you that those who question whether a woman can be a super-achieving professional and also a tremendously dedicated wife and mother, they just haven't met Julianne Thrift. We all admire this remarkable woman. We congratulate Julianne and wish her the very best of luck.

INTERNATIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe. We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop. The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach many-faceted. One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market. Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers. Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his Arms Control Initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East. This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations. Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market. The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased political will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore. Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

CONCERNS WITH THE COMPREHENSIVE ENERGY BILL

Mr. ROTH. Mr. President, I rise today to express my concerns with the comprehensive energy bill, S. 1220, that the Energy and Natural Resources Committee has recently approved.

During my years in the Congress I have expressed my belief concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic.

Mankind has the responsibility to pass on a life-giving, life-sustaining, environment to future generations. Our natural heritage ranks high among our most priceless and irreplaceable possessions. To loose it would be a loss to all of mankind.

It is often exhibited that all ecosystems, from Alaska to Africa, South America to Saudi Arabia, are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world that appears more vulnerable with each passing day.

Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region where the wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries.

Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the entire Arctic region as a scientific laboratory for comparisons of the Earth's health. As someone recently put it: "If the Arctic systems fail, the health and the understanding of the health of the entire planet fails."

Given the fragile ecological balance of this area, I strongly suggest, we fulfill our responsibility as stewards of our land, its resources and the life that depends on it. This responsibility includes efforts that will protect all shared bird and animal resources, wetlands and marine mammals in the circumpolar region.

Likewise it includes commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands. Each of these objectives is worthy, and each is an important step toward caring for our stewardship in this area.

However, the bill does not even adequately begin to demonstrate the willing spirit and many opportunities we can take advantage of toward protecting our environment, while developing a sound energy policy. The protection of the Coastal Plain of the Arctic Refuge is the first step—and the most important first step in this effort.

It should serve as an example of what nations can do with shared objectives, a spirit of cooperation, and little bit of effort.

Mr. President, if we cannot take this important step and protect this area and its pristine wilderness and wildlife from miles of dirty roads, pipelines, mud pits, garbage dumps, and airports, we will soon—I believe even in our own lifetime regret the consequences of our failure to act.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The period for morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Specter amendment No. 381, to establish post-conviction proceedings to ensure that the death penalty is expeditiously carried out.

The PRESIDING OFFICER. Under the previous order, the Senator from New York [Mr. D'AMATO] is recognized to offer an amendment on which there will be 30 minutes of debate, 20 minutes controlled by the Senator from New York and 10 minutes controlled by the Senator from Delaware [Mr. BIDEN].

The Chair recognizes the Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 387

(Purpose: To provide for mandatory prison terms for use, possession, or carrying of a firearm during State crimes of violence or State drug trafficking crimes)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DOLE, proposes an amendment numbered 387.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentended to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

"(D) For purpose of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled, substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves as substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

Mr. D'AMATO. Mr. President, much has been said with respect to the necessity to do something as it relates to handguns and the control of these guns. We find today that, in certain States, the murder rates have soared. In the State of New York, the city of New York in particular, 70 percent of

the homicides, which were well over 2,000 last year, were committed by guns, handguns for the most part. And so a cry is raised, as it should be, to do something about it. And the question is, how do we do something? How do we go after the criminal, recognizing the Constitution provides that a law-abiding citizen may own and possess a gun?

Mr. President, I am going to suggest that what we have to do is say to the criminal if you use a gun for criminal purposes, we view this very seriously and you will pay a price.

What my legislation does is it places mandatory sentences on those who use guns in the commission of a crime. Basically, it is rather simple. Almost all guns traverse interstate commerce. We have the ability to say—the Congress of the United States—if you use the gun in the commission of a crime that you violate a Federal law, a violent crime; 10 years the first time. If you discharge that weapon; 20 years. If you have a silencer or a muzzling device, and that takes it to the area of those who basically are killers for hire, 30 years.

I am going to touch on some basic facts as it relates to what is taking place in a State that has the toughest gun laws, probably, in America, the State of New York. The statistics are staggering. We have a revolving criminal justice system and, I might add, that approximately 75 percent of all violent crime in New York is either directly or indirectly drug related. So not only do we have an obligation to curtail the flow of these weapons by way of the interstate commerce clause and provision, but I think we have a very real moral responsibility to do something as it relates to the drug-induced crime that powers this violence. So there is a very real Federal role here.

I also suggest that our State courts, many times, are just absolutely clogged to the breaking point. They cannot handle it. So we have to plea bargain, and that plea bargaining flies in the face of the good, decent, honest citizen.

I suggest to my colleagues that what we have is a justice system that is totally broken down, and we recognize that 6 percent of the criminals commit about 70 percent of the crime. Those are the statistics that come out of our system.

Let me suggest to my colleagues that in 1988, almost 70 percent of New York City's murders, 1,896, were committed with guns. In 1989, the homicide rate went to 1,905. So did the other violent crimes, in proportion. In 1990, we had 2,250 homicides. Again, three-quarters of them were committed with guns.

In New York City, the criminal justice system completely fails to stop gun violence. Let me tell my colleagues why. This is why we have to deal with the criminal who is captured using a gun and stop what we are doing. Only 4 in 10 went to prison. So if you catch them and only 4 in 10 go to prison, what we are really saying is that we have a gun law but we do not enforce it. The rest got a variety of sentences.

So, if 4 out of 10 go to prison, half of those convicted receive no jail time at all. Fewer than 30 percent of those convicted on the basis of criminal possession of a weapon were sentenced to prison last year. A study by the New York County District Attorney's Office showed that for arrests involving at least one charge for the illegal possession of a gun, the range of sentences, those who went to prison, was only 1.1 years to 2.9 years.

We make a mockery of the system. Recividism being what it is, we continue to pay the price. Let me tell my colleagues what the price is. I have examples of people arrested numerous times with loaded pistols, who have records, and received no time whatsoever. One of those individuals is Dowie Pringle.

In 1989, he was arrested after a neighbor said that he threatened him with a loaded pistol. He had other convictions: petty larceny, two assaults, and criminal mischief. He pleaded guilty to criminal possession of a weapon. He was sentenced to 5 years probation, and 105 hours community service. I would not be surprised if since that time Dowie has committed other robberies, used guns, and so forth, did other crimes out on the street.

Patrick Blake, same thing. Had a gun, was arrested, was rearrested, back out on the street, spent no time whatsoever. Blake was caught with a loaded .38 pistol. He was again charged with gun possession. This is the second time. He was sentenced in 1989 with probation.

Case after case, it has beaten our people down. It has made our people prisoners in their own homes. I want to refer to a statement made by a great judge, Judge Francis T. Murphy. He is the chief judge of the appellate division, first department in New York. Mr. President, he made a speech which was most eloquent, and I would like to refer to various passages because it is applicable not only in New York City, but most of our urban centers. This was delivered to the Fordham Alumni Association on March 7, 1987. Though it was more than 4 years ago, I think that the facts are even more vivid today than they were then.

He talks about our Constitution and the Bill of Rights and what is taking place. He says, "* * * the Bill of Rights will be center stage" as we talk about the bicentennial of the Constitution, as it was in 1987 as we were celebrating. He said:

> What kind of people have we become?
>
> Are we the people of the United States who adopted the Constitution in order to "establish Justice . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity?"
>
> After all, a Constitution is only as good as the people who live under it.
>
> Consider how we live in this city, and in cities throughout the nation.
>
> Government has no more essential duty than the protection of the lives of its people. Fail in this, and it fails in everything.
>
> Such a failure is unthinkable, yet the society in which we live was unthinkable only a generation ago. If then someone had said that in 1987 hundreds of thousands of apartment windows in New York City would be covered with metal grates, that private guards would patrol the lobbies, hallways and rooftops of apartment buildings, that streets would be deserted at night and churches locked by day, we would have thought him insane.
>
> We hear but do not listen to the ordinary man and woman. It is they who are the victims of crime, and they in their anguish have something of value to say.
>
> They tell us that their lives, burdened by personal problems involved in simply living, must be led in a society in which a brutal attack upon them by a robber surprises no one. They tell us that they are denied the small pleasures of life—a morning's visit to a church or synagogue, an evening's stroll in summer with one's husband or wife, a subway ride with their children to a park. They tell us that they cannot visit the sick and the dying in hospitals because they may be beaten or killed in a subway or on a street. They say that such a half life is no life at all. They tell us that criminals have taken the city, that crime has beaten government to its knees, that the moral passion for justice has been drained out of society and, in its place, there is an overwhelming sense of helplessness. They say that they fear that they have grown too used to crime. They wonder whether society, for all its pretensions, has become pitiless.
>
> The ordinary man and woman are right, and everyone knows it, because we are that man and woman.
>
> Has the Constitution established justice, promoted the general welfare, and secured the blessings of liberty to us and our children in such a city?
>
> What has happened to us, a people who once knew how to fight back?
>
> What makes us submit passively to universal vandalism, robbery, and assaults of every kind?
>
> What makes us so timid, so weak, that we will allow ourselves to be violated?
>
> Do we feel no shame that we live in the most criminally violent nation in the West?

Mr. President, let me suggest that Judge Murphy's words are more true today than they were in 1987. The responsibility of Government is to provide for the domestic tranquility; that we have no freedom when people live as they do, in fear, in half a life, as Justice Murphy has indicated, fearful not only for themselves but for their children.

There will be some who argue that my amendment violates States' rights. I suggest it does not. I suggest it gives to the Federal Government the ability to prosecute and the Federal Government is not going to willy-nilly undertake that but may be able to help some of our beleaguered inner core cities. We have an obligation to step forth and do

that and to utilize our resources, if we have to build prisons to take violent criminals off the streets and bring about a sense that the justice system is real and that if you violate the law, there is a good chance you are going to be caught and that you will be punished appropriately. It is the only way we are going to stop the carnage that is taking place in our streets.

So those who would like to say States' rights, States' rights, what kind of right do you give to citizens that they are fearful of leaving their homes, if you say give it to State prosecutors and they cannot handle it and the courts are overwhelmed and 60 percent of those who should be in prison walk right out? The recidivism continues and sends a terrible signal. And people are right when they say we do not care. All the niceties and all the social programs we talk about, and they are important, pale in comparison when providing for domestic tranquility.

Mr. President, this amendment, I believe, if passed into law will give us the ability to deal with violent crime, to stop these measures and nonsense about waiting periods, et cetera. That is nice, and reasonable people may disagree. But you are not going to deal with the predator who is out there today, and that is what we have to do. I think we have a responsibility in this Congress to stand up and to begin to fight for the ordinary, decent, law-abiding citizen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I know the floor manager, the chairman of the committee, is not present at this point, and I will yield myself 5 minutes so as to reserve some time for him to address this issue as well.

Mr. President, I do not often speak on issues such as proposed since I am not on the Judiciary Committee, and we have had a great variety of amendments and are going to have a great variety more today, but I am compelled to speak on this amendment because I think it is the greatest example of preemption of State law that I have encountered since I have been in the Senate.

As I understand the amendment of the Senator from New York, what he is doing is saying that we in the Federal Government are going to come in and dictate to State judges what the sentence will be in cases that they try. We are going to dictate the sentence in State courts with State prisoners for violating State crimes, and we are doing this under our so-called commerce clause power because the firearms involved may have crossed the State line at one point or another.

Mr. President, I would suggest, first of all, that it is very questionable whether we have constitutional authority to be essentially federalizing the State criminal justice systems throughout this country.

I served as attorney general of my State for 4 years. I know we have in this body several former attorneys general. The idea that the Federal courts, or the Congress, would come in and dictate to us in the State judicial system what sentences we had to impose for violation of State law is something that really never occurred to me.

I know that we are anxious to demonstrate our concern for the criminal activity that occurs in this country, and it is a very real concern. I certainly share it. But I can tell you the idea that we would go this far and essentially step in and take cases that are clearly State court jurisdiction cases and try to impose mandatory sentences of these types in those cases just strikes me as the height of folly.

I know we only have 10 minutes in which to respond to this amendment, and I am sure that the Senator from Delaware has some points he wants to make. But I do wish we could have had a hearing on this issue. We could have brought in some attorneys general from around the country. We could have brought in the U.S. Justice Department. I would be anxious to know what the U.S. Attorney General thinks about the idea that we would mandate particular sentences for State judges to impose in State courts.

That strikes me as beyond the pale, and I am as anxious as the Senator from New York and any of my colleagues to deal with the real problems of the criminal element in our society. But I would suggest to you, Mr. President, that we should not totally discard our Federal system of Government in this effort to get tough on crime.

If there are problems, as I am sure there are, in the State of New York in the particular defendants that the Senator has referred to not getting adequate sentences, that needs to be dealt with at the State level, and we need to help State law enforcement to do that. But mandating Federal sentences for these State crimes is certainly not the way to proceed.

I know we are in a frenzy to pass tough, get-tough-on-crime legislation, but I hope people will use common sense and refrain from embracing this kind of amendment. I urge my colleagues to defeat the amendment.

I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 5 minutes 34 seconds.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time of the Senator from New York be extended by 5 minutes and the Senator from Delaware be extended by 5 minutes.

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

Mr. BIDEN. Mr. President, we all have our jobs in the Senate. I know it is Woodrow Wilson who once used the phrase "Congress in committee is Congress at work." The way this place works is we each come here and we get assigned to various committees and we end up having the work of that committee, the subject matter of that committee consume a great deal of our time.

I am not sure I would have chosen, if I had a chance to do it all over again, but it seems that a significant portion of my adult life has been consumed by dealing with the criminal justice system in this country. As chairman of the Judiciary Committee, the bulk of my time is dealing with this issue.

Now, I have worked with my friend from New York since he has been in the Senate, and I can say without exception there is no one with whom I have worked who has evidenced a greater interest, has been more concerned, has invested more time for a noncommittee member than the Senator from New York [Mr. D'AMATO] in attempting to deal with the aberrations in our society which we mystically refer to as the criminal element and the criminal justice system.

But, Mr. President—and I hardly ever disagree with my friend from New York—I get the feeling that what is going on is a frustration level reached by my friend from New York. He has worked so hard to try to deal with the problem of criminals on the streets of not only New York City but upstate New York, central New York, the southern tier, that I think he is just frustrated.

The comments by my friend from New Mexico are right on target. I can tell my friend from New Mexico what the attorneys general would say to this. They would say no to the idea of us coming in and telling the judges in the superior court, or the Supreme Court, or the Appellate Court of New York State, or in whatever the court system, however it is named in the State of New Mexico or in Delaware, the Superior Court in the State of Delaware, by the way, under Delaware law if you convict someone and jurors under the State court system convicted someone, then the Federal judge is going to come in and tell you, the State court judge, to what you must sentence that person.

I say that as one of the coauthors of the Federal sentencing legislation in which we, the Congress, told the judges we are going to tell you how long to put people in jail, because we do not like the way you have been doing it for 20 years. Too many of you judges are

too lenient, we said, and I coauthored that. It is now in law. Judges do not have discretion in the Federal court, remotely like they had before.

Now, some States have not done that. In some States the judges are still too easy. But that is a State court problem that we have never attempted as a Federal Government to change.

In the Biden bill before us, the very provision the Senator wants is included as it relates to Federal courts. We tell the judge, in a Federal court, under the jurisdiction of the Federal Government, under the control of the U.S. Congress, if such-and-such happens and they are found guilty beyond a reasonable doubt after all appeals are exhausted, then you must sentence that person to jail for *x* amount of years. But we have never tried to do that for the State court.

I understand, I truly do. I have watched the Senator from New York since he has arrived try to deal with the situation in this Chamber—and I might add, by the way, support almost everything this Senator has attempted to do. I am about to say something that I do not want to associate my friend from New York with necessarily but one of the reasons we have this problem is the failure of President Bush's criminal justice plan and the failure of President Bush's drug plan.

Let me give you a few statistics. In New York City alone—I am not telling the Senator from New York anything new. He knows this better than I do. In New York City alone, there are 500,000 to 600,000, safe to say, over one-half million hard-core drug addicts. Do you hear what I just said? In New York City alone, as I speak, there are over one-half million hard-core drug addicts walking the streets. Guess what? Hard-core drug addicts commit, depending on their particular addiction, roughly somewhere on the order of 175 felonies a year. It does not take a brilliant mathematician to figure out if it is roughly 175 felonies a year that a hard-core drug addict commits—and there are over one-half of them located in an area not much bigger than Washington, DC, geographically—you have a problem.

But this administration—notwithstanding the help of the Senator from New York—has refused to focus on hard-core drug addicts in their drug strategy. That is the major battle between the Senator from Delware in his alternative drug strategy and the President of the United States.

They want to talk about, and they love to talk about and brag about—and God bless them, we need to be able to brag about something—brag about the fact that casual drug use is down. It is. But hard-core drug use is up. Felonies are up.

Another thing: New York City has been attempting to do something about a gun law so felons, and these folks—hard-core drug addicts—do not get guns. But guess what? They drive across State lines into other States, and they buy their gun where there is no waiting period, where there is no ability for anybody to check whether or not this is a felon purchasing the gun. But guess what? I say to my friend from New Mexico, the President of the United States says I do not want anything to do with that. Let the NRA set my policy, not the police.

Every police officer in America, every organization in America said we want something done about the ability of felons to walk into a gun store, walk up to the counter, plunk down their money, and buy a gun. The Attorney General comes back with a brilliant response to that. He said that is only a 17-percent solution. Do you know what that means? That means he says only 17 percent of these people who are running around New York City shooting folks up, themselves, and shooting other people with guns, only 17 percent of them were bought legally. So let us not bother doing anything about that, only 17 percent—17 percent. Well, golly, 17 percent of somewhere over a million felonies committed a year here, you know, that adds up. As Everett Dirksen said in another context, that adds up to "real" people, real dead people.

One other point I would say to my friend from New York. The national total of drug-related murders is estimated to exceed 2,000.

Mr. President, if we do not do something about the Brady bill, if we do not do something about the DeConcini bill, if we do not do something about having a more rationale national drug strategy, and if we do not do something about what the Senator from New York has been hollering about, asking for, pleading for, I do not know for how long—and that is build more prisons—the reason why I heard the Senator give the statistic. And he is right. Only 40 percent of these folks go to jail. One of the reasons only 40 percent of these folks go to jail is because the Federal court says under the eighth amendment it is cruel and unusual punishment to put four, five, seven, two people in cells that are 8 by 10 with no windows. So they said unless you provide some means to house these folks, you cannot put them in jail.

So what does the administration say? The administration says in their crime bill, we are going to get tough. We are going to change habeas corpus. We are going to change the death penalty. They are for it. Great; we did it.

So far, I mean, it is not law yet. We did it in this Chamber. Then you say, but by the way, we want to do something about criminals.

I ask unanimous consent that I be able to continue for 2 minutes.

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

Mr. BIDEN. So what happens? The administration says, but, by the way, we do not want to do anything about more prison cells other than the ones you forced on us 2 years ago. The Senator from New York says, we have so many drug addicts out there we ought to have prisons to put them in. We ought to have boot camps to send them to. He has been backing me and I have been backing him, and I probably have been backing him for I do not know how long on that point now. It is in the Biden bill, which the administration does not like.

So, look. One of the reasons only 40 percent of these folks do not go to jail is not because a judge sits up there and says, aha, you are a drug addict. You just had a gun you purchased legally. You are a convicted felon. You used that gun and you shot somebody. But do you know something? Even though it is your third offense, I think it is time to be lenient with you.

It is because they look, and the attorney general of that State or any other State stands there and says, well, your honor, we are still under court order. The judge says we are going to send this guy to jail. He said, your honor, we only have 2,000 prison spaces and we have 2,747 people in there and the Federal courts already ordered us to release 716 of them, and there is no space.

Then that judge sits there in frustration, pulls his hair out, and does what he has no other option to do. That does not mean there are not judges, like in other professions, that are a bunch of dummies. There are some real dummies. There are some who do not understand the problem. That is true. They are in every profession—plumbers, doctors, lawyers, Senators, as we are demonstrating.

So it works that way in every professon. But part of the reason is something has to be done about building more prisons, cracking down on hard-core drug users, and preventing felons from being able to purchase guns, and those who even use them illegally, to stop people in this country from manufacturing guns called things like street sweepers and AK-47's.

I yield the floor. I thank my colleagues.

The PRESIDING OFFICER. The time controlled by the Senator from Delaware has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I hope I will be able to make clear what we are doing here. We are really saying that we are not usurping States rights. But what we are doing is saying that the transportation of a gun that is used in the commission of a felony can be prosecuted by the Federal prosecutor. That is the same thing we do in a whole variety of activities. We have concurrent jurisdiction.

In this bill we talk about not supplanting but we absolutely go to the fact and we say that this will supple-

ment but not supplant the efforts of the State and local prosecutors.

I might point out that in the area of interstate commerce, we have concurrent jurisdiction when it comes to racketeering, when it comes to threats that involve murder, kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new.

Mr. BIDEN. Will the Senator yield for a question? Is the Senator saying that only when a person is convicted in a Federal court does this sentence apply?

Mr. D'AMATO. Yes. Only in Federal court. This does not impose a requirement that would mandate in the State court but only in the Federal court where the Federal prosecutor brings that prosecution where there would be that mandatory sentence.

So we did not attempt in any way to bring about a usurpation of the State sentencing; rather, we say where the Federal prosecutor asserts jurisdiction, as a practical matter, they are going to do that in a relatively limited number of cases. It will be in conjunction with the local district attorneys and prosecutors.

Mr. BIDEN. Will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. If the Senator is willing to make it absolutely clear by legislative history—because I think the language in section 924(C), and subsection (a) is ambiguous—the line: "* * * for which he may be prosecuted in a court of any State."

If the Senator is willing to make it absolutely clear that this only applies to an individual convicted in a Federal court——

Mr. D'AMATO. Absolutely. That is the clear intent. It would not bind the State courts. This would be only where the Federal prosecutor takes jurisdiction and prosecutes the case in a Federal court.

Mr. BIDEN. So only if a Federal prosecutor takes it, only if it is done in a Federal court, and only if there is a conviction in the Federal court, does the Senator say this would apply?

Mr. D'AMATO. The sentencing standards would be applied.

Mr. BIDEN. That clarifies a great deal for the Senator from Delaware. I thank the Senator.

Mr. D'AMATO. Mr. President, I believe that, particularly in States such as mine, where the commission of violent crimes with guns constitutes such a great percentage, this would have a very salutory effect in really bringing the criminal justice system into the 20th century, instead of letting the local people saying, "we want help from the Feds. We want your law. This gives us an opportunity to do something meaningful."

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. The Senator says this is meant to supplement State prosecution. Does this mean that if the State attorney general says they are going to prosecute the case, the Federal Government cannot come along and say, "No, you cannot prosecute it; we are going to prosecute it"?

Mr. D'AMATO. Well, it would be the same situation that we have now pending with narcotics cases where both have the ability—as a practical matter, most of these cases are brought by local law enforcement. So the U.S. attorney, as a practical matter, is not going to assert jurisdiction where a gun has been used in commission of a crime, unless that local district attorney—in most of these cases the local the district attorney or county attorney as we call them in other jurisdictions—yields jurisdiction.

Let say this: I believe, in most of these instances, you will have cross designations by the local prosecutor, who will have his prosecuting staff cross designated, so that they can try these cases. That is what has been taking place in many narcotics cases.

Mr. BINGAMAN. Can I ask the Senator, will he yield for another question?

Mr. D'AMATO. Certainly.

Mr. BINGAMAN. As I understand what the Senator is now proposing, we have a situation where any time a State crime is committed, a crime is committed that constitutes a crime under State law, if a firearm is used, the Senator from New York has provided that it becomes a Federal crime?

Mr. D'AMATO. If the Feds wish to assert jurisdiction, yes.

Mr. BINGAMAN. That is true with any crime?

Mr. D'AMATO. Yes. The use of a gun constitutes a Federal crime.

Mr. BINGAMAN. The use of a gun in the commission of a State crime makes it a Federal crime?

Mr. D'AMATO. Yes. A felony.

Mr. BINGAMAN. So that all criminal activity covered by State criminal law becomes Federal criminal activity if there is a gun involved?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. And the Senator is saying that as to any of that, any of these criminal acts that occur in States and have traditionally been prosecuted in our State courts, that under this provision we not only have the authority by the Federal Government for the Federal prosecutor to come in and say, "This is also a State crime, and I am going to prosecute it as a Federal crime," but we have now, under the amendment that is pending, a set of mandatory sanctions or mandatory penalties that apply and have to apply if there is a conviction in that case?

Mr. D'AMATO. Correct. But might I add that this same application has taken place as it relates to a shared jurisdiction in cases involving kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new. Obviously, in drugs.

Mr. BINGAMAN. What makes it new is, the Senator is saying, any crime with a gun?

Mr. D'AMATO. It goes to the gravamen of the gun. We say if you use the gun, the gun gives us Federal jurisdiction. And the Senator is right; with guns playing an increasing part, particularly in murders and other crimes, it will significantly give the Federal prosecutor, if he chooses to use it, more jurisdiction to cover more cases.

Mr. BINGAMAN. May I address one other question to the Senator from New York?

The PRESIDING OFFICER. Does the Senator yield for an additional question?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. Mr. President, as I understand it, the language of the bill says that it is intended to supplement, rather than supplant. But, presumably, if a State prosecutor was trying a case under State law against a criminal that did commit a criminal act under State law, using a firearm, there is nothing that we have in the legislation here to prevent the Federal prosecutor from going in and essentially overlaying the Federal penalties and overlying the Federal prosecution on top of that, and essentially preempting the State from imposing its penalties and, instead, imposing the Federal penalties.

Mr. D'AMATO. My good friend is right in saying that the U.S. Attorney could preempt or take jurisdiction in the case. He could. But, as practical matter, I suggest that we have come a long way in recent years with the cooperative effort between State prosecutors and Federal prosecutors. All of the resources are strained, so that we have had a very real cooperative effort. If the Senator is saying, could there be a case where the U.S. attorney would take jurisdiction notwithstanding that the local prosecutor really was not happy, or did not with that to take place, yes, that could be the case.

Mr. BINGAMAN. May I proceed with this same line of questioning, if the Senator will continue to yield?

The PRESIDING OFFICER. Does the Senator continue to yield?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. If the Senator from New York would advise me, and just think of it from the point of view of a State prosecutor: Every time you prosecute a criminal in your State for committing a crime with the use of a firearm, you would have at least the possibility that the Federal prosecutor, U.S.

attorney, would come in and supplant what you had done, would you not?

Mr. D'AMATO. Not really. We say clearly in section 927, it is the intent of Congress that this subsection shall be used to supplement. I think the Senator correctly said supplement—not to supplant. I cannot see this taking place, because it does not take place in drug cases today; it does not take place in a whole variety of cases.

That is not to say in this whole Nation, with all of the prosecutions, that there may not be some pushing and shoving. But to supplement—that is the key, when you say not to supplant in the general.

I do not believe the Attorney General is going to be anxious for his U.S. attorneys, given the limited prosecutorial staff, limited prisons—because, remember, they get prosecuted now.

One of the things I would like to see is a supplement, particularly in urban centers, for prosecution of these cases in the Federal courts where they have no room, and in Federal prisons, because our State prison systems are breaking down.

Mr. BINGAMAN. Mr. President, will the Senator from New York respond to a question as to whether the National District Attorneys Association had a chance to review this legislation and comment on it?

Mr. D'AMATO. They have not.

Mr. BINGAMAN. Have any district attorneys, to the Senator's knowledge, in his State or any State had an opportunity to comment on this?

Mr. D'AMATO. Yes. I have contacted a number of district attorney offices in my State. They have no problem with it, no difficulty. They have cooperated, as I have indicated, with cross-designations in drug cases, et cetera. They really welcome this.

I am not suggesting this might not be contentious before the State District Attorneys Association or the Federal, both on the national level, but I have consulted with a number of district attorneys who have been supportive.

Mr. BINGAMAN. I ask the same question about the National Attorneys General Association.

Mr. D'AMATO. I have not.

Mr. BINGAMAN. They have not been consulted, though?

Mr. D'AMATO. No; I have not spoken to them. They have not.

Let me say this. It is kind of like the situation of a local jurisdiction that has an incredible problem dealing with garbage. They do not want anybody else to handle it, but they cannot handle it.

We have some real problems here locally because of inadequacy of all the problems in the criminal jurisdiction, so there might be some contention on their part not to support this, I agree. But the fact is, I say to the Senator, our people need help. Our people have been beaten down and, as Justice Murphy said, it is the law-abiding citizen who is suffering.

I think we have an opportunity to make a substantial change in that. That is what this legislation is intended to do, to supplement, to help a beleaguered law enforcement system.

Mr. BINGAMAN. I thank the Senator from New York for his response.

Mr. D'AMATO. Mr. President, I yield back any time I might have.

The PRESIDING OFFICER. All time has been yielded back.

The question occurs on agreeing to the amendemnt (No. 387) proposed by the Senator from New York. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—88

Adams	Garn	Moynihan
Akaka	Glenn	Murkowski
Baucus	Gore	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Boren	Grassley	Pell
Bradley	Harkin	Pressler
Breaux	Hatch	Reid
Brown	Hatfield	Riegle
Bryan	Helms	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Coats	Kasten	Sasser
Cochran	Kennedy	Seymour
Conrad	Kerrey	Shelby
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Durenberger	McCain	Wirth
Exon	McConnell	Wofford
Ford	Mikulski	
Fowler	Mitchell	

NAYS—11

Bingaman	Cranston	Metzenbaum
Bond	Gorton	Rudman
Burns	Heflin	Simon
Cohen	Jeffords	

NOT VOTING—1

Pryor

So the amendment (No. 387) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, once again the Congress will embark on consideration of legislation that purports to "get tough on crime" and there is not a single Senator among us who would shy away from association with that appellation.

And, while we may welcome both the President's and the Congress' return to the domestic side of the national agenda, I want to express my concern that we have allowed both the President and ourselves to define this item on that agenda in far too narrow terms.

We have been swayed by the purportedly easy solutions to very difficult problems. We all want to crack down on crime. But, how have we chosen to do so? For more than a decade, the Federal Government's response has been to fight crime by expansion, by increasing arrests, and prosecutions by the imposition of mandatory and lengthy sentences, by increasing criminal justice personnel, by building more prisons and overcrowding them, and, by increasing the flow of tax dollars to the problem. Expansion of the old approaches, Mr. President, is not enough. I want to get really tough and smart about crime.

As the Judiciary Committee report entitled "Fighting Crime in America: An Agenda for the 1990's" confirms the year 1990 set a national record for murders, a national record for assaults, a national record for rapes, and a national record for robberies. That is the product of just expanding the old ways to show "toughness on crime." Indeed, the year recorded an unprecedented 2 million victims of violent crime in America. Somehow all of our toughness has vaporized, and crime marches on.

The total number of crimes committed in 1990 rose to a new record high as did the rate of violent crime. The Judiciary report also states that "enormous increases in violent crime in the United States are setting records not just at home, but also abroad. We are the most violent and self-destructive Nation on Earth." Yet, we pursue with single-minded dedication the limited and limiting practices of old as deterrents to crime. Our citizens do not feel safer on our streets. They do not feel safer in their homes and communities. These tough approaches have not stopped crime and have not stopped the potential criminal. It is time to get smart and tough.

We have all noted the ironies of the return home of our fighting men and women from facing danger in the Middle East, only to face the greater danger of violent crime in America. We say to one another, how could that be? Why has crime torn loose so violently to endanger the very fabric of our free society. It is tragic. Certainly, no one can disagree that personal safety and security must be returned to the Nation's value system to rival that of national safety and security. We must do more than merely expand crime detection and punishment, if we are to return personal safety to America.

THE ADMINISTRATION PROPOSAL

What are the solutions to this problem that we are now being asked to consider? One thing is abundantly

clear: our efforts on the Federal level are insignificant if they do not convey to the American people that the battle is one that overwhelmingly must be waged and won in the communities and in the neighborhoods of our States. Ninty-five percent of all criminal cases are prosecuted in State courts. It is the State criminal justice systems, the State prosecutors, the State police, the State judges, and the State prisons that bear the greatest burden. Washington's job is to help State and local programs. Our bold and courageous expansion of the list of Federal crimes calling for the death penalty is like throwing a pebble into Lake Pontchartrain. It is true that we have been winding up and thowing the pebble with the flourish and force of Orel Hershiser. This machismo act, however, has had no effect on reducing crime in America. I would say to the President of the United States, Mr. President, we are joining you in fooling the American people if they are convinced that the application of the death penalty to an expanded list of Federal crimes are going to make much of a dent in crime in America.

On the other hand, your crime bill, Mr. President, addresses issues that should frighten every citizen of this country. The administration proposal strikes at the heart of the principles laid down in the Bill of Rights. That is no way to fight crime, Mr. President. Let me just recite a few of a citizen's concerns with this bill:

The administration proposal falsely calls itself a reform bill for the writ of habeas corpus and then proceeds to eliminate the system of Federal collateral review.

The administration proposal would authorize the death penalty for crimes that do not involve murder and crimes that involve unintentional deaths.

The administration proposal would repeal important protections, permitting the death penalty for people with mental retardation and other serious mental disabilities, authorizing the death penalty for crimes in Indian country over the objections of the tribal government, and repealing provisions that require reasonable compensation for competent counsel and experts in capital cases.

The administration proposal would diminish the protections of the fourth amendment. It would expand the exception to the exclusionary rule to cover searches without warrants.

The administration proposal would authorize secret proceedings for the deportation of foreign nationals, departing from the accepted American practice of 200 years, adopting practices that we have uniformly condemned in other countries around the world. We can quickly and forthrightly deport terrorists without resorting to secrecy. America is an open society, Mr. President.

The administration is long on order but short on law. Its proposal is aimed at fooling the American people into thinking that we're really going to be fighting crime in America. These solutions we are asked by the Bush administration to consider are both simplistic and disturbing, and, I might say, insulting to the good sense of Americans.

We cannot wage a war on crime if we adopt an approach that leaves us "for want of a nail," for want of a complete commitment. Much more than a shoe is being lost, the safety and security of our citizens is being forfeited. The administration offers only "sound and fury," the bugle boy can't win the battle if there are no troops to march beside him.

THE BIDEN BILL

As we have learned from history, wars are not won on the battlefield without commitments made by those who also stand and wait. Without the financial commitments to backup the soldiers in the field, to supply them with the tools necessary to do the job, the battle cannot be won. What is absent from the administration bill are some promising solutions like gun control, programs for drug treatment, rehabilitation and prevention, or intermediate sanctions and other measures to deal with the breakdown of the overburdened criminal justice system across the board.

A national response to violent crime and drug trafficking problems will require a comprehensive attack using a wide variety of tools and approaches. I believe the Biden bill provides a well-reasoned starting point for that response.

The local law enforcement community must be aided in their response to violent crime. They are increasingly understaffed, ill equipped, and outgunned. We can do something to help them and the provisions of the Biden bill do just that. Indeed, many of these provisions present sharp contrast to those of the administration. For example, the administration's bill is staggering in its silence on gun control. The Brady bill must be passed. In that regard, our distinguished majority leader has done much to ensure that this will be accomplished by the Senate. His proposal, to be considered as part of our debate on the crime bills before us, combines a waiting period with a mandatory background check and authorizes $40 million to help States update criminal records. My home State of North Carolina has long had a similar provision on the books and it has been readily accepted by our citizens. Without unduly interfering with anyone's right to own firearms, North Carolina's permit system has provided a check against handgun purchases by felons, drug abusers, mental incompetents, and those seeking in quick anger to win an argument. It has not put to disadvantage any law abiding citizens, gun dealers, hunters or NRA members. The Senate Brady bill is a rational policy that will help keep guns out of the wrong hands.

In yet another step, the Biden bill specifically acts to ban assault weapons. Last year, I voted to strike that provision because I did not believe it provided a workable solution. While my hoped for improvements have not been worked out, I am now convinced that this is the best provision that we will get this year. I have had the opportunity to speak with law enforcement people in my State who have told me that this provision is needed even if it does leave unnecessary loopholes.

Another key area of contrast between the bills centers on assistance to State and local law enforcement. In the face of funding reductions, allocation shifts, consolidations, and required expenditures offered in the administration proposal, the more effective response has been offered by provisions in the Biden proposal. The existing Federal commitment is roughly doubled and is to be used to hire, train and equip additional police officers, prosecutors and to provide prisons at the State and local level. Additional funding is also provided for personnel on the Federal level in key agencies such as the DEA, the FBI, the Bureau of Alcohol, Tobacco, and Firearms, as well as for personnel in the U.S. Attorney's Office and the U.S. courts. In sum, the Biden bill boosts Federal aid to $1 billion which is what is needed.

Other measures include:

Expanding the use of joint Federal-State asset forfeiture operations to strike at the underpinnings of drug trafficking rings;

Creating a new $100 million initiative to deal with violent juvenile crimes; and

Easing the State prison crises by establishing regional prisons for Federal and State drug offenders.

Our State and local law enforcement officers need the kind of assistance these programs offer.

Finally, let me make two basic points. Putting more crimes on the death penalty list is a farce. It doesn't do any good, and it doesn't do any harm, but it does permit us to fool ourselves. As the New York Times editorial pointed out in May, let us not be so quick to judgment in capital cases that it can be said the only scandalous thing about capital punishment in America is that "it takes too long to execute people."

Second, I would point out that the protections afforded citizens under the writ of habeas corpus and the exclusionary rule are too precious and too important in our society to be cast out under some ill-conceived notion that this streamlining and reform will reduce crime.

Let us not be in "such desperate haste to succeed and in such desperate

enterprises" [H.D. Thoreau, Walden] that we forget the principles that distinguish and define the rights of individuals and our society. To my colleagues I would say that to forget those principles would be the real scandal.

WHAT WE MUST ALSO ADDRESS

As I indicated earlier, it is important not to lose sight of the fact that the question of what is most likely to reduce crime will not be either satisfied or settled by approaches we adopt this week. Reliance on law enforcement solutions is not enough, and that is the clear record of the last dozen years.

Underlying the entire issue of crime in America are the broader subtexts of our society. Improving the opportunity to thrive and to succeed, improving the opportunity to be educated, improving the opportunity to be free from hunger and from want, to have a home and to be secure. These are the cornerstones for America's war on crime. This is where the battle must be waged and won. These are, of course, the toughest problems to tackle but tackle them we must if we are to honestly say that we are "tough on crime." The evidence is that the administration does not have this kind of courage, this kind of genuine toughness.

Former President Lyndon Johnson urged a national inquiry into civil disorder and said in an address to the Nation 24 years ago:

> The only genuine, long range solution to what has happened lies in an attack—mounted at every level—upon the conditions that breed despair and violence. All of us know what those conditions are: ignorance, discrimination, slums, poverty, disease, not enough jobs. We should attack these conditions—not because we are frightened by conflict, but because we are fired by conscience. We should attack them because there is simply no other way to achieve a decent and orderly society in America.

History will record that America did not follow that advice. These words cannot fail to strike us by the utter failure that characterizes our Nation's progress since that time. A generation has grown up in 24 years and we are in far more dire circumstances now. Consider if you will the simple fact that an American citizen is four times as likely to fall victim to crime in this country today than in 1960. That is what psuedo-toughness has brought us.

The same analysis and the same recommendations could be made today. Let us work to end the hopelessness, the injustice, the poverty, and the destruction that generate violence.

We reach no startling new conclusions here, no bold and previously hidden truths. The ideas are not new. The only thing that will be new are our efforts to change inaction into action. First, and foremost we must act as the Biden bill prescribes to reduce the harms caused by the system of criminal justice itself and to protect the rights of individuals. Second, we must look to the larger context I have described. We must work to reduce the likelihood of entry into the criminal justice system, let alone return to it. In this regard, we cannot dismantle the social services of this Nation and then wonder why people who are desperate and people who are hungry turn to crime. Adults and children across America need to be helped. They need food, and health care, mental health programs, job training, education loans, school lunches, Head Start Programs, Aid to Families with Dependent Children, and programs to curb dropout rates and illiteracy. It is in that vein that I will propose an amendment to the Biden bill that will take the next step. My amendment addresses the roots of crime: the social and economic factors that lead to or contribute to crime. This amendment would require the Commission on Crime and Violence, as found in the Biden bill, to include, as part of its study on models for crime prevention plans, an examination of the basic causes and elements that contribute to crime. It further requests recommendations for specific proposals for both legislative and administrative actions to reduce crime and the elements that contribute to it. I urge my colleagues to act to take this next step.

Ending the epidemic of violence and crime that is gripping our country will take efforts on many fronts. My message to my colleagues today is a simple one: If we are to prevent crime, then we must not perpetuate the roots of crime. This problem cannot be solved any other way.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. SIMON] is to be recognized to offer an amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent Senator GORTON be able to proceed at this time, ahead of Senator SIMON.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Chair recognizes the Senator from Washington [Mr. GORTON].

AMENDMENT NO. 386

(Purpose: To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes)

Mr. GORTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD, proposes an amendment numbered 386.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add the following new title:

TITLE —PRECURSOR CHEMICALS

SECTION 1. SHORT TITLE.

This title may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 2. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in paragraph (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in paragraph (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before the word "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included

in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms "broker" or "trader" mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 3. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemical" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears and

(4) in subsection (5) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after 827 ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) Penalty for importation or exportation

"Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

"shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers", if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reorts of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(D)) (as amended by Section 5 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or record keeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d)(1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/

or the actual listed chemical being imported or exported;".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802 (34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid."

"(U) N-ethylephedrine."

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended in its entirety to read as follows:

"(37) The term "regular importer" means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act 21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by Section 2 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2)

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site."

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of the paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Pub. L. 101–647) is amended as it amends Section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of Title 42, United States Code, is amended by adding the following section to subchapter II:

"11138. Disclosure of information to the Attorney General Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r–2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of Title 21, Sections 801 et seq., and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigation in the enforcement of Title 18 and Title 21, Chapter 7 and Chapter 9, Subchapter V.".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this Act. Except as otherwise noted, this Act will become effective 120 days after enactment.

Mr. GORTON. Mr. President, the war against drugs, albeit tremendously expensive, is one that we must win, for our sake and for the sake of our children and their children. The costs of losing the war; or even daily battles, are far greater.

Facing, as we are, tight Federal budgets, Congress cannot merely throw endless amounts of money at the problem and hope that it goes away. We simply do not have an endless supply of funds.

In the war on drugs, in this Senator's view, an ounce of prevention is worth a pound of cure. This is especially true for illicit drugs processed or manufacturered right here at home using readily available chemicals that are perfectly legal to purchase. Denying criminals the chemicals they need to manufacture synthetic drugs, heroin, and cocaine is one of the most effective weapons available to governments in the international battle against illicit drugs.

In 1988, Congress took a step in the right direction by passing the Chemical Diversion and Trafficking Act. This law regulated precursor chemicals that otherwise could be diverted to clandestine drug laboratories operating abroad. In the first full year after this law became effective, the number of seizures of clandestine drug labs decreased, reversing a decade-long trend. Nevertheless, the level of seizures remains far too high and these encouraging statistics easily could turn upward once again with the advent of new techniques used to manufacture a powerful and particularly virulent form of methamphetamine nicknamed "ice." It is evident that increased vigilance is necessary.

Pursuant to the 1990 Houston economic summit, the multinational Chemical Action Task Force was established to expand and improve upon existing chemical control laws and accords, most notably, the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In addition to the G–7 countries, the task force was attended by representatives of the European Community, major chemical producing and trading countries, major illicit drug producing countries, and international narcotics control organizations, all united to help stem the flow of illegal drugs.

Today, I offer on behalf of myself, Senator AKAKA, Senator BRYAN, Sen-

ator D'AMATO, Senator DECONCINI, Senator BIDEN, Senator BURNS, and Senator PACKWOOD an amendment that builds on, and strengthens, the principles underlying our Federal drug laws, and implements several of the recommendations of the task force. Our amendment, the Chemical Control and Environmental Responsibility Act, will provide Federal authorities with the power and flexibility to prevent the diversion of chemicals essential to the illicit drug manufacturing process without unduly restricting legitimate commerce. In fact, it will reduce the burdens currently borne by industry where fewer controls are warranted.

This bipartisan amendment will expand the regulatory jurisdiction of Federal drug laws to include the export from or import to this country of controlled chemicals, as well as of international transactions between third countries arranged by brokers of traders in the United States. Oversight and control of each of these categories of transaction is crucial to effective international drug efforts.

It will close a number of regulatory omissions and exemptions through which controlled chemicals have slipped on their way to the illicit drug industry. For instance, due to a general exemption for chemicals contained in over-the-counter drugs, the controlled chemical, ephedrine, is exempt from regulation in tablet form. Similarly, mixtures currently are exempt from regulation even though some controlled chemicals may be recovered from the mixtures, or the mixtures themselves may be used directly in the illicit production of drugs. This amendment will close these and other loopholes.

The amendment also revises key terminology used in the current chemical control laws to comport with international usage and regulations. In addition, this will serve to sharpen the focus of domestic drug control laws on the overall importance of regulated chemicals to the illicit drug industry, and with it, the types and levels of controls necessary to restrict their illegal use.

Mr. President, this amendment also will impose liability on convicted drug laboratory owners and operators to undue the environmental damages they cause. Currently, those environmental cleanup costs are borne by Federal, State, and local authorities, in other words, by the American taxpayer.

The scourge of drugs is not just an international or national problem. It is not just a State problem or even a big city problem. Rather, it is a problem that can and does exist in many of our backyards, unknown to our friends and neighbors.

Home drug laboratories can be found in any locality, rich or poor, urban or rural, bucolic or blighted. Following rudimentary instructions, amateur scientists produce a variety of street drugs in relative obscurity. Although these drug kitchens often are small, each has the potential of creating a miniature love canal, contaminating buildings and entire neighborhoods with highly toxic chemical wastes.

Many readily available chemicals are used as reagents in the drug manufacturing process. Following their use, these highly toxic reagents usually are disposed in the manner most convenient to the drug cooks. Acids, poisons, corrosive sludge, and flammable liquids are dumped carelessly on the ground, poured into drains, flushed down toilets, and released into our rivers, streams, and lakes. Other toxins evaporate. These toxic byproducts contaminate the ground, air, and water and can endanger human health for miles around.

The harmful effects of these chemicals on the environment were highlighted in testimony given earlier this year before the Senate Judiciary Committee by Paul Pearce of Camas, WA. As a field expert on clandestine drug laboratory investigations and the president of the Clandestine Laboratory Investigations Association [CLIA], Mr. Pearce understands the imperative need to reduce these drug kitchens and the assured environmental hazards they represent.

Mr. President, the war against drugs continues at all levels. Congress should take the lead and demonstrate to the world that this country is serious about combating the scourge of illicit drugs. We have the opportunity to be one step in front of the resourceful drug industry, rather than struggling merely to keep up with it.

Mr. President, seizures of domestic drug laboratories increased 400 percent during the 1980's. Even with increased staffing, our law enforcement officials always have been one step behind the problem. It would be both prudent and more effective to preclude its growth by inhibiting the supply of precursor chemicals from illicit drug production.

In addition, convicted drug laboratory owners and operators should be fully responsible for costs to restore the buildings and contaminated property to strict environmental standards. It is neither fair nor just to force the American taxpayer to bear the burden of their contemptible acts.

I urge adoption of this amendment.

Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD the text of a section-by-section summary.

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

THE CHEMICAL CONTROL AMENDMENTS OF 1991—SECTION-BY-SECTION SUMMARY

Section 1. Title. This Act may be referred to as the "Chemical Control and Environmental Responsibility Act of 1991".

Sec. 2. Definition Amendments. The terms "listed precursor chemical" and "listed essential chemical" are replaced throughout the Federal chemical control laws with the terms "list I chemical" and "list II chemical." This will bring terminology used in Federal chemical control laws into conformity with international usage and regulations. In addition, the focus will shift away from the categorization of chemicals as precursor or essential chemicals, and rather to the overall importance of those chemicals in the illicit manufacture of controlled substances and the types of controls necessary to restrict their illicit use.

The list of chemicals subject to regulation under "list I" of Federal chemical control laws is expanded to include esters of three "list I" chemicals—anthranilic acid, N-acetylanthranilic acid, and phenylacetic acid. These forms of the listed chemicals easily can be used in the illicit manufacture of controlled drugs.

The definition of "regulated person" is expanded to include a broker or trader involved in international transactions. In addition, the definition of "regulated transaction" has been explanded to include any international transaction which does not include the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participated in the transaction. These definition amendments will permit regulation of international transactions between third countries and arranged by a United States broker or trader. Experience has shown that the control of such transactions is crucial to effective international control of trade in listed chemicals.

The authority of the Attorney General to exempt certain categories of transactions from regulation is expanded to include transactions for specific listed chemicals. Under current law, the Attorney General has the authority to exclude general categories and transactions only.

The current chemical control laws also contain a general exemption from regulation for transactions of listed chemicals that may be marketed lawfully under the Federal Food, Drug and Cosmetic Act. The "list I" chemical, ephedrine, often has escaped regulation through this exemption. This section specifically removes all forms of ephedrine from the general exemption, and grants the Attorney General the authority to remove other listed chemicals from the exemption.

Chemical mixtures also are outside general regulation by Federal chemical control laws, even though some listed chemicals may be recovered from such mixtures and some mixtures themselves may be used directly by clandestine laboratories. This section will limit the exemption to those mixtures which the Attorney General has specifically designated as exempt by regulation. This designation will be based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered. In addition, this limitation is necessary for the United States to satisfy its obligations under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Sec. 3. Registration Requirement. This section authorizes the Attorney General to issue rules and regulations, and charge fees, concerning the "registration and control of regulated persons and of regulated transactions." This would extend regulatory jurisdiction to include the export from or import to the United States of listed chemicals, as

well as international transactions between third countries but arranged by brokers or traders located in the United States. Regulated transactions may be conducted only by parties with valid registrations.

The Attorney General has broad authority to deny, revoke or restrict registrations if in the public interest.

Sec. 4. Reporting of Listed Chemical Manufacturing. Domestic manufacturers will be required to report annually about listed chemicals that they produce. The Attorney general will have the authority to determine what information is necessary.

Sec. 5. Reports by Brokers and Traders. This section applies Federal chemical control laws to brokers and traders located in the United States who arrange international transactions between third countries. In general, such brokers and traders will be subject to all of the notifications, reporting, record keeping, and other requirements placed upon exporters of listed chemicals.

Sec. 6. Exemption Authority. This section grants the Attorney General greater flexibility both in the application and in the waiver of regulatory controls on imports and exports of listed chemicals.

The Attorney General may by regulation require that the 15-day advance notice requirement of Federal chemical control laws apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in those countries as "regular customers," if necessary to support effective diversion control programs or required by treaty or other international agreement to which the United States is a party. Current laws do not require the 15-day advance notice period for "regular customers."

The Attorney General also may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If so, exporters of those listed chemicals will be required to either submit reports of individual export transactions or submit periodic reports of the exports as the Attorney General may require.

The Attorney General also may by regulation waive the 15-day advance notice requirement for imports of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If so, importers of such listed chemicals will be required to either submit reports of individual import transactions or submit periodic reports of the imports as the Attorney General may require.

This section also provides for criminal penalties for any person who falsely represents an import or export shipment as qualifying for a waiver of the 15-day advance notice requirements by misrepresenting the actual country of final destination and/or the actual listed chemical being imported or exported.

Sec. 7. Amendments to List I. This section deletes three chemicals—D-lysergic acid, N-ethylephedrine, and N-ethylpseudoephedrine—from the list of "list I" chemicals. It also adds two chemicals to that list—benzaldehyde and nitroethane—and makes some conforming amendments.

Sec. 8. Elimination of Regular Supplier Status and Creation of Regular Importer Status. This section replaces the term "regular supplier" with a new term, "regular importer," which with respect to a specific listed chemical, is defined as "a person who has an established record as an importer of that listed chemical that is reported to the Attorney General." It is more logical, and simpler, to monitor and regulate a domestic importer rather than a supplier.

Sec. 9. Administrative Inspections and Authority. The Attorney General has broad authority to inspect administrative records and business operations of entities working with listed chemicals. However, certain vital records currently are outside of the general inspection authority of the Attorney General. This section corrects that oversight in current law by extending the authority to enter and inspect at the place "where records relating to such activity are maintained."

Sec. 10. Threshold Amounts. This section clarifies that unless the Attorney General establishes threshold amounts, all transactions of listed chemicals are subject to the requirements of the Federal chemical control laws. The Attorney General may change or remove threshold requirements by regulation.

Sec. 11. Management of Listed Chemicals. This section requires that persons who illegally manufacture controlled substances manage all chemicals and their wastes in a manner consistent with EPA standards. Violators will be liable for full cleanup costs, and may be imprisoned for not less than 5 years, or not less than 10 years if the violation was willful. This section also amends the Federal bankruptcy code to provide that amounts assessed pursuant to these provisions may not be discharged in bankruptcy.

Sec. 12. Technical Amendment to the "Crime Control Act of 1990." This is a technical amendment to correct an erroneous designation.

Sec. 13. Attorney General Access to the National Practitioner Data Bank. This section grants the Attorney General complete access to the National Practitioner Data Bank. Such access is necessary to help determine whether it is in the public interest to grant registrations of practitioners to handle controlled substances.

Sec. 14. Regulations and Effective Date. This section provides that implementing regulations shall be issued within 90 days of enactment, and, except as otherwise noted, the amendments will be effective 120 days after enactment.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Delaware [Mr. BIDEN] and the Senator from Montana [Mr. BURNS] be added as original cosponsors.

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

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. President, I am very pleased to be an original cosponsor of the amendment offered by my friend and colleague from Washington, Senator GORTON. This measure would add additional chemicals to the list of registered precursor chemicals; help reduce the diversion from legal commerce of chemicals used in the production of illicit drugs; provide greater flexibility to law enforcement agencies in the application of regulatory controls on the legitimate international commerce in these chemicals; and, impose penalties for environmental damage associated with illegal drug production.

Mr. President, the Gorton Amendment is consistent with my own legislative efforts to control the diversion of chemicals to the illegal drug trade, particularly as they relate to the production of crystal methamphetamine. I am pleased to note that certain provisions relating to criminal penalties for the sale, distribution, and manufacture of crystal methamphetamine have been included in the committee bill, provisions that I originally offered in my ice amendments to last year's crime legislation. Ice is a growing problem in Hawaii, which has become a port of call for shipments of the drug produced in Asia. If we are able to control the flow of chemicals used to make ice, as this amendment hopes to do, Mr. President, we stand a good chance of stopping the ice epidemic in its tracks.

I want to commend Senator GORTON for his leadership on this matter. A comprehensive, Federal approach to precursor chemicals is sorely needed to supplement local and State laws and regulations against illegal diversion of such chemicals to the drug trade. I especially want to praise him for identifying the environmental consequences of illegal drug production and trade as an important issue in the drug war. By making drug pushers and producers financially as well as criminally liable for the environmental damage they may cause, this amendment serves as a deterrent to such activity. At the very least, we may get drug pushers and manufacturers to pay for the cost of cleaning up the damage they do to our natural inheritance: The air, land, and waters of the Earth.

Mr. President, the impact of illegal drugs on the environment is an issue that we have only begun to explore. The distinguished Chairman of the Judiciary Committee, Senator BIDEN, with typical foresight, recently convened an important hearing on this subject which helped reveal many of the terrible consequences of illicit drug production on the environment. Let me give some examples of the testimony presented at the April 11, 1991, hearing.

One agent from the California Bureau of Narcotics Enforcement testified that at a rental house used as an illegal laboratory, "there was so much benzyl cyanide on the floor of the bedroom that according to the Federal chemist present at the site with me if a baby crawled across the floor he would be dead before he reached the far side of the room."

The same agent also testified that after the discovery of a large methamphetamine laboratory, investigations revealed that "all the waste was being dumped into a stream that led directly to the drinking water of a nearby community."

Another witness was startled to discover that at yet another methamphetamine lab—in this case a mobile home—the suspect had been pouring

chemical waste out of the back of the home for at least a year. The trail of chemicals led downhill to a creek, which drained into other creeks, ending in a well-frequented county park swimming hole.

Mr. President, apparently it is not enough that our children are being tempted to use dangerous drugs; now, we must worry about the serious health consequences facing them from the pollution that illegal drug production causes.

In closing, Mr. President, I want to commend Senator GORTON for his initiative in continuing to raise the issue of precursor drugs. I believe this bipartisan amendment is an important step forward in the ever-expanding war against illegal drugs.

Thank you, Mr. President, I ask unanimous consent that letters in support of precursor chemical legislation from the Hawaii attorney general, the Hawaii Department of Public Safety, and the Honolulu Police Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF HAWAII,
Honolulu, HI, June 19, 1991.

Re S. 1142—Regulation of Precursor Chemicals.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank-you for sending us a copy of the legislation you are cosponsoring that is designed to regulate chemical precursors to controlled substances. Federal regulation of these chemicals is necessary for at least two reasons. First, a comprehensive approach to this problem is needed to ensure that illegitimate precursor chemical dealers do not evade inconsistent or nonexistent local regulations. Second, no matter how vigilant we may be in stopping these dealers once they arrive here, we are unable to attack them outside our own borders.

As you may know, Hawaii enacted precursor chemicals legislation in 1990. (See Sections 329-61 to -91, *Hawaii Revised Statutes*) Provided that our own law is not weakened by any new federal law, we wholeheartedly endorse your plan to introduce this legislation as an amendment to the Violent Crime Control Act.

Very truly yours,

WARREN PRICE III,
Attorney General.

POLICE DEPARTMENT,
CITY AND COUNTY OF HONOLULU,
Honolulu, HI, June 19, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank you for providing us with a copy of S. 1142, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals. This legislation encompasses a range of issues that supports law enforcement's efforts to eradicate drug sources and drug related crimes.

The proposal to regulate manufacture, distribution, import and export of precursors, and provision of information to authorities of each state of transactions or anticipated transactions of these chemicals woud aid law enforcement in Hawaii. These regulations will enable law enforcement in Hawaii to recognize unusual transactions of these chemicals especially those used to manufacture illegal drugs.

The Honolulu Police Department supports legislation with respect to the regulation of precursor chemicals. Thank you for your continued assistance in representing law enforcement on a national level.

Sincerely,

MICHAEL S. NAKAMURA,
Chief of Police.
HAROLD M. KAWASAKI,
Deputy Chief of Police.

STATE OF HAWAII,
Honolulu, HI, June 20, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Your proposed legislation that updates existing Federal Legislation regarding precursor chemical regulation throughout the United States is timely and necessary.

The initial Federal Legislation which served to close down the exportation of chemicals and solvents to cocaine processing labs abroad, does not address the problem of specific precursor chemicals used in clandestine laboratories in the United States. Individual states, such as Hawaii, have passed precursor legislation in an effort to provide this regulation, but without an umbrella of Federal Legislation, states must depend on the formation of interstate agreements to exchange information in seeking a solution to this nationwide problem. This process can be slow and cumbersome.

The Department of Public Safety supports your efforts to provide Federal assistance to the states in the notification and regulation of precursor chemical distribution. If we can be of further assistance to you in this effort, please do not hesitate to call me.

Sincerely,

GEORGE W. SUMNER,
Director.

The PRESIDING OFFICER. Is there further debate?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, by inadvertent oversight, the copy of the amendment I sent forward did not have the names of several cosponsors. I ask unanimous consent that Senators AKAKA, BRYAN, D'AMATO, DECONCINI, and PACKWOOD be considered as original cosponsors.

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

Mr. GORTON. Mr. President, I can say that this amendment has been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I was asked to say on behalf of Senator BIDEN that this is an approved amendment which has the support of this side.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 386) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois [Mr. SIMON] for the purpose of offering an amendment on Federal prisoner drug testing.

AMENDMENT NO. 388

(Purpose: To require federal prisoner drug testing)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 388.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unalwful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States

Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

Mr. SIMON. Mr. President, I believe this is an amendment that is acceptable on both sides. It is an amendment that tightens up our procedures, as far as Federal prisoners are concerned. I had the experience a few weeks ago of talking to a young man who got on drugs when he was in prison. The unfortunate reality is that prisons too often are places that harbor drugs rather than move us away.

So what this amendment does is it requires Federal parolees to pass a randomly administered urinalysis test for illegal drugs before they are released from prison, and to take two such tests after release from a Federal correctional facility. If for any reason there is a belief that the test was inaccurate, then there can be another test and a more refined test given, either at the request of the prison or at the request of the court.

It also requires Federal probationers on supervised releases to take a drug test within 15 days of release and to submit to two randomly administered tests thereafter.

I know of no opposition to this amendment, and I would appreciate the support of the body.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment proposed by the Senator from Illinois.

The amendment (No. 388) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized now for the purpose of offering an amendment on cash bail.

AMENDMENT NO. 389

(Purpose: To require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself and Mr. BIDEN, proposes an amendment numbered 389.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following new title:

TITLE —BAIL POSTING REPORTING

SEC. 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

Mr. SIMON. Mr. President, some weeks ago the mayor of Chicago, Richard Daley, testified before the Senate Judiciary Committee. He is a former prosecuting attorney in Cook County, IL, with a very fine record in that office. He made a suggestion that I thought made a great deal of sense, and I have crafted it into an amendment. I am pleased to have Senator BIDEN as a cosponsor of this amendment.

Mayor Daley suggested that when large amounts of cash are used for bail, the prosecuting authorities be notified and the IRS be notified, and that is precisely what this amendment does. It says if there is $10,000 or more in cash posted for bail or bond, both the Federal and State prosecuting authorities and the Internal Revenue Service should be notified because frequently, if you are talking about large amounts of cash, you are talking about drug money, you are talking about money that has been illegally secured. At least it raises serious questions.

It is a minor amendment but I think an amendment that can help in this area of law enforcement.

Again, I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 389) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 390

(Purpose: To amend title 18 of the United States Code to increase the penalties for trafficking in counterfeit goods and services)

Mr. SIMON. Mr. President, I was asked to offer an amendment for Senator KENNEDY, and I note that he is on the floor right now. It is an amendment that is completely satisfactory to both sides. Let me offer the amendment now on behalf of Senator KENNEDY.

The PRESIDING OFFICER. Under the previous order, the Senator from

New Jersey [Mr. LAUTENBERG] was to be recognized at this point for the purpose of offering an amendment on vehicle theft language, unless he was not on the floor and not prepared to proceed.

Mr. SIMON. Mr. President, I ask unanimous consent—this will take 60 seconds—if there is no objection, to go ahead with this amendment.

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

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for Mr. KENNEDY, proposes an amendment numbered 390.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to trafficking in counterfeit goods and services).".

Mr. KENNEDY. Mr. President, the amendment that I am offering will strengthen protections for intellectual property rights by revising two existing but inadequate Federal statutes. This amendment increases financial and jail penalties for those who traffic in counterfeit goods. It also specifically criminalizes the laundering of proceeds derived from unlawful counterfeiting activities.

I offer this amendment because U.S. companies, including some of our largest producers of athletic footwear, are under siege by counterfeiters. Sophisticated counterfeiting rights manufacture products in Korea and other Pacific rim nations and sell them throughout the world, complete with the trademarked symbols of famous American companies. These illegal sales deprive our firms of tens of millions of dollars in sales each year.

But the negative impact of counterfeiting and trademark infringement extends beyond mere profit calculations. These unlawful actions also result in the loss of jobs for many hardworking citizens, and loss of tax revenues for the Treasury.

Although civil and criminal sanctions exist for trademark holding companies, those remedies are entirely inadequate. All too often, court judgments and penalties are simply factored into the counterfeiters' plans as a cost of doing business. We need penalties that will put these pirates out of business.

I expressed my concern about these matters in a September 1989 letter to U.S. Trade Representative Carla Hills. At that time, I said I hoped the unauthorized production and sale of U.S. products could be stemmed by utilizing existing statutory tools. The U.S. Trade Representative and U.S. Customs Service have been particularly helpful in efforts to eradicate counterfeiting, and I commend their work. Unfortunately, the available statutes are not adequate. When enforcement and prosecution efforts have been undertaken, they have been ineffective.

Counterfeiting rings have persisted, particularly in sporting goods. Often, prosecutors in vital port cities have been unwilling to prosecute strong cases presented to them, due to the press of other business. This amendment will enhance the incentives to attack counterfeiting. At the same time, the cost to the counterfeiters of continuing their illegal activities will rise to a level of meaningful deterrence.

This amendment increases financial penalties. Since fines are often negotiated in exchange for jail time, an increase in available fines will give the Government substantial leeway in any negotiating process. Most important, however, the current fines and prison penalties do not accurately reflect the profits made by counterfeiters. The amended levels will.

In addition, this amendment will specifically criminalize the laundering of proceeds derived from trafficking in counterfeit trademark goods. Counterfeiters attempt to hide the assets they derive from their activities through a variety of methods. They use secret bank accounts, false names, names of relatives, cash and negotiable instruments, and shell corporations to carry out their activities. Their profits are enormous, often running into the millions of dollars. Unless these illegal gains can be seized at or near the time of arrest, they can be forever removed from the jurisdiction of the courts. Without this proposed reform, prosecutors will continue to have a difficult, if not impossible, time in preserving the ill-gotten gains of trademark counterfeiters for court disposition.

In sum, there has been a dramatic loss of revenue to U.S. companies as a result of counterfeiting. The existing criminal penalties have proved ineffective and clearly need revision. This amendment provides a timely, balanced and appropriate incentive for those charged with enforcing the law, and redress for owners of intellectual property rights. I urge its adoption.

Mr. SIMON. This amendment increases the permissible maximum penalty for counterfeiting goods. That is it, very simply. I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from New Jersey [Mr. LAUTENBERG] for the purpose of proposing an amendment on vehicle theft language.

Mr. LAUTENBERG. I thank the Chair.

AMENDMENT NO. 391

(Purpose: To prevent theft of motor vehicles by establishing a national framework for a program under which law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during certain night hours, when operation of the vehicle under those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully)

Mr. LAUTENBERG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 391.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in co-

operation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

Mr. LAUTENBERG. Mr. President, this amendment is designed to prevent the theft of motor vehicles and to help police officers identify cars that are likely being driven by thieves. It's based on legislation I introduced on June 6, S. 1248, the Motor Vehicle Theft Prevention Act.

The amendment would establish a national framework for what might be described as a consent-to-stop program. It is based on a program operating in various jurisdictions around the country. Under the program, motorists may put decals on their vehicles, indicating that their car is not driven under cer-

tain conditions, such as between the hours of 1 a.m. and 5 a.m. Then, if a police officer sees the car being driven under those conditions, the officer will have a reasonable suspicion that the car is being operated unlawfully, and can stop the car to make appropriate inquiries.

This amendment would direct the Attorney General to establish a uniform design for decals, and uniform consent forms. Administration would be left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has exploded in recent years. According to the Uniform Crime Report, between 1985 and 1989 motor vehicle theft increased by 42 percent, to over 1.5 million offenses per year. Around the country, there is one motor vehicle theft every 20 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The motor vehicle theft problem is particularly serious in my State of New Jersey. Newark, NJ, has the worst problem in the country, and several other cities are also listed in the top 10. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem, Mr. President. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young; sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Mr. President, beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often take cars on wild joyrides and police chases. The result frequently is death, injury, and destruction of property.

In Newark last year, for example, 10 persons were killed by stolen automobiles. This represents more than a quarter of all auto fatalities in the city. These were innocent bystanders, Mr. President. One victim, Karrima Sewell, was a 10-year-old girl.

Clearly, Mr. President, there is no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is also a crime with a clear interstate dimension. So the Federal Government also has an important role.

Over the past few months, I have been studying the auto theft problem in an effort to develop possible responses. On May 1, I held a forum in Newark, and heard testimony from several law enforcement experts on various proposals to reduce auto theft. The proposal contained in this amendment emerged as one of the most promising approaches. It focuses on prevention.

The bill is based on a concept first developed in New York City in the mid-1980's. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It is a simple, inexpensive, and innovative concept, and by all indications it's been extraordinarily successful.

In New York City, where about 2.7 million vehicles are registered, more than 146,000 were stolen last year. Yet of the more than 71,000 vehicles participating in the consent-to-stop program, only 60 were stolen. In other words, cars without decals were about 65 times more likely to be stolen than cars with decals.

The success of the program in New York has sparked great interest among jurisdictions around the country. Over 50 municipalities have adopted the program, including Trenton, Philadelphia, Houston, St. Louis, St. Paul, and San Diego. The idea has even been adopted by Scotland Yard in London. To the best of my knowledge, the program has been well received and successful wherever it has been adopted.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

My amendment is designed to build on the success of the program by establishing a national framework for its implementation. Under the amendment, the Attorney General would be directed to develop a uniform design or designs for the decals or other identification devices that are used in the program. In addition, uniform consent forms would be established. Administration is left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and vehicle owners.

To participate, States and localities simply agree to use decals and consent forms in conformance with the uniform standards, and to ensure that law enforcement officials are familiar with the conditions under which vehicles may be stopped.

There are several benefits of establishing a national framework for this program. First, it will increase participation in the program, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the program. At the same time, many officials particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across State or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to stop the car. A uniform design will eliminate this problem.

I expect that some may wonder how a program like this can work, when professional auto thieves will be able, with some work, to scratch off the decals. Most officials believe that the program works because time is of the essence to auto thieves. Many cars are stolen in exposed areas. Thieves have explained to authorities that they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials still don't believe the program will work in their jurisdiction, they are entirely free not to participate.

I would also note, Mr. President, that consent-to-stop programs are consistent with the Constitution's fourth amendment protections against unrea-

sonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion that it is being operated unlawfully. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry, and highway safety advocates. My legislation is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

In sum. Mr. President, this is an innovative, inexpensive way to actually do something about our Nation's auto theft epidemic. It's entirely voluntary. And, most important, it's not just another empty gesture; this program really works!

I hope my colleagues will support the amendment.

Mr. President, this amendment has been cleared by both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 391) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon [Mr. HATFIELD] is now recognized for the purpose of offering an amendment on missing Alzheimer's disease patients.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 392

(Purpose: To establish a Missing Alzheimer's Disease Patient Alert Program)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon, [Mr. HATFIELD], for himself Mr. PRESSLER, AND Mr. GRASSLEY, proposes an amendment numbered 392.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an applicatin to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

Mr. HATFIELD. Mr. President, in September of this last year, 1990, a 62-year-old man was diagnosed with Alzheimer's disease and wandered away from his home in Oregon, one of three cases of missing Alzheimer's patients reported in a 3-month period in my State. When he was discovered and identified a month later, it was determined that he had traveled in five States before being returned home.

In January 1991, an 89-year-old Wisconsin man wandered away from his family's home carrying no identification, and he was found 1 week later drowned in a harbor just 6 miles from his home.

One morning in March 1991, a New York police officer called the Alzheimer's Alert Program operated by the New York City chapter of the Alzheimer's Association. Responding to a call to assist an elderly person who had fallen and recognizing the signs of confusion and disorientation, the officer called the 800 number on a bracelet this Alzheimer's victim was wearing, with the inscription of his name and this number and that person was reunited with the family within 2 hours after the disappearance.

Mr. President, some 4 million Americans suffer today from Alzheimer's. This is indeed a problem that reaches extensively throughout our society, to one out of every three families.

Another interesting point is that 80 percent of these Alzheimer's victims are cared for by their families or their spouses at home. They have no way of coping with this problem. As a son of an Alzheimer's victim, I can attest to the fact that it indeed was a great difficulty, emotionally and in every other way, to my mother as she attempted to keep track of my father. He would wander away from home.

Mr. President, I have here an amendment that, in effect, sets up a national network in which we will fund, out of the Appropriations Committee of the Justice Department, $3 million for a 3-year period, $1 million a year, to assist the National Association of Alzheimer's to set up these identities and the ability to find spouses or loved ones, and to be able to have some 6,000 families across the Nation added to or registered in some kind of specific way to locate the missing Alzheimer's patient.

Mr. President, I cannot emphasize too much the importance of assisting through the local police because the local police and the emergency vehicle people are now on the forefront of this task of trying to identify a very difficult problem because even experts have difficulty in dealing with and diagnosing Alzheimer's and being able to help the missing people problem. It is patterned after the missing children's program, and I think therefore we have certainly had experience enough both in the New York chapter and elsewhere to justify this amendment.

Given the nature and relentless progression of Alzheimer's disease and related dementias, each patient is at risk of becoming disoriented and lost. Although no national statistics are currently kept on missing Alzheimer's patients, cities and towns across the country each week report incidents involving lost or missing Alzheimer patients. The New York-based Alzheimer Alert Program alone was involved in 30 incidents of missing patients in a 3-month period during the last year. In most instances, the traditional passive means of identifying the sick or missing person are of little help simply because an Alzheimer patient may not display any outward signs of the disease.

For while people can generally recognize and often do respond to a lost child, few can identify an Alzheimer patient. Local police and public safety programs, emergency personnel, and even most health professionals lack basic training in recognizing the characteristics of an Alzheimer patient as someone who can appear physically well and mentally intact one moment, then become aggressive and resistant the next.

In response to this growing problem, nearly 6,000 families across the Nation have registered their loved ones in programs specifically tailored to help locate missing Alzheimer patients. The largest of the programs, located in New York, provides a safety net of protection and peace of mind for more than 1,000 families in the Northeast region. Yet these opportunities are spotty around the country and many of our families have no existing networks in their States. For instance, one of the families from my own State of Oregon recently registered their father with the New York program. The chances of the patient ever being lost in New York are slim—but the family has been provided with an identification bracelet

with an 800 number which will allow any person who locates him a means of identifying him.

The New York program, which I hope to expand nationally through the amendment I offer today, operates through a carefully integrated system that includes a comprehensive registry of at-risk individuals, an 800 number staffed around-the-clock by specially trained operators, a variety of dementia-specific identifiers, and a fax-based emergency response network that links the program with police departments, hospitals, shelters, ambulance services, and local media. With the help of the local Alzheimer's Association chapters, the program also provides supportive family counseling and training for police and other health and safety personnel.

Using the Alzheimer's Association experience to date, my amendment establishes a national program to protect and locate missing Alzheimer patients. Through a small commitment of Federal funds—$3 million over 3 years—and additional support from interested nonprofit organizations, this program will register and identify patients, using the existing network of Alzheimer's chapters, and local support groups to make families aware of the program. Families will be given identification kits, including a centrally registered ID bracelet, and will be provided with counseling on how to protect the patient and secure the home environment. A national 24-hour 800 line will be available to receive reports of missing and found memory-impaired persons. For those reported missing, the most current patient information available will be faxed within minutes to local emergency networks such as police precincts, ambulance services, shelters, and local media. If the patient is not located within a reasonable period of time, the information will be distributed to a wider circle of police and public safety jurisdictions.

As many of my colleagues are aware, I am the son of an Alzheimer victim. My father was from the third generation of blacksmiths in our family. He spent nearly 40 years of his life as a blacksmith on the Southern Pacific Railroad. He was a man of extraordinary strength because he was a blacksmith in the days of the anvil, bellows, and hammer. Even at the time of his retirement, he was still very conscious of keeping physically fit.

He would jog every morning and at the age of 80, he was still jogging. I will never forget the day when a neighbor called my mother and said, "Your husband is here and has lost his way back home." This was the first indication that something was awry in the life of my father. He insisted, however, in continuing his physical activity of jogging and, more frequently than not, my mother would have to go and pick him up at some neighbor's house where within a block of our home he had lost his way. This would cause sheer terror for my mother and while neither are alive today, I am confident that this little bracelet would have brought them both great peace and confidence.

I cannot let this opportunity pass without expressing my gratitude to the law enforcement community for the support they have shown for this program. In New York, an officer stated that he wished all Alzheimer victims had alert bracelets and noted that the program is probably the "greatest thing that could happen for these people."

It is my sincere hope, Mr. President, that the Senate will adopt my amendment and will provide the growing numbers of this Nation's Alzheimer patients and their families a tool in battling this devastating disease.

I ask unanimous consent that three news articles from the Gannett Westchester Newspapers be printed in the RECORD.

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

[From the Gannett Westchester Newspapers, Mar. 23, 1991]

A HELPING HAND ON ALZHEIMER'S

The inexpensive piece of silver jewelry 83-year-old Francoise Com wore around her right wrist proved to be priceless. The Yonkers woman's Alzheimer's Alert Bracelet probably saved her life.

The Alzheimer's Association in New York City, which began distributing the bracelets last November to help victims of the memory-impairing disease find their way home, says Com was the first person in the nation saved by the bracelet. She won't be the last.

That's if relatives and friends of Alzheimer's sufferers act wisely and contact the association to purchase a bracelet. For $10, the purchaser gets a bracelet, which lists an Alzheimer patient's name and the toll-free telephone number of the association's Alzheimer's registry. The registry can provide the patient's name, address, age, photograph and medical history.

Credit people like television science reporter Dr. Frank Field and hotel magnate Leona Helmsley for launching the program. As a result, when Com was spotted wandering around a southwest Yonkers neighborhood, police didn't have to go through the usual time-consuming routine of checking missing persons reports and contacting local media to locate a relative. Sometimes this process proves successful after a couple of hours. Other times it can take weeks or months.

So far, only 13 of the estimated 12,000 people in Westchester who suffer from Alzheimer's have the bracelets. Those who know someone who'd be helped by the bracelets in Westchester may call 428-1919.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

POLICE PRAISE BRACELETS AS TIME SAVERS

(By Paul Kirby and Alison Gendar)

Yonkers Police Investigator William O'Brien thinks all Alzheimer's victims should wear an alert bracelet.

It would make his job—dealing with missing people—a lot easier.

"It's like getting a tattoo," he said. "With the bracelet, it makes identification easy. It's probably the greatest thing that could happen for these people."

O'Brien guessed that he gets tied up at least five times a year with an Alzheimer's victim who has no identification and can't remember where home is.

In every case, his task is time consuming.

He has to check missing-persons reports to look for matching descriptions. Then he has to broadcast to regional departments a description of the person he has found. Then, he waits.

It's a bit easier if the Alzheimer's victim lives in Yonkers or Mount Vernon, but the person could easily be from anywhere.

Carolina Edwards, a spokeswoman for the Alzheimer's Association of New York City, said it is not uncommon for victims "when they are in a wandering phase, to get on a Greyhound bus or hop a plane."

Detective Sgt. Michael Carpentieri of the Mount Vernon Police Department said the bracelets would be a tremendous help to police.

"When these people are found, sometimes they don't even know their names," he said. "It's a giant mystery. The bracelets would increase our ability to find their homes by 100 percent."

"It's an excellent idea," said Mount Vernon Deputy Police Commissioner John DeLeo.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

ID BRACELET SAVES WOMAN WITH ALZHEIMER'S DISEASE

(By Paul Kirby)

Tiny, gray-haired Francoise Com was walking the seedy streets of southwest Yonkers on Friday, but she didn't know it.

In fact, she didn't know where she was or how she got there.

Com, 83, has Alzheimer's disease.

But her story had a happy ending because of a silver bracelet she had around her wrist. The bracelet is a new product of the Alzheimer's Alert Program, and according to its parent group, the Alzheimer's Association in New York City, Com was the first person in America to be saved by it.

"It's wonderful how this worked," said Jed Levine, a spokesman for the association. "Mrs. Com was home within an hour instead of sitting, confused and alone, in a police station."

Helped by a $300,000 donation from Leona Helmsley, the Alert Program began distributing the bracelets in November to help Alzheimer's victims who sometimes wander outside in a daze. Thus far, 800 bracelets have been given out.

Thirteen of the estimated 12,000 people in Westchester who suffer from the disease have gotten the bracelets. Barbara Olivier, executive director of the Westchester Chapter of the Alzheimer's Association, said another 100 Westchester residents have asked for applications.

The bracelets contain on one side an Alzheimer's logo and on the other the name of the person wearing it and the telephone number, 1-800-733-9596. Someone who calls the number and gives the name can get information about where the person lives.

In Com's case, police received a report about noon of a woman who had fallen on Hawthorne Avenue. When Police Officers Frank Horan and Patti Greene arrived, they found she had money, but no identification in her possession.

"She was really confused. She had no idea where she was or how she got there," Greene said.

But Horan saw the silver bracelet and telephoned the 800 number when they took Com to the city's 3rd Precinct.

"She really didn't want to be there," Horan said. "But we had no idea where she was from."

Fifteen minutes later, the officers got a call from Levine. A computer check had been run, and Levine gave the officers Com's address and the names of her caretaker and a neighbor. They were also given the telephone number of her daughter.

It was then a simple matter to get Com back to her Yonkers home.

"We could quickly decipher where she was from and get her back to safety far more quickly than if she didn't have the bracelet," Greene said.

Yesterday, Com, Greene and Horan were reunited in a happy celebration with WCBS-TV science correspondent Dr. Frank Field, who was instrumental in getting the bracelet program off the ground. Field taped Com's story for airing on television and said he expected the segment would be shown today to show how families of Alzheimer's victims can help themselves.

"I get two or three calls a week from families who want to run Alzheimer's victims on television," Field said. "These people are just wandering around. Meanwhile, their families are going crazy."

Com's daughter, Jacqueline Francois, 55, of Woodstock, said her mother had wandered off four times recently. Once, she was found on a Manhattan street at 3 a.m.

Francois said the bracelet gives her a sense of security.

"It was the perfect answer for my mother," she said.

Mr. GRASSLEY. Mr. President, I rise for 2½ minutes to address the issue of the Hatfield amendment.

Mr. President, I would like to add my word of support for this amendment. The grant program which this amendment would establish would help set up a system for locating Alzheimer's disease victims who have wandered away from those who are caring for them. They are cared for by their families in the overwhelming number of cases.

I am glad to be a cosponsor of the Hatfield amendment which attempts to help with this problem.

As most of my colleagues know, Alzheimer's disease progressively robs the patient of his or her cognizant faculties and at some point, as the disease progresses, in extreme cases its victims become restless and agitated. Of course, one of the symptoms is they are given to wandering and not knowing how to get home. Those of us who have visited Alzheimer's disease day care centers or nursing homes know that these facilities take very special precautions to guard against the possibility that those in the care of these special facilities will leave through unsecured doors and wander away.

However, as I stated before, in the vast majority of cases, and it could be as high as 80 percent as I understand it, Alzheimer's disease victims are cared for in their homes or at the homes of relatives. In such cases, it is more difficult to guard against the possibility that the victim will wander off into the community. Of course, once they do wander off, it is no simple matter to find them. They do not necessarily appear any different from anyone else. If it becomes apparent that they need help, they are probably not able to communicate what their problem is or where they belong. They will almost always become lost. They may even become injured, and perhaps all this found out after a period of days or weeks have passed.

The fear and anxiety that family members who are caring for an Alzheimer's disease victim at home must bear are obviously considerable, especially so if the family member with the disease wanders off.

Mr. President, I think the program that Senator HATFIELD's amendment would establish probably the first proactive Federal program designed to help locate missing Alzheimer's disease victims.

Senator METZENBAUM and I did include, at Senator METZENBAUM's urging, an education program for safety and transportation personnel in legislation that we introduced in the 99th Congress. That legislation became title 9 of Public Law 99-660, and we hope to reauthorize it this year, including that education component.

In any case, the purpose of that education program in that legislation was to help educate public safety personnel and public transportation personnel about the victims of dementia and how to recognize them and how to help them.

The amendment that we are now considering goes further than what we did in Public Law 99-660 in it would help set up a central patient registry with which patients could register. It would also make it possible to alert local emergency networks when somebody with Alzheimer's disease has become lost.

Mr. President, I think the amendment offered by Senator HATFIELD is an imaginative way to at least start a program to deal with what is a very difficult problem. So I take this opportunity to applaud my colleagues' initiative.

I yield the floor.

Mr. HATFIELD. Mr. President, I believe, as I say, the amendment has been cleared on both sides. I urge its adoption.

Mr. BIDEN. Mr. President, it has been cleared on this side. Let me, before we vote on it, just say I think the Senator from Oregon has made a very positive contribution here.

This is a case where the use of the capability that is available for American law enforcement can be used without any interference in their ability to function and do their duties, to expand the underlying function—and that is to protect human life.

I compliment my friend from Oregon. We accept the amendment.

Mr. HATFIELD. Mr. President, I thank the chairman of the Judiciary Committee for his kind words.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 392) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senator from Nebraska [Mr. EXON] be recognized to offer his amendment subject to the conditions of the previous agreement.

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

Mr. EXON. I thank the Chair. I thank my colleague from Delaware.

AMENDMENT NO. 393

(Purpose: To establish drug free zones at truck stops and highway rest areas)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. HOLLINGS, KASTEN, and DANFORTH, proposes an amendment numbered 393.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstop and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or

possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

Mr. EXON. Mr. President, the amendment that I have just offered was offered on behalf of myself; on behalf of Senator HOLLINGS, the chairman of the Commerce Committee; on behalf of the Senator from Wisconsin, the chairman of the Surface Transportation Subcommittee; and also Senator DANFORTH, the ranking Republican on the Commerce Committee.

This amendment, offered by myself with the original cosponsors that I have just mentioned, has to do with drug-free truckstops. It is fully appropriate on the crime package. The amendment on the drug-free truckstops is an amendment that has already passed the Senate as part of the highway bill. This amendment was also passed last year by the Senate but was dropped in conference.

In attaching this amendment to the crime bill, it is my hope that we can get beyond the jurisdictional disputes and it will soon become law.

Mr. President, we have a serious threat to the safety of the millions of travelers on our Nation's highways. The threat is the use of illegal drugs by our Nation's truckdrivers. In 1989, in a survey of 1,300 truckdrivers conducted by the Regular Common Carriers Conference of the ATA, the average response indicated that over one-third of all truckdrivers at one time or another drive under the influence, to some extent at least, of illegal narcotics.

In another study conducted by the National Transportation Safety Board, it was found that the use of drugs or alcohol was a major factor in 26 of the 189 accidents that they studied.

It is imperative that the Congress address this situation. Nearly every American traveler on our Nation's highways and their safety should be a primary concern of all.

In order to combat the spread of drugs in the motor carrier industry, this amendment creates drug-free zones around truckstops, and doubles the penalty for those persons convicted of selling drugs within 1,000 feet of truckstops. This amendment is modeled after the language from the Omnibus Drug Initiative Act of 1988, which established similar drug-free zones around our Nation's schools.

The establishment of the drug-free truckstop will send a strong signal to our Nation's motor carrier industry that the safety of our Nation's motorists is paramount, and that unnecessary risks to that safety will not be tolerated.

Mr. President, I thank the cosponsors of this measure. We have thoroughly reviewed it in the Surface Transportation Subcommittee that I chair and the Commerce Committee as a whole.

I thank you, Mr. President.

I understand the measure has been cleared on both sides. I hope, Mr. President, that we now can proceed with the adoption of the amendment, I assume by a voice vote.

Mr. HOLLINGS. Mr. President, I rise today in support of this amendment to the crime bill which calls for the establishment of drug-free zones for truckstops and roadside rest areas. The amendment establishes a minimum penalty and increases the maximum penalty levels for persons convicted of distributing or possessing with intent to distribute illegal drugs within 1,000 feet of truckstops.

Mr. President, this amendment is an attempt to stem the tide of drug supplies to truckdrivers. Truckstops and rest areas are the easiest locations at which to distribute drugs. Such distribution is well documented and the consequences are, unfortunately, all too familiar. The problem of drug use by truckers simply reflects the larger societal problem. The difference, however, is that a truckdriver under the influence of drugs is often operating an 80,000 pound truck. This represents an enormous threat not only to the safety of the driver but also to the lives of the other motorists on the highway. We have seen the positive impacts of such drug-free zones around schools and we hope this program meets with the same success.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 393) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I thank the Chair. I thank my friend and colleague from Iowa.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire [Mr. RUDMAN] is to be recognized for the purpose of proposing an amendment on multijurisdictional drug task forces.

AMENDMENT NO. 394

(Purpose: To exempt multijurisdictional drug task forces from the 4-year grant limitation for antidrug abuse grants)

Mr. RUDMAN. Mr. President, the amendment I am about to offer has in

fact been cleared on both sides. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes amendment numbered 394.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754)(f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

Mr. RUDMAN. Mr. President, I have been advised by the staff of the distinguished Senator from Delaware, the chairman of the Judiciary Committee, that this amendment has been cleared on both sides. Thus, I will proceed, even though he is not on the floor and is attending a meeting.

Mr. President, I urge the Senate to act favorably on the amendment I am offering today to ensure the continued viability of State multijurisdictional drug task forces. Under current law, State antidrug abuse grants are subject to a grant limitation prohibiting the utilization of Federal money for any one project for more than 4 years. While this grant limitation may make sense in terms of seed money for projects undertaken by a State or single municipality or jurisdiction, it does not make sense for multijurisdictional projects. In the case of such multijurisdictional projects, it is not reasonable to expect that any one participant can coordinate the funding for the benefit of multiple participants.

Mr. President, these multijurisdictional drug task forces have proven to be one of the most successful tools in the war against drugs. This is particularly true in small rural States such as New Hampshire. Their structure promotes cooperation, coordination and confidence among a variety of governmental units and encourages broad involvement at all levels of law enforcement which might otherwise not be possible or practical. Without this amendment, the continued success of these task forces may be in jeopardy.

Mr. President, let me say that this amendment is not intended to favor multijurisdictional drug task forces over other worthy recipients of the State antidrug abuse grants. Rather, it recognizes the unique conditions which apply to multijurisdictional projects, and seeks to ensure their continued viability. I urge my colleagues to support this amendment.

Mr. SIMON. Mr. President, the Senate today will agree to an amendment offered by my colleague from New Hampshire that provides for a waiver of the 4-year time limit on drug grants provided by the Bureau of Justice assistance for the multijurisdictional task forces. While I will not object to this amendment, I want to make clear my strong support for the distribution of antidrug grants to the local law enforcement community in addition to the multijurisdictional task forces. The purpose of the amendment as I understand it is simply to ensure that multijurisdictional task forces which provide a valuable service to fighting the drug problem, continue beyond the initial 4 years. However, the purpose is not to diminish the importance of the local law enforcement community who are not part of these task forces. It is my intention that these local law enforcement officials will also benefit from the Federal funding and that his provision will not be read in any way to diminish their significance.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 394) was agreed to.

Mr. RUDMAN. Mr. President, I move the reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. EXON. Mr. President, I ask unanimous consent that upon disposition of the Specter amendment, the Senate proceed to the following amendments; that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer an amendment; and the no amendment to the amendment or to the language proposed be stricken be in order; and that during the pendency of the agreement on the listed amendments, no motion to recommit be in order.

The amendments that I reference in order, as I have requested in the unanimous-consent agreement, are as follows: a Biden amendment on the National Crime Commission; Heflin amendment on restitution; Wirth amendment on campus crime; Thurmond amendment on murder of U.S. nationals; Bradley amendment on drug dealing in public housing; Seymour amendment on battered women; Seymour amendment on drug paraphernalia; Hatch amendment on software privacy.

I have just been advised that there will be two more amendments, which would be the last two to be considered in this order; that is, the Specter amendment on courthouse in Lancaster, PA, and another amendment regarding U.S. attorneys offices.

The PRESIDING OFFICER. Is there obection? Hearing none, it is so ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I am prepared to proceed now with two amendments which have been agreed to by the chairman of the committee and the ranking Republican member. There are discussions which are underway on other important parts of this bill.

I am at a slight loss at proceeding without the managers on the floor. Perhaps we ought to wait just a few minutes to give Senator BIDEN and Senator THURMOND an opportunity to return before proceeding.

The PRESIDING OFFICER. Regular order is the Specter amendment No. 381, the Chair would inform the Senator from Pennsylvania.

The Senator from Pennsylvania has 13 minutes remaining and the Senator from Delaware has 4 minutes remaining.

Mr. SPECTER. Mr. President, at this time, I ask unanimous consent to set aside my amendment, which would recur under the regular order, for purposes of proceeding with these two agreed-to amendments.

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

AMENDMENT NO. 395

(Purpose: To authorize funds for construction of a U.S. Attorneys office in Philadelphia, Pennsylvania)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER] proposes an amendment numbered 395.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: *Provided further*, That the site selected for the Philadelphia U.S. Attorney Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

Mr. SPECTER. Mr. President, I have discussed this personally with Senator BIDEN and personally with Senator THURMOND. Both are in agreement, as is the Department of Justice.

The essence of this amendment is to provide an authorization for construction of facilities for the U.S. attorney in collaboration with a jail which has already been authorized and appropriated in the city of Philadelphia.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 395) was agreed to.

AMENDMENT NO. 396

(Purpose: To provide that the U.S. District Court for the Eastern District of Pennsylvania shall also sit in Lancaster, PA)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 396.

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

Mr. SPECTER. Mr. President, the essence of this amendment is to authorize a courtroom for Lancaster, PA. This follows a pattern of satellite courtrooms in Johnstown, PA., in Reading, Allentown, Easton—many other communities. This, too, has been taken up on both sides of the aisle. There is no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 396) was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent a statement appear concerning the establishment of this Federal court station of Lancaster, which sets forth the statistical data in support of the satellite court.

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

STUDY: ESTABLISHMENT OF FEDERAL COURT STATION LANCASTER, PA

THE CASE FOR A FEDERAL STATION IN LANCASTER

Lancaster is one of ten counties in the Eastern District of Pennsylvania, the other nine being (in alphabetical order) Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, Philadelphia and Schuylkill. (A map showing the alignment of the ten counties is attached as Exhibit "A."). The headquarters for the district is in Philadelphia, but there are "satellite" stations in Reading (Berks County), Allentown (Lehigh County) and Easton (Northampton County). There are two stations in Reading, one each for Judges Troutman and Huyett and one station each in Allentown and Easton, for Judges Cahn and Van Antwerpen respectively.

Lancaster is one of the five so-called "northern" or "upper" counties in the district, along with Berks, Schuylkill, Lehigh and Northampton. Cases filed from Lancaster and the other four northern counties go into a separate "wheel" for assignment from other cases filed in the district. Cases from the five Philadelphia area counties (Bucks, Philadelphia, Chester, Montgomery and Delaware) to into the district's main wheel for assignment among all of the judges on the court. Cases from the northern "wheel" are assigned only to one of the "northern" county judges, i.e., Judges Troutman, Huyett, Cahn or Van Antwerpen.

The satellite stations were created for the convenience of litigants, attorneys, witnesses and jurors, as well as the judges who preside over the stations and who live either in or near the county of the station.

For the same reasons that a station is appropriate for Berks, Lehigh and Northampton Counties, a station has now become appropriate for Lancaster.

CASES FILED

The number of civil cases filed by Lancaster County residents is now greater than the number filed by residents of either Schuylkill, Lehigh or Northampton Counties, and is only slightly less than the number filed from Berks County. Records from the United States District Court for the Eastern District of Pennsylvania show the following filings per year from Lancaster and the three "northern" counties (Berks, Lehigh and Northampton) which have satellite stations. A summary of those records is shown below:

	1987	1988	1999
Lancaster	101	151	174
Berks	175	211	198
Lehigh	148	168	156
Northampton	87	97	118

As the above shows, the number of civil cases filed by Lancaster County citizens has increased per year at a dramatically greater rate than the number filed from Berks, Lehigh or Northampton Counties. The percentage breakdown on this increase between 1987 and 1989 is as follows:

	1987	1989	Percent increase
Lancaster	101	174	73
Berks	175	198	13
Lehigh	148	156	5
Northampton	87	118	35

POPULATION

The above trend in case filings should continue, given the population trends of Lancaster and the other "northern" counties. Lancaster is now the largest of the five "northern" counties in population, as the following data from the 1988 total population estimates of the Census Bureau show:

Lancaster	414,100
Berks	328,100
Lehigh	288,700
Northampton	243,600
Schuylkill	154,100

Lancaster is also the fastest growing county in the Eastern District, and the population difference between Lancaster on the one hand and the other "northern" counties on the other can be expected to increase in the immediate future. The Census Bureau data shows the following growth in population from 1980 to 1988 for Lancaster and the other four "northern" counties:

	1980	1988	Change	1980–88 (percent)
Lancaster	362346	414100	51754	14.3
Berks	312509	329100	1659	5.3
Lehigh	272349	288700	16351	6.0
Northampton	225418	243600	18182	8.1
Schuylkill	160630	154100	−6530	−4.1

As the Census Bureau data shows, Lancaster County had the second highest population gain of all counties in Pennsylvania, behind only Bucks, in the period from 1980 to 1987.

ATTORNEYS

Lancaster County now has more attorneys than any of the other "northern" counties, and thus more attorneys from the other northern counties who either have cases in the Eastern District already or who may be expected to have such in the future. The bar associations of the five northern counties had the following memberships as of March 2, 1990:

Lancaster	508
Berks	480
Lehigh	493
Northampton	388
Schuylkill	175

CONVENIENCE

A station in Lancaster would ease considerably the inconvenience for Lancaster litigants, attorneys, and jurors that exists under the current system of case assignments.

As noted above, Lancaster cases are currently assigned to Judges Troutman or Huyett, both of whom sit in Reading, or to Judges Cahn or Van Antwerpen, who sit in Allentown and Easton respectively. Judges Troutman and Huyett have senior status and are assigned only half the normal caseload. Judges Cahn and Van Antwerpen carry full caseloads. Because of this allocation, Lancaster cases have twice the likelihood of assignment to Allentown or Easton than to Reading, as the following table shows (1.0 refers to a full caseload and .5 to half a caseload):

Reading-Troutman	.5
Reading-Huyett	.5
Allentown-Cahn	1.0
Eastern-Van Antwerpen	1.0
	3.0

While Reading is a convenient station (approximately 45 minutes by car) for Lancaster litigants, attorneys, witnesses and jurors, Allentown is 67 miles from Lancaster and takes approximately two hours to drive. Easton is 83 miles from Lancaster and takes approximately two-and-a-half hours. A proceeding in Allentown or Easton, however brief the proceeding might be, requires a commitment of all or the better part of a

working day for Lancaster litigants, attorneys and witnesses.

If Lancaster County was assigned a federal station, however, and if the current method of assignment for "northern" county cases remained the same, Lancaster cases would have a 25 percent chance of assignment to Lancaster, with no travel at all required; a 25 percent change of assignment to Reading, travel to which is convenient; and only a 50 percent change of assignment to the less convenient stations in Allentown or Easton, compared with the present two-thirds (66.7%) chance of assignment to either of these stations. With a judge taking a full caseload in Lancaster, the probability of assignment for cases from Lancaster (or any of the northern counties) would be the following:

Lancaster	1.0
Reading (Troutman)	.5
Reading (Huyett)	.5
Allentown	1.0
Easton	1.0
	4.0

A federal station in Lancaster would also be as conventient as Allentown, and more convenient than Easton, for attorneys, litigants and jurors from Berks County. Lancaster is 30 miles from Reading, the county seat of Berks County, while Reading is 35 miles from Allentown and 45 miles from Easton.

Lancaster would also be more convenient for jurors from Philadelphia County than Reading, Allentown or Easton because Lancaster is accessible from Philadephia by train. Lancaster has daily train service to and from Philadelphia, which neither Reading, Allentown nor Easton has. At present, jurors from Philadelphia have no option to use the train when they are selected for a trail in one of the "northern" stations. If a station were established in Lancaster, jurors from Philadelphia would have a one-in-one four chance of having train service available if they are selected for a trail in one of the "northern" stations.

COST

Lancaster has the unanimous support of all sectors of the community for a federal station, and has facilities for a federal station immediately available. Lancaster County officials have committed to making Courtroom "A" of the present Lancaster County Courthouse available for a federal station, and to providing the adjacent space necessary for judicial chambers. The establishment of a station in Lancaster could thus be made at much less the cost than establishing a station might otherwise require.

CONCLUSION

No matter which criterion one uses, whether it is convenience to judges, litigants, attorneys or jurors, Lancaster County deserves a station as much as Berks, Lehigh or Northhampton Counties. If a station is appropriate for those counties, it is equally appropriate for Lancaster. A station in Lancaster would improve substantially both the availability and convenience of the federal courts for Lancaster citizens, with no detriment to citizens in the balance of the Eastern District or to the court as a whole.

AMENDMENT NO. 381, AS MODIFIED

Mr. SPECTER. Mr. President, I am now prepared to proceed to the amendment, where regular order calls for consideration. At this time, Mr. President, I ask unanimous consent to submit a modification to that amendment.

The PRESIDING OFFICER. Is there objection? The Senator from Ohio.

Mr. METZENBAUM. Reserving the right to object and I have no objection, I see the floor is not covered on this side. Has the Senator from Pennsylvania cleared the modification with the manager of the bill?

Mr. SPECTER. I have discussed it with Senator BIDEN and Senator THURMOND and neither one has raised any objection.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will send his modification to the desk.

The amendment, as modified, is as follows:

In section of the bill, in proposed section 2262 of title 28, United States Code, captioned "Limitation periods for determining petitions," strike subparagraphs (1) and (2) of paragraph (a) and paragraphs (b), (c), and (d) and insert the following in lieu thereof:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of such application unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

Mr. WIRTH. Will the Senator yield for a question?

Mr. SPECTER. I do.

Mr. WIRTH. I have an amendment which has been cleared on both sides. I was wondering if the amendment the Senator is now offering is one that is going to be lengthy and will require a vote, or is it going to be dispensed with quite rapidly?

Mr. SPECTER. The amendment is going to be not very lengthy but will require a vote and will consume some time.

I note in the voice of the Senator from Colorado an interest in perhaps setting this aside?

Mr. WIRTH. I was hoping we might do that in order to agree to an amendment cleared on both sides that could be handled quite rapidly.

Mr. SPECTER. I am happy to accommodate a colleague. Perhaps we can get Senator BIDEN here on the floor and perhaps we should proceed.

I ask unanimous consent to set aside my amendment so the Senator from Colorado can proceed briefly with an amendment which he represents has been agreed to on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado.

Mr. WIRTH. I thank the distinguished senior Senator from Pennsylvania for his usual courtesy and accommodation for allowing me to offer an amendment which has been cleared on both sides.

AMENDMENT NO. 397

(Purpose: To amend the General Education Provisions Act to allow educational agencies and institutions to disclose campus police records)

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 397.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records of a law enforcement units of an educational agency or institution that are required by State law to be made available to the public;".

Mr. WIRTH. Mr. President, the purpose of this amendment is to clear up what is a quite anomalous situation and conflict which has occurred among laws in some 10 or 12 States, not only to my State of Colorado but in Virginia, Missouri, Arizona, Iowa, Kentucky, Louisiana, North Carolina, and Pennsylvania. In each of these States there is a requirement that any criminal activity, and any arrests that have occurred at a State level, a community level, and on university campuses, be made available to the public.

That is an open record relating to any criminal activity. That would seem to make very good sense. And those are laws that are in the States that I have just listed.

On the other hand, there is somewhat of a glitch in the Federal law related to this so-called Family Educational Rights and Privacy Act or FERPA. That law says that if a campus discloses information publicly, related to a student's records, that campus can be cut off from all Federal funds. So institutions of higher education in my State and in all of these other States, including the State of the distinguished Senator from Pennsylvania, are caught between a rock and a hard place.

Colorado State University, for example, to comply with the State law, provided the open records on students who had been arrested on that campus. The Federal Government came in and said,

You cannot do that under FERPA. If you do that, you are going to lose; you will be cut off under the requirements of the law. You are going to be cut off from all Federal support.

This amendment would allow campus police units to release the information that States have determined plays a role in protecting the public safety and could do so without violating the Federal law.

This in no way affects students' privacy with other records, performance evaluations, test scores, letters of recommendation and things like this. This relates only to public safety issues and will potentially, I think, help us get a handle on a growing amount of campus crime.

To reiterate, this amendment will help to ensure public safety by allowing students and campus communities to know about criminal activity at their schools. Campus crime is a growing problem that not only threatens the safety of that community, but hinders the education of our students.

Many States in this country have open record laws—which means the public has access to police records and can find out who has been arrested and for what crimes. This is the kind of access that can promote community involvement and help to bring peace to college campuses.

A glitch in Federal statute, however, has posed a difficult problem for universities in States that have open record laws. For example, in compliance with my State's open book law, in the past Colorado State University routinely released the names of students who have been charged with a crime. However, the university was notified by the Department of Education that all its Federal funding would be cut unless it complied with the Federal Family Educational Rights and Privacy Act [FERPA]—which prohibits the release of this information as a part of a student's education records.

The obvious dilemma faced by universities is determining with which law they should comply—State or Federal. If they do comply with State law, they are severely punished by having all Federal funding for the institution removed. I think it is safe to say that no school wishes that upon itself.

My amendment would allow campus police units to release the information that States have determined play a role in protecting the public safety without violating Federal law. It in no way affects students' privacy with other university records and I believe enhances the safety of our students.

Mr. President, I ask unanimous consent to have printed in the RECORD editorials from the Greeley Tribune, the Denver Post, and another article from the Greeley Tribune on this particular problem.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Greeley (CO) Tribune, May 16, 1991]

U.S. EDUCATION DEPARTMENT MUST NOT HAVE ENOUGH TO DO

Last fall, a serial murderer stalked students living near the campus of the University of Florida at Gainseville. To date, the man who molested, executed and mutilated five students at the school has not been apprehended.

But if he is a student, and is arrested by the university's campus police force, U.S. Department of Education has a surprise in store for any Floridians who might be curious as to his identity: His name must be kept confidential, or the school will lose all of its federal funding.

Say what?

That's right, according to the education bureaucracy's interpretation of a federal law guaranteeing the privacy of academic records, campus police may no longer make public the names of students whom they arrest.

This ludicrous ruling was brought home recently when an education functionary (one with not enough to do) discovered that the campus police at Colorado State University routinely release the names of students they apprehend.

Next thing university officials knew, they received a threatening letter notifying them that all of CSU's federal funds would be withheld if the campus police chief didn't mend his privacy-violating ways and quit releasing the names of arrested students to the school newspaper or other media.

This week, University of Northern Colorado campus police announced it will no longer release the names of students arrested on campus, either.

This dubious law the Education Department is interpreting in such a broad manner was written, specifically, and lobbied for by a liberal academic establishment that thought it would be a good idea to prevent parents from learning how their offspring are doing in college—unless the offspring want them to know what their grades are. (Never mind whether the parents are footing the education bill).

That's bad enough.

But a federal judge recently ruled that universities have the right to classify campus police records as academic records allowing them to be kept confidential. To have both courts and bureaucrats interpret an obscure federal law in a way that in essence, usurps state and local law enforcement authority and stymies the public's very basic right to know who's been arrested for what, by whom and when is an even more serious matter.

Access to such information protects both the public and persons who are arrested from excessive and punitive action by the police.

This is gratuitous federal meddling far beyond what ought ever to be tolerated. The law defies common sense, should never have been enacted and ought to be repealed immediately.

If this is indicative of the activities and priorities of the federal Education Department, no wonder education is in the mess it's in today.

[From the Denver Post, Apr. 28, 1991]

A WEIRD NOTION OF SAFETY

If a 21-year-old man mugs someone in Fort Collins, his name is made public after his arrest. But if the same man commits the same crime on the campus of Colorado State University, then news of his arrest can't be released. That's because the U.S. Department of Education has usurped the power of the state legislature and imposed its own weird notions of public safety on CSU and all other colleges that receive federal funds.

In the past, CSU campus Police Chief Donn Hopkins routinely released the names of arrested criminal suspects, in compliance with Colorado's open records law. In fact, Hopkins personally could have been slapped with stiff penalties had he not done so.

This state statute allows the public to evaluate the effectiveness of the police and protects individuals from undue harassment. Indeed, one hallmark of a free society is that its justice system is open to public scrutiny—it prevents people from simply "disappearing," as happens in many dictatorships.

But when the U.S. Department of Education found out about CSU's sensible practice, its bureaucrats wrote CSU officials a nasty, heavy-handed letter threatening to withdraw all federal funds from the school unless arrest records were kept secret.

Hopkins now is in the position of breaking state law or ruining CSU's finances—an instance of being between the proverbial rock and a hard place.

As justification for its action, the Education Department cited a federal law that protects the privacy of student academic and personal records—but which never was intended to be an impediment to justice.

What's at stake in this dispute isn't an issue of whether a student might have cheated on a midterm, but whether the public has a right to know if an adult—which most CSU students are—is suspected of a crime.

Hopkins has asked for a legal opinion from CSU lawyers, but the public and Colorado's political leadership also should rally to his side.

Colorado Attorney General Gale Norton should assign a member of her staff to work with CSU on this issue, for the question affects all state institutions of higher learning.

Republican members of Colorado's congressional delegation, including Sen. Hank Brown and Rep. Wayne Allard, should write Education Secretary Lamar Alexander and demand that the policy be reconsidered.

If the policy isn't changed, Brown should attach an amendment to a pending proposal by Delaware Democratic Sen. Joe Biden, which would require colleges to be more honest about campus crime. A provision calling

for arrest records to be made public would be in keeping with the spirit of Biden's measure.

Regardless of whether one is a conservative or a liberal, Hopkins' wish to be open and honest with the public clearly is the proper policy.

[From the Greeley (CO) Tribune, Mar. 21, 1991]

CSU IN DUTCH OVER STUDENT RECORDS—RELEASING CAMPUS ARREST INFO VIOLATES FEDERAL LAWS

FORT COLLINS.—Colorado State University officials have temporarily prohibited campus police from releasing the identities of students named in crime reports after learning the practice violated a federal law.

"We absolutely do not want to violate the U.S. department's position," said Brian Snow, CSU legal counsel. "However, our hands are tied with the potential tension between various groups wanting to achieve various goals."

The Family Educational Rights and Privacy Act of 1974 prohibits universities and colleges from releasing student records without student approval under penalty of the loss of federal funding.

At the University of Northern Colorado, arrest records are open to public scrutiny and have been for many years in compliance with the state open records laws, said UNC Police Chief Terry Urista.

"We don't have secret arrests in this country, and I hope that doesn't come to pass," he said.

Urista said CSU is between a rock and a hard place since their compliance with state law has put the institution in violation of federal law.

"If they don't release the information, they're in violation of state law, if they do, they're in violation of federal law," he asid. "It puts CSU in a position of being between the devil and the deep blue sea."

Urista said UNC, although it operates the same as CSU regarding open records, has not been singled out by the Department of Education as being in violation of the federal law.

The case is further complicated by a recent ruling in a court in Missouri that campus crime records must be open to the public, a case which law experts say will have far-reaching implications.

But last month, the Department of Education notified CSU and 14 other universities nationwide that they were in violation of the act, according to Mark Goodman, executive director of the Student Law Press Center in Washington, D.C.

CSU was found in violation because its police department gives the news media and the public access to police and security records, an Educational Department spokesman told the CSU student newspaper in an interview published Wednesday.

The spokesman said violation notices were sent to the schools after the Student Press Law Center surveyed schools to determine how much information campus law enforcement officials make available to the public and the news media.

The department spokesman said, "We are not looking to act on the letters we sent to the particular universities . . . because we expect the letter itself to be enough.

"We did not lay out a timetable for compliance to the FERPA laws when we sent the letters out. But we have been encouraged by the feedback we've had from all the schools contacted, and they have all made some indication of changing their policies to meet the laws."

On Tuesday, several CSU officials outlined a revised plan to meet the requirements of the act temporarily while they investigated the situation further, Snow said.

"We have to keep in mind students' rights to be informed and the protection offered by information gathered by the media, a person's right to privacy and the level of involvement the police department will have with the university in general," he said.

CSU Police Chief Donn Hopkins said he thinks the decision is the best solution at hand.

"We are caught between a variety of federal and state statutes, but also the needs of our community to release police records," he said. "We are going to have to be more careful about printing personal information on our reports now, but there is no risk of important incidents being withheld under this decision."

[From the Greeley (CO) Tribune, June 22, 1991]

WIRTH AIMS AT COLLEGE COP REPORTS

(By Steve Porter)

Sen. Tim Wirth, D-Colo., plans to introduce legislation next week that could help clear up confusion over the release of campus crime reports.

Wirth is expected to offer an amendment to the omnibus crime bill now being debated in Congress. The amendment is aimed at resolving a dilemma created by a recent interpretation of the Family Education Rights and Privacy Act by the U.S. Department of Education.

The policy, which developed as a result of a court case in Missouri last fall, forbids federally funded colleges and universities from releasing information related to criminal activity on campus.

Specifically, the policy prohibits campus police from releasing crime information involving a student without the student's consent.

Lisa Caputo, an aide to Wirth, would not release details of the senator's amendment Friday.

"We are negotiating a reasonable solution on this," she said. "I can tell you more about it on Monday.

Lisa Helm, a Colorado State University spokeswoman, said the university would welcome a resolution of the matter.

"Our view is we think this is an extremely positive step by Sen. Wirth because it is a difficult situation for us," she said.

CSU officials decided April 9 to follow the Department of Education policy and stop giving out campus crime information involving specific students.

Lee Combs, director of litigation for the State Board of Agriculture, said CSU will continue to wait for a change in the law or a change in the Department of Education's stand on the issue.

"At this point, the Department of Education has put the issue to us very forcefully, and we have no choice but to comply," he said.

Federally funded schools that do not comply face the loss of those funds.

Earlier this month, the Mountain States Legal Foundation in Denver requested campus police records from the CSU police department and was denied the records on the basis of the education department policy.

Combs said the denial may result in a lawsuit by the foundation if the matter is not resolved through Wirth's legislation.

"I would expect if they follow through that we will be involved in some kind of test," he said.

Meanwhile, another challenge to the education department policy may be brewing. Arizona State University officials indicated in a recent issue of The Chronicle of Higher Education that they may file suit against DOE.

Combs said he hadn't heard about the Arizona State challenge but said CSU has no plans to become involved in such a case.

"We have not been aware of it nor have we been asked to contribute to the case," he said. "But I'm certain we would watch it very closely. It's an important issue to us."

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 397) as agreed to.

Mr. SPECTER. Mr. President, I am advised Senator BIDEN is on his way to the floor from a meeting on the Foreign Relations Committee and expects to be here momentarily. In the interim I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I ask unanimous consent that time during the quorum call not be counted against this amendment because of the absence of a necessary party to the floor.

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

Mr. SPECTER. Mr. President, while we are awaiting the arrival of Senator BIDEN, I ask unanimous consent that I may speak on habeas corpus generally but without having it count against the time, since it does not relate to specific arguments that will be at issue when Senator BIDEN arrives.

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

Mr. WIRTH. Will it be possible for the Senator from Colorado to have a 2 minute window to just announce to the body an agreement being signed in Paraguay at this very moment?

Mr. SPECTER. Since that will be less time than the discussion, the answer is yes.

Mr. WIRTH. I thank the distinguished Senator from Pennsylvania.

Mr. President, I ask unanimous consent to speak for 2 minutes as in morning business.

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

COMMENDING PARAGUAY FOR PROTECTING MBARACAYU

Mr. WIRTH. Mr. President, as I speak, President Andres Rodriguez of Paraguay is signing an agreement to establish a 150,000-acre nature reserve in eastern Paraguay. This agreement is the culmination of 2 years work by the

Government of Paraguay, the Nature Conservancy, the Agency for International Development, the International Finance Corporation of the World Bank, the Moises Bertoni Foundation of Paraguay, and Ambassador Timothy Towell on behalf of the United States to protect this unique land known as Mbaracayu.

Two years ago, Mr. President, I had the privilege of visiting this extraordinary site with Senators GORE and Heinz and a number of colleagues from the House of Representatives. What we saw was an incredibly diverse and unique area of tropical forest. Mbaracayu is home to the last significant stand of Alto Parana forest, which includes species once found in the Atlantic forest of Brazil. Unfortunately, deforestation ravaged the Brazilian example of this forest type.

For this reason, the agreement to protect Mbaracayu is significant. It represents not only the effort to protect our remaining biological diversity, each day, 100 species of plants and animals are being eliminated from the catalog of biologic diversity. In the next 20 years, experts believe that 25 percent of all species are threatened by extinction. What has been accomplished in Paraguay is an effort to protect some of that diversity.

Mbaracayu is home to at least 19 natural plant communities and a wide representation of endemic and threatened plant and animal species. The land is also part of the historic hunting grounds of the indigenous Ache, a tribe that has traditionally been sustained by the use of wildlife and plants in the forest.

In recent years, the Mbaracayu property has been threatened by encroaching development within Paraguay and almost total deforestation of Brazilian territory to the east. Until recently, the Mbaracayu was held by the International Finance Corporation of the World Bank. The IFC, holding title by default, agreed to work with the Nature Conservancy and Paraguayan officials to protect this land, rather than allowing the debt to be paid through deforestation and conversion. We shall all applaud the IFC for demonstrating this commitment to environmental protection.

Together with the Bertoni Foundation, the Nature Conservancy developed a plan to buy the land from the IFC. At this point, Ambassador Towell and the Agency for International Development stepped in to lend U.S. assistance to this effort. Finally, the United National Development Program provided assistance to help purchase the land.

This agreement is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world. It is also a significant step toward greater cooperation among national governments, nongovernmental organizations and multilateral institutions to protect the world's forests. And it is also another example of the outstanding leadership provided by Ambassador Timothy Towell. Ambassador Towell has worked very closely with all parties to develop this agreement and has graciously and considerately kept me informed every step of the way. Ambassador Towell has been a leader in developing this agreement.

Once again, Mr. President, I want to congratulate and commend all of the parties involved in developing this very worthwhile and much-needed agreement. The people of Paraguay now have an incredibly unique nature reserve. The people of the world have an example of how we can work together to protect the forests and biologic diversity of the world.

I ask unanimous consent that a letter I sent to President Rodriguez and a background paper prepared by the Nature Conservancy be printed in the RECORD at this point.

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

U.S. Senate,
Washington DC, June 26, 1991.

His Excellency General Andres Rodriguez Pedotti, President, Republic of Paraguay, Ascuncion, Paraguay.

DEAR MR. PRESIDENT, I am writing to congratulate you, the people of Paraguay, the International Finance Corporation, and the Nature Conservancy for developing this historic agreement to establish the Mbaracayu nature reserve in eastern Paraguay. This is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world.

As you know, I was honored to visit the Mbaracayu with a number of colleagues in January of 1989. This unique forest is one of the last remaining examples of the "Alto Parana" forest type. Your efforts will help protect the dense high forest, natural grasslands and an extraordinary array of plants and animals unique to this area. In addition, you have demonstrated your support for preserving the traditional lands used by indigenous peoples.

I also wish to congratulate and commend the United States Ambassador to Paraguay, Ambassador Timothy Towell, as well as the Agency for International Development, for their work to establish the Mbaracayu. Ambassador Towell has long supported this project and has been a leader in this effort. Finally, the Nature Conservancy, one of the leading non-governmental organizations in the United States, has demonstrated once again its success at protecting the world's tropical rainforests.

Again, let me congratulate you, Mr. President, on the success of your efforts to protect Mbaracayu.

With best wishes,
Sincerely yours,

TIMOTHY E. WIRTH.

THE NATURE CONSERVANCY,
Arlington, VA.

LATIN AMERICA PROGRAM

THE MBARACAYU TRACT

Almost 225 square miles in size, the Mbaracayu property is one of the last large tracts of dense sub-tropical forest in Latin America. The area is covered by a range of habitats—dense high rain forests, natural grasslands, rivers and caves—harboring a diverse array of biological systems and rare species. Many plants and animals, now extinct or severely endangered in other regions, have been identified at Mbaracayu.

Initial field surveys have identified 19 natural plant communities and a wide representation of endemic plants and threatened species within the reserve's 142,000 acres. These include jaguars, tapirs, pecarries, giant armadillos, and the rare bush dog. The avifauna includes the king vulture, the endemic bare-throated bellbird, and the large macaws. The presence of two "indicator species", the barefaced curassow and the black-fronted piping guan, suggest that the land has been only slightly altered.

A recent study by the Missouri Botanical Garden confirmed that Mbaracayu contains the most significant remaining example of "Alto Parana", a forest type which includes species only found in the now largely destroyed Atlantic forest of Brazil. Mbaracayu may be the last opportunity we have to protect a unique forest type along with hundreds of unique species, many of which have yet to be identified by science—let alone studied for their potential usefulness to humanity.

Mbaracayu is also the traditional hunting grounds of the Ache, and indigenous tribe of hunters and gatherers only recently (1976) brought into contact with the outside world. The Ache live in four settlements surrounding the Mbaracayu tract and depend on the wildlife, plants, and fruits of the forest for survival. The continued use of the property by the Ache is an important management consideration.

THREATS TO MBARACAYU

Poaching and occasional timber extraction are known to occur within Mbaracayu. Timber companies and agro-industry have expressed interest in buying the area for purposes of commercial exploitation. At the same time, colonization programs to the east of Mbaracayu are rapidly converting remaining forest tracts to agricultural use. Adjacent lands in Brazil are nearly 100 percent deforested.

CONSERVING MBARACAYU

The International Finance Corporation (IFC) of the World Bank group currently holds title to the land by default of the previous owner, a lumber corporation. The Moises Bertoni Foundation, a private Paraguayan conservation organization, and The Nature Conservancy have been negotiating with the IFC and the government of Paraguay to ensure protection status for the property and to provide direct management assistance.

Recognizing that a private commercial buyer would seek to recover investment through logging and converting the land for agriculture, the IFC has explored ways to transfer the property for its conservation. The IFC has agreed to sell the property to The Nature Conservancy and the Moises Bertoni Foundation for the establishment of the Mbaracayu Nature Reserve.

The Conservancy and the Foundation are currently working on a management plan for the new reserve. The plan will identify a program of economic development for neighboring communities based on the sustainable use of the area's natural resources and protection of the watershed. It will outline a public education campaign aimed at enlisting the participation of local land owners in

the overall conservation program, and it will seek to develop programs to provide training and employment opportunities to the Ache people.

Mr. WIRTH. Mr. President, this is the last remnant of rain forest in Paraguay, and it is very familiar to the distinguished occupant of the chair. The Senator from Colorado, the Senator from Alabama, and others visited Paraguay 2 years ago and went out to this very important area, which is the last rain forest in Paraguay, right on the Brazilian border. At that point, we attempted to add some impetus to the saving of this land.

This has now happened, Mr. President, one of those accomplishments that comes up from time to time. We can actually see some result in what all of us do. This is a very exciting development. This is a very major and significant game preserve. This is the preservation of some species in an area where we really do not know a lot of what else is in there. Mr. President, I am very pleased that this has happened and very pleased that the distinguished occupant of the chair, the Senator from Colorado, and others were able to make a contribution to this.

I want to particularly commend the distinguished Ambassador to Paraguay, Timothy Towell, who has relentlessly pursued this particular goal. This is being signed as we are here at this very moment.

I yield the floor, and I thank the distinguished Senator from Pennsylvania.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 381, AS MODIFIED

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall use this time until Senator BIDEN arrives to discuss some of the underlying considerations on habeas corpus on the understanding that it will not be charged against the pending amendment.

Mr. President, the modification which has been submitted severs the portion which I had submitted yesterday calling for one proceeding in the State court with one determination by the State supreme court before a Federal court has jurisdiction without having the collateral State habeas corpus proceedings because of my interest in speeding up the process and trying to set reasonable time parameters for the conclusion of death penalty cases arising in State courts.

That provision has drawn a good bit of concern from attorneys general and from district attorneys who are anxious to preserve the State habeas corpus proceedings. It has been my decision to defer action on that part of my amendment, although I do intend to press it, but to give an opportunity for the attorneys general and district attorneys to come in and have hearings on concerns which they have.

The portion of the amendment which remains, Mr. President, involves time limits for consideration by Federal courts, provisions which have been supported by my distinguished colleague from South Carolina, Senator THURMOND, as part of an amendment which was offered and adopted last year that Senator THURMOND and I collaborated on, with assistance from Senators HATCH, SIMPSON, and others. It is my understanding that Senator BIDEN will oppose those time limits, and we will have that debate when he arrives.

On the subject of what is happening with habeas corpus in this country today, Mr. President, I submit that it is an absolute quagmire with procedure being elevated over substance so that the courts are spending a tremendous amount of time considering what is a full and fair hearing without actually getting to the merits, which ought to be considered once and once alone. These cases ought not to bounce back from Federal courts to the State courts under the rule that there has not been full and fair consideration in the State courts and then to have hearings held there, to have appeals taken to States supreme courts, and have it come back into the Federal court where the tennis game continues with the matter shuffling back and forth on procedural grounds.

The early days of common law pleading, Mr. President, which I think you will recall, being a member of the bar and a distinguished trail lawyer, were filled with procedural technicalities which obscured the substance. In civil proceedings, there has been a conclusion that there ought to be notice pleading; that the courts ought to get down to the substance and the merits of the case.

I submit that habeas corpus practice in the Federal courts needs a complete overhaul so that the Federal courts will get down to considering the merits, to have a consideration one time on the merits which are raised, and to conclude the matter on that basis without having lengthy, esoteric discussions about whether there has been full and fair consideration in the State court and then remanding it to the State court, all of which involves delay, and justice is not done.

We have a situation in this country today where there are more than 2,500 men and women on death row. As I have said before on a number of occasions, Mr. President, I support the death penalty because I believe it is an effective deterrent. I have seen many cases where professional robbers and burglars would not take weapons in the course of a robbery or burglary because of fear of the death penalty.

The delays and the absence of having the death penalty imposed, I believe, are a signal which ripples through and permeates the entire criminal justice system where criminals have a strong sense they will not be punished for what they do, that, if the worst happens and the death penalty is imposed, it will not be carried out because they know the cases last for as long as 17 years, an average of 8 years and, in the meantime, the system permits these appeals to go on endlessly.

I am convinced that State courts ought to consider all issues in a death penalty case in one proceeding, one appeal to the State supreme court. Then the matter ought to go immediately to Federal court where the Federal court considers the merits of what the defendant is arguing about, again with time limits. This could construct a fair procedure where the defendant has had adequate counsel, and it could be completed in the course of approximately 2 years. To accomplish that, we need to have one proceeding in the State courts.

Following the submission of my amendment yesterday, my phone rang off the hook from prosecutors from Pennsylvania and prosecutors, attorneys general and DA's from around the country, many of whom I know personally, having been district attorney of Philadelphia for some 8 years and having participated nationally in the DA's work.

Illustrative of this problem—and there are many cases which could be cited, Mr. President, but I want to take a moment or two on a 1989 decision by the Supreme Court of the United States on a case which arose out of the Federal court in Philadelphia captioned Castille versus Peoples. This case involved a conviction where the appeal was taken to the Pennsylvania superior court, an intermediate court, and then a petition was filed with the State supreme court to have the State supreme court review the matter. That petition alleged constitutional issues.

The State supreme court dismissed that petition without comment, which is frequently done by the courts. The defendant then went into the district court in Philadelphia, and the district judge said the petitioner defendant has not exhausted his State remedies because we do not know what the State supreme court did.

The case then went to the Federal court of appeals, which reversed the district court, and the court of appeals said the fact that the State supreme court refused to hear the case with these issues pending before it is sufficient for us to say that the petitioner has exhausted his State claims.

The case then went to the Supreme Court of the United States, and the Supreme Court of the United States reversed the third circuit and said, we are not sure that the State supreme court considered the merits of this case it was only discretionary with them as

to whether they would hear it or not. Therefore, we remand this case to the circuit court of appeals. The circuit court then reconsidered the case and sent it back to the district court. The district court then finally took up the issues, which were not too complicated, held a brief hearing and decided the case.

I do not expect that too many people are watching on C-SPAN 2, Mr. President, because, if they were, when they started to hear this kind of legal technicality, they flipped it off. It is almost unintelligible. What is happening is there is one pyramid after another where the substance is being dodged and procedure is being elevated. There are countless arguments on whether there has been a full and fair hearing in the State courts, which takes much longer than a consideration of the merits of the case.

Mr. President, I note that the distinguished chairman of the Judiciary Committee is on the floor, and this would be a good time, I think, to move on to the bill.

Before doing so, I would note for Senator BIDEN that I had submitted two amendments by agreement, which I had discussed with Senator BIDEN previously and represented to the Senate that I had discussed them with Senator BIDEN and with Senator THURMOND. One related to the Lancaster satellite court and the other related to an addition to the Philadelphia jail, which has been authorized and appropriated, to provide working space for the U.S. Attorney's Office.

I just make those comments while the distinguished chairman of the Judiciary Committee is on the floor so it is apparent that those matters were taken up by me with him personally.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am inclined to accept both of those amendments, and although I do not agree with the Senator's amendment on habeas corpus, to accept it on condition we do not have a rollcall vote and we get it all done real quickly. That will have a great impact on my willingness to debate or not debate this subject matter.

But I wonder, what is the Senator's desire?

Mr. SPECTER. If the chairman will accept my amendment, I will not press for a rollcall vote.

I am just speculating about that in my mind's eye because of the concern as to what will happen in conference.

Mr. BIDEN. Mr. President, I can assure the Senator that his amendment—he will have my word on it—will not be prejudiced any more or less by whether or not it is voted, gets an overwhelming vote or no vote, and whether or not it is voted by voice or rollcall vote. As a matter of fact, the debate the Senator from Delaware is having with himself right now is whether or not to stand in the well and try to talk everyone into voting against this amendment or whether or not just to accept the amendment.

What it does, it imposes upon Federal judges a requirement that we cannot impose. If 110 days passes and they have not ruled at one stage, what are we going to do? Are we going to go to another judge and tell the judge he did not rule in 110 days so we are going to lock him up? Are we going to get a writ of mandamus to suggest that that be done? Are we then going to debate a writ of mandamus, which may take another 110 days?

I think it is totally unnecessary. It has nothing to do, as the Senator I am sure pointed out, with the ability of a defendant to file or not file, the time limits imposed on a defendant to file or not file. It has to do with us imposing upon an independent branch of Government a requirement that they must rule within a specific number of days.

I think that is generally bad policy, but once again I suggest to my friend I think we could wrap up all three of his amendments very quickly by a voice vote and move ahead. I expect my time has probably expired.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware the Senate has adopted, without objection, two of the amendments.

Mr. BIDEN. Obviously, then, my leverage is considerably less than I thought it was because of my earlier good will. So I will now appeal to the Senator's sense of comity and good will rather than the implication that I could do anything about the other two amendments anyway.

Mr. SPECTER. Appeal granted.

Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania has 11 minutes and 22 seconds. The Senator from Delaware has 2 minutes 6 seconds.

Mr. SPECTER. I am prepared to accept the suggestion made by the distinguished chairman to move the bill along. It is a long bill, and I know he has many things to attend. I want to discuss it for a moment or two, but I will accept Senator BIDEN's suggestion that we take it by a voice vote without prejudice to this Senator's position to assert in the conference, and I will expect Senator BIDEN to oppose it in conference, the fact that it was taken by voice vote to accommodate the Senate schedule and it may be regarded for purpose of the conference as having had an overwhelming vote in support by the Senate, for whatever that means in conference.

Sometimes it means—who knows what it means—but I will try to be present at the conference and I would say at that time we took it by voice vote and it was an accurate representation on my part that Senator BIDEN will treat this as having had an overwhelming vote in support.

Senator BIDEN is nodding in the affirmative.

Mr. BIDEN. I understand.

Mr. SPECTER. Mr. President, on the merits of this amendment, I think it is a very important amendment, even though, as Senator BIDEN has accurately stated, it is not possible to take punitive action or enforcement action against the judges. When the Congress says there shall be a timetable established for Federal judges on death penalty cases, I think the courts will pay attention to that statement of public policy.

At the present time we have provisions under the Speedy Trial Act which require that criminal cases be tried in a certain timeframe. We have provisions under preventive detention which require that decisions be made within a certain timeframe.

When the Congress of the United States makes a decision saying that district court judges should give priority to death penalty cases and decide them in the course of 110 days, that time limit has been established so that you have 20 days for the State to file an answer and then a decision within 90 days. We have had extensive hearings and there has been a wealth of authority that it is not too much to ask a Federal district judge to put this at the top of his list and to decide it expeditiously.

I put in the RECORD yesterday statistics which show that there would be about one half of these cases per year for each judge, and that it would not be problemsome. Illustrative of that would be in Pennsylvania in 1989 there were 15 death cases and there are currently 39 authorized judgeships. So that in the normal course of business you would expect a judge to have one of these cases every 2 years. In California, in 1989, there were 29 death sentences with 54 judges. So again a judge would be likely to have one of these cases every 2 years. In Texas, there were 29 death sentences in 1989 with 50 authorized judges. Then the requirement would be that the court of appeals would decide the case within 90 days. Again, the Supreme Court of the United States would decide on a petition for certiorari in these cases within 90 days.

What I seek to do, Mr. President, is to establish a sense of priority on these cases so that they will not languish in courts because of the prejudice that results, because of the time which passes, because new decisions come down and new petitions are filed on new grounds and the situation is interminable. I believe that by establishing these time limits in the Federal court, which is one important facet, and then coming back next year to have hearings on the habeas corpus process, which I had not discussed with my friend from Delaware——

Senator HATCH has also stated a keen interest in this subject. There are other Senators who are interested in it.

I might say at this time that I had prepared an amendment on the issue of Batson, which involves the application retroactively of the rule which prohibits exclusion of blacks, for example, from juries. We have not had a chance in the Judiciary Committee to have hearings on that matter.

This crime bill was taken up last year at the end of the 101st Congress. We are now just 6 months into the 102d Congress. I have considered offering an amendment on the Batson issue but have decided not to because there is a great deal of concern among prosecutors that if we were to look back on the cases where there was an allegation that there had been racial exclusion that it would prejudice the prosecutors since they could not prove the reasons for striking jurors.

Perhaps just a slight amplification, the rule is present today which prohibits systematic exclusion of Afro-Americans, for example, from a jury. But that rule has not been applied to cases which were decided prior to that being stated as a constitutional rule.

It is the sense of this Senator that that is a very fundamental concern and that the law currently in existence ought to be applied. But I want to give an opportunity for those who oppose it to come in and have hearings. I think that issue could legitimately be a part of overall hearings on habeas corpus. It might be possible to protect the interests of the State so that the issue could be raised only where an objection had been lodged at the time of trial which would have put the prosecutor on notice, for example, that he will have to maintain records on that point.

It is very important that there be fairness on all sides. These matters are very, very complicated. So that would be an appropriate subject for hearing. That would be encompassed during the course of hearings at a later time.

I invite a comment by the chairman of the committee, as to the possibility of those hearings, and then I would be glad to move for a voice vote.

Mr. BIDEN. Mr. President, I am anxious to have those hearings. As a matter of fact I will put the Senate on notice. I may very well introduce today the very amendment the Senator has concluded to not introduce, if he does not.

I have every intention at this moment of introducing at least two, possibly three, habeas corpus amendments and of some significance, including the full and fair provision, and potentially Batson.

So it is my belief that the habeas corpus rule as passed yesterday without amendment is a disaster. But I will be discussing that with the ranking member, and with my friend from Pennsylvania, before I do that, if I do that.

I promise you we will have hearings on habeas corpus, and we probably will not wait until next year.

Mr. SPECTER. I thank the chairman for those assurances. I think we ought to have hearings. I think we ought to go fully into the Batson issue, give prosecutors a chance to be heard. We ought to go fully to deal the jibberish that comes out of a case like Castille versus Peoples where form is elevated over substance. It is time Congress take the comprehensive look at the whole habeas corpus process so that there be one determination, one decision on the merits, and these cases not be passed aside on procedural grounds.

With that, Mr. President, I am prepared to accept the offer of the chairman of committee to accept this amendment on the terms we discussed.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. BIDEN. I thank the Senator. I yield my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 381), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 398

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 398.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

Mr. THURMOND. Mr. President, today, I rise to offer an amendment which embodies legislation I introduced earlier this year, along with my colleague Senator HOLLINGS, which will address an unfortunate loophole under

Federal law which permits persons who murder Americans in certain foreign countries to go unpunished. The Murder of United States Nationals Act of 1991 ensures that those who kill American nationals while outside of the United States will face prosecution.

Under current Federal law, the U.S. Government cannot extradite a person to another country in the absence of an extradition treaty or congressional authority to do so. This limitation applies even in cases where an American has been murdered. To further complicate the matter, the Federal Government has no jurisdiction to prosecute a person residing in the United States who has murdered an American abroad except in limited circumstances, such as a terrorist murder or the murder of a Federal official. As a result, an individual can murder an American in any one of the approximately 70 countries with which we do not have an extradition treaty, return to the United States, and go unpunished. Some of the countries with which we do not have an extradition treaty include the Philippines, South Korea, Kuwait, and Saudi Arabia. If an American national is killed in any one of these countries, it is possible that the killer will go unpunished if he or she manages to return to the United States.

Mr. President, one might wonder whether this is likely to occur. Unfortunately, I have been made aware of just such a case where a suspect in the killing is walking our Nation's streets unpunished. In 1988, Carolyn Abel, an American teaching and studying in South Korea, was brutally murdered. She was attacked in her sleep, repeatedly stabbed, and finally her throat was cut. Shortly thereafter, an American confessed to helping another American in covering up the murder. Unfortunately, that person had already returned to the United States. South Korea, one of many countries with which the United States does not have an extradition treaty, requested that the suspect be extradited to face murder charges. Yet, current law prohibits such a procedure. According to State Department and Justice Department officials, there is evidence to believe that this person may be responsible for the death of Ms. Abel. Nevertheless, our Government's hands are tied and she walks the streets a free woman. Clearly, Federal criminal law and the procedures for extradition must be remedied.

The Murder of United States Nationals Act of 1991 would amend current law in two ways. First, it would add a new section to title 18 to make it a Federal offense to kill or attempt to kill a national of the United States while such person is in another country. Prosecution under this section, however, would be limited to cases in which the alleged murderer resides in the United States and to cases in which the Attorney General certifies that the country in which the crime occurred lacks the lawfully ability to secure the return of the alleged murderer.

Mr. President, the second half of this amendment amends the procedures for extradition to provide the executive branch with the necessary authority, in the absence of an extradition treaty, to surrender to foreign governments those who commit violent crimes against U.S. nationals. This authority is limited to those cases involving victims who are U.S. nationals and to cases in which the Attorney General certifies that: First, the evidence presented indicates that had the offense occurred in the United States, it would constitute a crime of violence under Federal law; and second, that the offense charged is not of a political nature. Since this amendment is procedural in nature and since extradition treaties are retroactively applicable, it is intended that this section of the bill apply retroactively.

Without question, it would be difficult to hold the Federal Government responsible for the prosecution of every crime committed against Americans abroad. However, Congress should provide the executive branch with the authority to prosecute those who commit vicious, brutal acts against Americans and who now reside in the United States. Further, the executive branch should have the authority, in limited cases, to surrender for trial those offenders who are responsible for heinous acts committed against Americans in foreign countries without regard to the existence of an extradition treaty.

In closing, there are certainly cases in which the impediment to our having extradition treaties with some countries is their inferior criminal justice systems. However, there are other countries with which extradition treaties are being discussed and still others with which we recently joined forces with in the war against Iraq. Furthermore, democracy is spreading throughout the world faster than anyone could have anticipated and certainly faster than extradition treaties can be negotiated and ratified. A complete bar to extradition ignores these world-wide changes which are unfolding before us and does not serve the ends of justice. Simply put, brutal murderers of Americans should not be free to walk the streets of our Nation because we lack the formality of an extradition treaty. In this era of unprecedented world travel and accessibilty to foreign Nations, the United States ought to have the tools it needs to ensure that those who choose to victimize Americans are appropriately punished—either here in the United States or, in appropriate cases, in the country where the crime occurred.

For these reasons, I strongly urge my colleagues to support this amendment.

Mr. President, it is agreed by both sides that this amendment is acceptable. There is no objection to it. Therefore, I ask for a vote on it.

Mr. BIDEN. Mr. President, I accept the amendment. I am ready to vote.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 398) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, we are, the Chair knows, lining up as many amendments as we can. There are a number we will try to dispose of in a timely fashion so Senators are able to have some reasonable way to plan what the rest of the day and the evening will look like.

We have one amendment that is about ready to go as one of my colleagues is waiting for the actual language to be brought over and sent to the desk.

So I momentarily suggest the absence of a quorum, with the anticipation that we will within the next few minutes ask that the quorum be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 399

(Purpose: To amend Section 1904(b) of S. 1241 to require the inclusion of representatives of the criminal defense community on the membership of the National Commission on Crime and Violence)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 399.

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense.".

Mr. BIDEN. Mr. President, the purpose of this amendment is to see to it that the National Commission on Crime and Violence which we put together which is designed to get all the major players in the criminal defense system together, and actually sit down and come up with some firm recommendations as to how we should proceed to deal with crime and violence in the Nation; that there will be full representation of all parties on that Commission.

That is all this amendment does. We inadvertently left out one sector of the

criminal justice system in that process. That has been added. It has been agreed to I am told, I can assure the Chair and my colleagues, by the Republican side.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 399) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Alabama.

AMENDMENT NO. 400

(Purpose: To require that payments pursuant to a restitution order be made to an entity designated by the Director of the Administrative Office of the United States Courts and to provide funding for the administrative costs of collecting such payments)

Mr. HEFLIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 400.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

On page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

Mr. HEFLIN. Mr. President, as you may know, the Federal judiciary devotes enormous personnel and expense to the collection of criminal fines and penalties. These fines are paid into a single account, the victim's crime fund, which was established to provide financial assistance to the victims of crime.

At this time, there is no centralized fine collection process in the Federal judiciary. Each clerk's office and probation office processes fines independently and communicates individually with the Department of Justice and its constituent officials, including the Bureau of Prisons. As you can imagine, Mr. President, the system is not very efficient. It has been estimated that approximately $1 billion a year goes uncollected because this system has so little organization. Congress has directed the administrative office of the courts to establish a centralized and highly automated system to receive and distribute fine payments. A pilot program, the National Fine Center, has been established as an effort to correct this problem.

The National Fine Center is designed to combine the administrative procedures of receipt, account maintenance, billings, notification, and record-keeping that are now performed with no coordination.

The National Fine Center will establish an automated network that will provide on-line communication with clerks of the court, probation officers, the Department of Justice, the U.S. attorneys and the Bureau of Prisons.

The National Fine Center will process all restitution orders for victims of Federal crimes. It will receive the payments from violators, disburse payments to victims, and notify violators, probation officers, and prosecutors of missed payments.

Presently, funding comes from the first $2.2 million collected in the crime victim's fund in excess of uncertainty in planning and operating the National Fine Center. The Judiciary must wait until the end of the fiscal year to determine whether sufficient fines have been collected to trigger the allocation of the $2.2 million. The uncertainty is heightened since the moneys received by the crime victim's fund in any given year may not reach the cap and thus no funds would be available to the Judiciary.

The purpose of this amendment is to remove that uncertainty. By authorizing money to the National Fine Center from the crime victim's fund the program will essentially pay for itself. Through automation, the center will be able to dramatically increase the amount of compensation actually paid into the fund. By tapping into the estimated $1 billion in unpaid compensation, the costs of the center will be offset in a very short period of time.

Mr. President, this amendment serves only to make restitution provision of this crime bill more effective. I understand that this amendment has cleared both sides and seeks its immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN. Mr. President, I think it is a fine amendment. We are prepared to accept it, and I understand my friend on the Republican side is, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 400) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 5 minutes.

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

RELEASE OF UNITED STATES-JAPAN AUTO PARTS PRICE SURVEY

Mr. LEVIN. Mr. President, last week the small business subcommittee which I Chair learned that every 16 hours a U.S. auto parts maker goes bankrupt.

Today, the Commerce Department bolstered the case for action. It released a price comparison of auto parts in the United States and in Japan. The results should be another wake-up call to the administration, the Congress, and to America.

This study shows that the prices of identical or comparable auto parts averaged 340 percent more in Japan than in the United States. One example is a muffler for a Toyota. The same muffler costs five times more in Japan than it costs in the United States.

Now, what is going on? Two things. The first is that Japanese auto parts are being dumped at subsidized or predator prices here in the United States; and those are prices below what it costs to make them or below the home market price. Second, Japanese firms are discriminating against American parts, keeping us out of their lucrative home market. Because if we were allowed in freely, we could then send our parts in that could outcompete that same muffler in the Japanese market.

The dumping of Japanese parts in the United States and the barriers to the sale of United States parts in Japan are costing us thousands of jobs. And, if we fail to act, not only will we lose our domestic industry, but consumers in America will end up paying the same high prices that consumers in Japan are paying now.

This is not an issue of quality or consumer choice. We are talking about the same parts being priced here by Japanese companies at a fraction of what they charge for the same part in Japan.

The severity of the problem is without question. What has resulted is a $1 billion bilateral auto parts deficit with Japan in 1980, which has grown now to a $10 billion bilateral trade deficit just in auto parts with Japan. And a new study by the University of Michigan predicts that the $10 billion annual deficit that we have now is going to grow to a staggering $22 billion by 1994. This is just in auto parts.

The message is clear. We are not going to reduce our trade deficit with Japan significantly unless we reduce our auto parts deficit. And to do this, we have to tear down barriers to the sale of United States auto parts both in Japan and here at home to stop the predatory pricing, the dumping, of Japanese auto parts in the United States.

Last week, the Small Business Subcommittee on Innovation, which I Chair, heard testimony from the Auto Parts Advisory Committee, industry leaders selected by the administration to advise the administration on the subject of unfair trade practice against American auto parts. These administration-selected industry leaders told Senator KASTEN and me what the administration can and should do to reverse this trend.

More pleas and more rhetoric are not what is needed.

Japanese firms will have no incentive to change their pricing and purchasing patterns unless we state firmly and unequivocally that we will enforce our dumping and unfair trade laws and put equivalent restrictions on Japanese products if they do not stop their discrimination against American-made auto parts. We have the tools, Mr. President. What we need is the will to use those tools.

Today Senator KASTEN and I are sending a letter to the President urging him to adopt these industry recommendations. Our industry is now speaking loudly and in one voice. They are being devastated by unfair trade practices and there is just no excuse not to act. The problem is too big to ignore. If other countries discriminate against our products, that is their decision. But, if we tolerate that discrimination against American products, that is our decision.

We can control our own economic destiny like other countries. We owe that to ourselves and to our children. It is time for this administration to act, to tell other countries that we are not going to treat them better than they treat us when it comes to trade and that we are going to place equivalent restrictions on their goods to the discriminatory restrictions that they place on our goods. If we will do that and finally take action which has been overdue, now, for decades, we will find this trade imbalance finally ending and the loss and drainage of American jobs abroad finally coming to an end.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUSTICE MARSHALL'S RETIREMENT

Mr. KENNEDY. Mr. President, Justice Marshall's retirement brings to a close a brilliant and inspiring chapter in America history, and in the history of the Supreme Court.

Because he stood up so courageously for opportunity for all Americans, he became a legend in the law and a living symbol of the best in American justice. He enriched us all, and the country will be poorer because of his retirement.

ORDER FOR RECESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate stand in recess from 2:30 until 3:05 this afternoon.

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

Mr. KENNEDY. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from New Jersey is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 401

(Purpose: To amend the Controlled Substances Act to provide enhanced penalties for drug dealing in or near housing facilities owned by a public housing authority)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 401.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

Mr. BRADLEY. Mr. President, drug-free zones around schools and playgrounds send a clear message that we will not tolerate our children being preyed upon by drug dealers when they leave home for the classroom. When I was back in New Jersey, Mr. President, in Elizabeth, NJ, I realized that we are overlooking some kids and some families who are most at risk. Those are families of public housing.

Most of our hope and expect that we can keep our children safe and free from drugs at home. We do not need criminal penalties to declare our homes drug-free zones. But talk to parents who live in public housing projects. They do not have that confidence. They work hard against all odds to raise kids safe and sound in the middle of what sometimes are open-air drug markets, full of violence. They know the kids go outside in the morning, and when they do, they might be safe. But by the afternoon or early evening, the streets and hallways are abuzz with drug trafficking and violence.

These parents know the calendar. They breathe easier in the winter, when some of the drug dealers actually prefer to be in prison, where it is warm and cheap, and they can stay in business. Come spring and summer, they are back on the streets.

Mr. President, above all, these parents know that they cannot isolate their children from what is going on outside their windows and beyond their front doors. Kids are a No. 1 commodity for drug dealers, especially in housing projects. They are the new customers, the potential runners, the lowest rung in the drug dealer's organization.

Why? Just because they are kids. By ensuring that only juveniles actually touch the drugs, the drug dealers avoid arrest and avoid being tried as adults. Parents in housing projects, like all parents, worry about their kids using drugs. They worry about their kids getting involved with selling drugs. They worry about kids who want to wear

beepers just to give the impression that they are in the drug business. We need to do something to help them make the place where they live a drug-free zone.

Mr. President, this amendment, inspired by the courageous parents of a housing project in Elizabeth, NJ, that I met this week, is very simple. It says that what we do for schools and playgrounds, we will do for these families' homes. The effect would be to double the penalty for selling drugs in the vicinity of a public housing project, as we do in and around schools and playgrounds.

The minimum sentence would be 1 year. For the second offense of selling drugs near a school, playground, or public housing, the penalty would be triple, and the minimum would be 5 years.

Mr. President, families living in public housing projects do not have much. They are trying to build a better life for themselves and their kids. Drugs destroy that possibility, just as surely as drugs destroy the possibility of learning in school.

For all those reasons that we want our schools to be drug-free zones, let us pass this amendment and give families who live in public housing projects what they have a right to expect: drug-free homes.

Mr. President, I understand that this amendment has been cleared on both sides, and I hope we can agree to the amendment.

Mr. BIDEN. Mr. President, I think it is a fine amendment, a thoughtful amendment. It is directed at a problem in an area where we do much too little, and where we can do so much more.

I compliment my friend from New Jersey, and we are delighted to accept the amendment. I am told, and I understand, that my Republican colleages are prepared to accept it, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 401) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I want to thank the distinguished Senator from Delaware for his willingness to support and accept this amendment. As he knows, a lot of families in public housing projects now know at least we are thinking of them a little bit in this crime bill.

Mr. BIDEN. Mr. President, the Senator is correct. One of the things we have attempted to do, and I have attempted to do throughout this debate on the crime legislation for the past several years, for example, is we find little things, such as the only thing we know that works, and we can show specifically that there is a direct correlation.

As the Presiding Officer knows well, because of his keen interest in juvenile justice problems, in terms of incidence of drug abuse, where there is a Boys Club or Girls Club, there is a significantly lower incidence of drug abuse in public housing projects. And the mere fact that we would be able to place a Boys Club or Girls Club in every public housing project would be extremely cheap, and we know—we know—it works.

So I agree with the Senator, with his intention, and I believe this will go a long way to dealing with those who are the victims in the projects, not only victimized by the dealers, but victimized by the users. I compliment him for his work. I am delighted he has continued to take such a keen interest in matters relating to people in need.

Mr. BRADLEY. Mr. President, again, I thank the distinguished Senator for supporting the amendment. It sends a very clear message: If you do drugs, transact, within 100 feet from a public housing project, you are going to be gone for a year. If you do it again, 5 years.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

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

JUSTICE THURGOOD MARSHALL

Mr. BIDEN. Mr. President, there was an announcement made just a few short minutes or an hour ago on the last day of the Supreme Court that is more significant in my view than any decision the Court handed down today. And that is that Justice Thurgood Marshall has announced that he will be retiring from the Court and will not be there on the first Monday in October when the Court reconvenes.

Mr. President, in my view the Supreme Court has lost a historic justice, a hero for all Americans and all time. And it is my sincere hope that the President will nominate a replacement who is worthy of this great man's place on the Court and in our hearts.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Wisconsin, asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS UNTIL 3:05 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:05 p.m. today.

Thereupon, at 2:30 p.m., the Senate recessed until 3:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under a previous unanimous-consent request, the Senator from California is now recognized.

Mr. SEYMOUR. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

RESIGNATION OF JUSTICE THURGOOD MARSHALL

Mr. SPECTER. Mr. President, I asked my colleague for 2 minutes to make a very brief comment on the surprise resignation of Justice Thurgood Marshall. Justice Thurgood Marshall was well known for his statement that he had a life term and he intended to serve it out. His resignation from the Court brings to a conclusion a very distinguished career on the Supreme Court of the United States which began with his appointment by President Lyndon Johnson in 1967.

Thurgood Marshall has an extraordinary records as a practicing lawyer. In perhaps the most celebrated case in recent history, he was and successfully argued Brown versus Board of Education. His tenure on the Supreme Court was just as distinguished. Justice Marshall, as an African-American, provided the Court with a very special perspective and his departure will leave a significant portion of society without a voice on the Court, at least for the moment.

The Court is a great institution in America. It needs balance on all sides. For that reason, I think this is a very important appointment which the President will be called upon to make. In the meantime, I note that I will be joining millions of Americans in thanking Justice Marshall for his outstanding service on the Supreme Court.

I thank the Chair.

I thank my colleague from California and yield the floor.

The PRESIDING OFFICER. The Senator from California has the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 402

(Purpose: To require a report on battered women's syndrome)

Mr. SEYMOUR. Mr. President, I have an amendment. I request its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 402.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition.

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trial.

Mr. SEYMOUR. Mr. President, the amendment I have introduced requires the Attorney General and the Secretary of Health and Human Services to conduct a study assessing the medical and psychological basis of battered women's syndrome and the extent to which this condition can be used as evidence or as a defense in criminal trials.

This crime bill will be a valuable tool in combating crime in our streets, but we must not turn our backs on the violence in our homes. Domestic violence is taking a terrible toll on society. Women from all walks of life fall prey to this abuse. The National Domestic Hotline stated that 4,000 to 6,000 battered women from across the Nation reach out to them for help each month.

What does this say about the condition of society when women are not even safe in the sanctity of their own homes?

In desperation, some of these women ultimately take the law into their own hands and bring a halt to the torture by going so far as to end the lives of the animals who beat them.

Frankly, Mr. President, I sympathize with these women. The depravity of the abuse to which they are subjected turns my stomach. A recent case in North Carolina involved a woman whose husband had, for over 20 years beat her, forced her to prostitute herself, and treated her as one would treat a dog. Believing that no one could help her, this woman initially attempted to take her own life, and when that failed she emptied a revolver into her husband as he slept.

Our criminal justice system is faced with the dilemma of what to do with these women. Are these women guilty of murder, or perhaps manslaughter? Was their action taken in self-defense? Is there an excuse or justification for their action?

The perplexity of these questions is evidenced by the inconsistent treatment which this defense has received. Two years ago, a woman in Los Angeles was free to go simply because of the battered woman's defense. But in the North Carolina case that I described, the State supreme court refused to accept battered women's syndrome as a defense.

This inconsistency simply can be attributed to a lack of understanding of the complexities of battered women's syndrome.

Thus, this study will not only be an informative tool for Congress, it will be a tool for judges and attorneys everywhere. First, a comprehensive analysis of the medical and psychological testimony will keep trials from disintegrating into battles between the expert medical witnesses of the prosecution and the expert medical witnesses of the defense.

Second, compilation of State and Federal cases will give courts notice of the status and development of this defense.

Third, assessment of battered women's syndrome by judges and attorneys will provide insight into the effect of this evidence or defense on our criminal justice system.

Mr. President, if there is something which can be done to help these women, it must be done. Understanding the plight of battered women is a necessary first step.

Unless there is any objection, I urge adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 402) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized to offer an amendment.

Mr. LEAHY. Mr. President, will the Senator yield to me for 45 seconds?

Mr. SEYMOUR. Yes.

THE RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. LEAHY. Mr. President, I will speak further on this matter later on, but like so many, I was dismayed at the news of the retirement of Justice Thurgood Marshall.

I hope in picking his successor the President will not set an ideological litmus test, but rather seek balance in a Court that appears to be moving out of balance, and in doing so reflect the concerns and needs of tens of millions of Americans. This is not the time to pick a Supreme Court Justice based on ideology, but whether to maintain the kind of balance that the Supreme Court needs in a great democracy like ours.

I thank my good friend from California for the courtesy of yielding.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Thank you, Mr. President.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 403

(Purpose: To amend the definition of "drug paraphernalia" in section 422 of the Controlled Substances Act)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 403.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of

any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

Mr. SEYMOUR. Mr. President, this amendment is a very simple one. It adds a few more teeth to our Federal drug paraphernalia laws.

It was in 1986 that Congress enacted legislation targeted to strike at those who make their profit in the drug trade by selling drug paraphernalia. This Federal law was targeted primarily at those products sold to the drug user, such as bongs, ice pipes, or chillers. These objects are tools of the most heinous trade that plagues our society.

My amendment is designed to toughen existing law by expanding the definition of drug paraphernalia so that Federal law enforcement can target a different set of tools—those used by the drug manufacturer. These tools include kits intended to be used for planting, growing, or harvesting illegal drugs, scales and balances intended to be used to weigh or measure illegal drugs, and containers and other objects that can be used to store them.

Mr. President, this amendment will bring Federal drug paraphernalia law in conformity with existing law in California—one of the most tough and effective drug paraphernalia laws in the Nation. At present, there are more than 285 illegal drug labs in California alone—using the paraphernalia that my amendment targets. And if enacted, those who sell, offer, import or export these tools of destruction, these tools of death in California and other States, will feel the full force of Federal law enforcement.

The war on drug trafficking and drug use requires a comprehensive effort, involving every arm of law enforcement. It's not simply cracking down on the producers and users, it is going after others who facilitate, promote, and profit from this heinous trade. With this amendment, we take yet another important step in our effort to make this Nation free of violence, free of fear, free of drugs.

Mr. President, this amendment has the support of the Justice Department and I understand that it has been cleared by both sides.

If that is the case, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 403) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I thank the distinguished managers of the bill, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold for just a minute?

Mr. President, may I inquire what is the order? Is there an order now that governs the business of the Senate?

The PRESIDING OFFICER. The order that is now before the Senate indicates that the next amendment must be offered by the Senator from Utah, Senator HATCH.

ORDER OF PROCEDURE

Mr. COCHRAN. Mr. President, I ask unanimous consent to proceed for 2 minutes as if in morning business.

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

Mr. COCHRAN. Mr. President, by the year 2000, all children in America will start school ready to learn. This is the first, and it may be the most important of the six education goals adopted by the Nation's Governors and the President in 1990 to stimulate local, State, and Federal restructuring of education.

The administration and the Congress have demonstrated strong support of Federal programs serving young children in order to help reach this goal. Billions of dollars are allocated each year for these programs, and in fiscal year 1992, we can expect them to receive priority in funding again.

The best known program is probably Head Start—which provides comprehensive early childhood education services so that poor and handicapped children will have a better chance to become healthy and ready for school.

The President's goal is to provide every eligible child the opportunity to enroll in Head Start for at least 1 year prior to school entry. To achieve this level, the President requested in fiscal year 1990 and fiscal year 1991 the two largest one-time funding increases in the history of the Head Start program. We expect a large increase again this year. If this funding increase is adopted it will mean that in the 3-year period since President Bush took office, funding for Head Start will have grown by $1 billion, an 80-percent increase.

Another well-known Federal program and secondary school program which provides disadvantaged children with extra assistance to help them keep up with their peers. It directs over $400 million to almost 500,000 disadvantaged young children.

Another program, Even Start, which the President has supported, provides preschool education for disadvantaged children and basic literacy training for their parents. The administration budgets for 1991 and 1992 would increase appropriations by almost 150 percent and transform this program into a State formula grant authority, ensuring that communities in every State have the opportunity to implement Even Start projects.

There are preschool grants for handicapped children, ages 3 through 5, which serve 400,000 disabled children and another program which supports early intervention services for handicapped children and their families.

Under the authority of the Family Support Act, the President's 1992 budget includes $1 billion, almost double the 1990 appropriation, for the job opportunties and basic skills [JOBS] training programs to help needy families with children obtain education and training so that they can avoid long-term welfare dependence.

The President's 1992 budget recommends allowing States to expand the income range of Medicaid coverage for needy pregnant women and children under 6 years of age to increase access to health care and reduce infant mortality. The Federal Government matches anywhere from 50 to 83 percent of the States' costs.

Included in the list of Federal initiatives are the School Lunch Program, Maternal and Child Health Block Grant, Child Care and Development Block Grants, Aid for Families with Dependent Children, and Supplemental Funding Program for Women, Infants, and Children [WIC] which provides nutrition assistance and education to low-income women, infants, and children up to age five.

In addition, States and local communities are enriching the future of young children through successful programs

of early childhood education in innovative and exciting ways. Recently, the U.S. Department of Education released a study entitled "Working With Families, Promising Programs to Help Parents Support Young Children's Learning." This report examines 17 community-based programs that are working to help low-income families give their children a solid foundation for future growth and learning.

Mr. President, I ask unanimous consent that a summary of this report be printed in the RECORD.

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

[U.S. Department of Education, Office of Planning, Budget, and Evaluation]

WORKING WITH FAMILIES—PROMISING PROGRAMS TO HELP PARENTS SUPPORT YOUNG CHILDREN'S LEARNING

EXECUTIVE SUMMARY

Overview of the Study

The U.S. Department of Education's Office of Planning, Budget and Evaluation commissioned this study to identify and describe promising strategies in family education. Their interest reflects the recognition that family education is a way of strengthening families and improving their capacity to support their children's growth and achievement. Concern with student development and achievement, especially among children in poor families, underlies the need for information on family education practices.

This report presents the results from an in-depth study of promising family education programs that are working with low-income families. The study examines seventeen family education programs selected from a pool of programs identified in a national search as promising and innovative. Each of the programs has some evidence of impact on children or families; in addition, they share other indicators of success—operating for two or more years, being implemented in multiple sites, and having established strong, positive reputations in their communities. The study focuses on a particular category of family education programs: those that work with parents with the primary goal of enhancing children's cognitive development and school-related achievement. Among these programs, we selected those that (1) target families with children between 3 and 8 years of age; (2) target or serve large numbers of low-income families; and (3) are linked with the public schools.

Description of Family Education Programs

The study collected detailed information from seventeen family education programs. Seven programs, which represent a variety of fully implemented models for families of preschool and early elementary students, were studied in-depth through on-site visits. Data collection methods included observations of program activities and interviews with program staff, local school staff, and participating parents. The remaining ten programs, which were examined through telephone interviews with program staff, were also identified as promising models but were less fully implemented or evaluated. Below the seven in-depth sites are briefly described, followed by the programs examined through telephone interviews.

Early Childhood Family Education (ECFE), Minnesota Department of Education

ECFE is a state-funded, center-based program designed for children from birth to kindergarten which operates in more than 300 school districts in Minnesota. The program is available to all families, with the goal of serving hard-to-reach families in proportion to their representation in the community. On average, parents and their children spend two hours a week at centers located in housing projects, low-income apartments, store fronts, and former elementary schools. Classes include parent-child activities supervised by early childhood educators, parent-to-parent discussions facilitated by a parent educator, and children's activities to promote cognitive and motor development.

Home Instruction Program for Preschool Youngsters (HIPPY), Miami, Florida

HIPPY is a home-based program for parents of children four and five years old that is designed to encourage economically or educationally disadvantaged parents to teach their young children school readiness skills at home. The program began in Israel in 1969 and was brought to the United States in 1984. The core HIPPY program consists of home visits every other week, during which the paraprofessional "Parent Partners" work with parents on sequenced activity units that parents complete with their children on a daily basis. Most Parent Partners are graduates of the program. Individual home visits are supplemented by group meetings held on alternate weeks at neighborhood elementary schools. There are 30 lessons for each year structured around key school readiness and cognitive skills such as visual and auditory discrimination, eye-hand coordination, and spatial perception. For each age group, the lessons include reading and discussing nine children's books that are given to families.

Project Home Base, Yakima, Washington

Project Home Base, operated by the Yakima School District as one component of the District's Early Childhood Center, is designed for disadvantaged families with preschool children who have been identified as having developmental delays. The program is an adaptation of the Follow Through Parent Education model developed by Ira Gordon. Parent educators, many of whom are former teachers, make weekly visits to families' homes, working with the parent and child for 45 to 60 minutes. These visits focus on a set of home activities designed to enhance parents' teaching and parenting skills and to develop children's cognitive skills, particularly language and perceptual-motor development. Home visits are supplemented by special events and occasional workshops.

Kenan Trust Family Literacy Project, Louisville, Kentucky

The Kenan Trust Family Literacy Project is a full-day, center-based program for parents and their preschool children. The program is funded primarily through grants from the William R. Kenan, Jr. Charitable Trust of Chapel Hill, North Carolina, and is an adaptation of the PACE (Parent and Child Education) Program developed by the Kentucky Department of Education. The Kenan model builds on four activities: preschool for children; adult basic education for parents; Parents and Children Together (PACT); and Parent Time (PT). Parents and children attend the program together three days a week for a full school day (9 a.m. to 2 p.m.). For three hours in the morning, the children attend a cognitively oriented preschool program based on the High/Scope model, while their parents receive instruction in adult basic education and literacy. For at least 45 minutes a day, the parents and children play together during PACT time, with the adult education and early childhood teachers present to facilitate interaction and learning. While the children nap, parents meet for Parent Time to discuss issues, such as parenting, child development, home activities, and personal care and growth.

Project AHEAD (Accelerating Home Education and Development), Los Angeles, California

Project AHEAD is a parent-to-parent program serving disadvantaged families of children attending schools in the Ten Schools Program of the Los Angeles Unified School District, which have only minority students enrolled and are under court order to receive supplemental services to offset the effects of racial isolation. AHEAD was developed in 1977 by the Martin Luther King Legacy Association (MLKLA) of the Southern Christian Leadership Conference in Los Angeles and currently is operated and funded jointly by the MLKLA and the Los Angeles Unified School District. Project AHEAD's parent educators, indigenous to the community and parents of successful school children, make biweekly home visits and facilitate monthly parent cluster meetings in the schools. The curriculum is based on the work of Dorothy Rich, who subsequently incorporated the ideas into a book entitled "Megaskills." Parent educators introduce home activities that guide parents in helping their children develop critical skills for success ("megaskills"), such as responsibility and self-esteem. In addition, the program works with parents on school-related topics such as reviewing report cards and preparing for parent-teacher conferences.

McAllen Parental Involvement Program, McAllen, Texas

The Parental Involvement Program, operated by the McAllen Independent School District, began with a single parent coordinator funded through Chapter I and now employs five parent involvement coordinators and five community aides funded through a combination of federal and local monies. Three parent involvement activities form the core of the McAllen program: STEP (Systematic Training for Effective Parenting), and its Spanish version PECES, are commercially available curricula to strengthen parenting skills; Evening Study Centers operate two evenings a week in three school sites to offer classes for at risk students and their parents; and group parent meetings on a variety of topics such as health, school curriculum, and child development take place throughout the year at each school in the district.

There also are several broad-based programs and activities in the district that encourage parental participation in their children's education, including a parent contract, a weekly radio talk show, and school volunteer programs. In addition, individual schools choose additional parental involvement projects, such as Project Self-Esteem, lunches for parents and grandparents, and newsletters. Community involvement in public education is facilitated by the Partners in Excellence Program in which local businesses adopt a school and provide materials and in-kind contributions for school activities.

Family Study Institute, Chicago, Illinois

The Family Study Institute (FSI) is a division of the Academic Development Institute, a nonprofit corporation based in Chicago and supported by private grants and donations. FSI has developed two parent education courses, Studying at Home and Reading at Home, designed to be adopted by individual elementary schools and offered on a vol-

untary basis to parents. The courses focus on helping parents establish a home environment that encourages learning and academic achievement, such as setting up a regular time and place for studying, discussing school objectives and assignments at home in family meetings, and participating in family reading activities. Each course consists of three weekly 60- to 90-minute group sessions at a school supplemented by weekly activities that parents do at home. Volunteer parents lead the sessions, guiding small groups of parents through written curriculum materials and facilitating discussions of parents' experiences with the home activities. The course materials are available in English and Spanish, and parent groups are offered in a variety of other languages with the help of parent translators.

Project FIEL (El Paso, Texas) is an intergenerational literacy program that brings limited-English-proficient parents and their kindergarten children together to learn literacy skills. Begun in 1985, the program is administered by the El Paso Community College and operates in eight local elementary schools. Program activities are based on a five-step model that includes informal discussions to encourage oral language, concrete learning experiences to extend oral language usage, story writing, reading books together, and at-home activities.

Prestame una Comadre (Springfield, Illinois), which is Spanish for "loan me a godmother," is an extension of Head Start parent involvement that is targeted on migrant Head Start families indentified as high risk and who have limited English proficiency. Begun in 1984, the program utilizes social workers or "family life trainers" who conduct home visits as often as three times per week to help parents increase self-reliance, learn about child development and educational opportunities in the home, and improve family functioning. Small group meetings are held weekly to discuss topics such as nutrition and family relationships.

PREP (Mascoutah, Illinois) is a program funded by the local school district for children who score poorly on kindergarten screening tests. Four-year-olds and their parents attend classes at a high school once a week for 90 minutes. While the children are in a preschool classroom, parents observe their behavior through a one-way mirror and discuss with a parent educator the skills or concepts involved in the children's activities. Parents also take activities home that teach their children school readiness skills, such as color and shape discrimination, listening skills, and motor coordination.

Syracuse Prekindergarten Program (Syracuse, New York) is an early childhood program for children ages three and four, with active parent participation. The program operates twenty sites in Syracuse and is funded through the New York State Prekindergarten Program was well as local school district monies. The children's program is offered four half-days per week; on the fifth day, parents participate in groups led by a social worker on topics of interest to parents (e.g., discipline, health issues) or in parent-child activities led by an early childhood teacher. Parents also are able to participate in a training program for classroom aides that requires working in the preschool classroom and attending a series of two-hour workshops.

Academia del Pueblo (Kansas City, Missouri) provides aftershool and summer classes to Hispanic children in kindergarten through fourth grade. The program was developed by the National Council of La Raza, which works with community-based organizations to improve education for Hispanic students, and operates at the Guadelupe Center, a multiservice organization in Kansas City. The program for children includes instruction in language arts, reading, and mathematics as well as enrichment activities for two and a half hours twice a week. For parents, the program offers monthly parent groups and classes in reading and family literacy three times per week.

Family Math (sites nationwide) is a program that brings together children in kindergarten through eighth grade and their parents to participate in problemsolving and hands-on math activities to reinforce and complement the school curriculum. The program was developed in 1981 at the Lawrence Hall of Science, University of California at Berkeley, to help children and their parents see mathematics as an enjoyable and active pursuit. Weekly classes lasting about an hour are held in four- to six-week cycles and are taught by teachers and parents who have received training to be Family Math instructors.

Kuban Parent Involvement Program (Phoenix, Arizona) was designed by the school administration and teaching staff to increase parent involvement in school activities and encourage home learning in an inner-city school district where the dropout rate is nearly 65 percent. Teachers run the program for parents of students in kindergarten through third grade. Parents attend quarterly training sessions that focus on the skills students learn in school, classroom objectives, and ways parents can help at home. Teachers also make home visits as needed.

Parents in Touch (Indianapolis, Indiana) is run by the Indianapolis Public Schools and consists of a range of activities to increase parent involvement and improve home-school communication, including activity calendars for children; student/teacher/parent contracts and work folders; dial-a-teacher telephone line available five nights a week to provide help with homework; parent line/communicator where parents can hear a recorded message about school activities; and a series of workshops on parent education. In addition, the district has implemented the Family Math as well as the TIPS-Math and TIPS-Science programs.

TPS-Math (sites nationwide) was developed by researchers at Johns Hopkins University to involve parents in their children's mathematics homework, to increase communication between the home and school about mathematics work, and to improve students' mastery of mathematical skills. The structured materials include information to parents from teachers about classroom activities as well as a set of activities for families to complete at home.

Activity Book and Toy Lending (ABT) Program (Maryland Department of Education) is a set of activities, books, toys, and games that parents of children in preschool through second grade can use to reinforce and extend school learning. The program began in 1980 in Frederick County and is now available to all districts in the state through funding from the Maryland Department of Education. There are two modes of participation: the Club System, where parents sign a contract to work with their children at home and children receive a prescribed kit to take home weekly or biweekly, and the Check-Out System, where parents visit a resource center to take home materials to use with their children.

Summary of Program Characteristics

Not only do these seventeen programs represent a variety of approaches to family education, but most programs also utilize multiple strategies in order to work effectively with families who have very different skills. Four programs use home visits as their core mode of service delivery; three of the four supplement home visits with group parent education and support services. Six programs use parent/child classes as the main parent education activity; four of these also hold parent education and support sessions. Five programs provide parent education primarily through group parent sessions. Each method of working with families offers both advantages and disadvantages:

Home visits confer one set of advantages in terms of establishing an intimate, helping relationship between the parent and a teacher/advisor and providing an opportunity for one-to-one demonstration by the visitor of teaching methods and ways to interact with children; home visits also require relatively few groups social skills.

Joint parent and child classes provide parents with multiple role models through interaction with other parents, and provide the opportunity for staff to observe parent and child together and suggest alternative ways of teaching and interacting in an educational setting; classes do require parents to come to a center or school with their children and become part of a group.

Group parent sessions provide the possibility for parent-to-parent support, group membership, and development of group process skills; however, group sessions may require parents to have the self-confidence to speak up in a group and relate to other adults.

Curricula and instruction also vary across the programs, and there is no evidence that one content or method is most effective or is best for all families. For most of the programs, the parent education curriculum builds on parent/child activities that are intended to encourage positive family interactions and to promote child development and achievement. A subset of programs have a set of predefined parent/child activities with accompanying written materials as the core of the curriculum. For example, HIPPY-Miami follows the curriculum developed by the national HIPPY program which includes 30 sequenced lessons based on key school readiness and cognitive skills. The curriculum for President AHEAD is based on a set of monthly "Appetizers" or home activities linked to Dorothy Rich's "Megaskills." Project Home Base has developed a collection of more than 200 home activities that parents can use to teach their children cognitive concepts and verbal skills. The Family Math program uses hands-on activities to encourage parents and children to work together on mathematics concepts.

These successful programs share a concern about being responsive to differences among families, and this is reflected in their curricula. Programs individualize and adopt curriculum and methods to family needs by providing bilingual staff and materials for non-English speaking families; addressing cultural values that relate to parent involvement in schooling; and being sensitive to crises and changes in the family's home situation that may require immediate attention.

Implementation Principles

The goal of this study was to describe and analyze the strategies that promising family education programs use to recruit disadvantaged families, sustain parent involvement, staff programs, and establish positive relationships with the schools. These topics were

identified by a national advisory panel at the start of the study as key challenges to family education programs. The findings offer guidance for future program development and implementation.

Recruitment

Recruiting disadvantaged families who have had limited or negative involvement with schools is a difficult task for family education programs. Programs that have as their goal to recruit the more isolated or hard-to-reach families have a harder time recruiting than programs with universal eligibility. To motivate and encourage families to participate, these family education programs employ a number of common strategies:

Use a variety of recruitment techniques. The most common recruitment methods are current or former participants recruiting others in their neighborhood; brochures or letters sent home with school children; visits by program staff; door-to-door recruitment; and posters in community locations. Programs imaginatively distribute printed materials. For example, in the Kenan program, flyers and notices are posted at several large employers, in churches, housing projects, gas stations, social service agencies, and kindergarten registration. The Minneapolis ECFE program hangs banners from public buildings, announcing a name and telephone number to call.

Use person-to-person methods to encourage hard-to-reach families to participate. All programs report that the most effective recruitment device is personal contacts, usually from people in the community. Personal contacts are particularly important for parents who have little positive contacts with schools, who are recent immigrants with no previous contacts with American schools, or whose cultural traditions have limited parent involvement in schooling. In Project AHEAD and HIPPY/Miami, recruitment is facilitated by parent educators who live in the community. In programs that do not hire staff from the community, links are made through individuals in schools, churches, housing projects, and community organizations.

Provide information that does not require advanced literacy skills and is available in languages other than English. Brochures describing the programs are available in multiple languages. Furthermore, successful programs build on approaches that are familiar to the cultural groups being recruited, such as Spanish radio programs and neighborhood sound trucks.

Sustaining Family Participation

Once families agree to participate, sustaining their involvement is the next challenge. Family education programs have developed combinations of design components, services, and staffing that encourage continued participation by families:

Maintain flexibility in program operations in order to be responsive to families by meeting parents at a variety of locations and times and accommodating the "temporary dropout" and re-entry of program families. Project AHEAD and HIPPY/Miami both alternate individual home visits and group meetings in schools; ECFE centers include housing projects, low-income apartments, and store fronts.

Emphasize direct benefits for parents, including improved education and employment opportunities. For example, a central focus of the Kenan program is its adult literacy component that helps parents work toward the GED certificate; McAllen offers English language classes; and Project AHEAD encourages parents to attend weekend literacy classes.

Define objectives for parents in concrete and realistic terms, beginning with objectives that can be quickly and easily achieved. Immediate results are particularly important for families who are distrustful of school staff or who have had negative school experiences.

Be responsive to families' multiple needs, either directly or through referrals and personal ties with other public and private agencies. Project Home Base arranges hearing tests and eye exams for participating families. In ECFE and the McAllen program, health information is presented at parent group meetings. Staff in a number of programs refer, and even accompany, families to neighborhood health centers for medical care.

Incorporate tangible rewards for participation, ceremonies and rituals, and products with the program's logo or motto. Many programs use the program name, logo or motto on items such as stickers, balloons, pins, refrigerator magnets, ribbons, pencils, book marks, t-shirts, and coffee mugs. Project AHEAD gives each family a cardboard storage box and study carrel with the program's name and logo. HIPPY/Miami and FSI have graduation ceremonies, and the McAllen program presents certificates of participation for attending at least four STEP/PECES sessions.

Create an environment for parents to develop new friendships and social support, as well as to improve their own self-expression skills. the ECFE and Kenan programs both emphasize the importance of providing parent support groups that are facilitated by project staff.

Staffing

Staff qualifications and characteristics are identified over and over again as critical to high-quality programs. One of the most important staffing decisions is whether staff are professionals or paraprofessionals. Most of these programs employ some paraprofessional staff from the communities being served. A few of the programs use only paraprofessionals to work with families. Programs reflect the following staffing principles:

Recognize the value of hiring paraprofessional staff and community members who share the culture of the target population and are able to establish mutually respectful and trusting relationships with parents. McAllen and Prestame una Comadre employ professional staff who are native to the community; HIPPY/Miami and Project AHEAD hire paraprofessionals from the community to serve as home visitors. A number of programs employ paraprofessional aides in preschool classrooms.

Enlist school staff to help operate the program, particularly in programs for families of elementary school students. The districtwide parent involvement programs—McAllen and Parents in Touch—were developed by district staff and use district teachers to lead some of the family education activities. The Kuban and TIPS-Math programs depend on school teaching staff for program implementation.

Utilize paid staff to a greater extent than volunteers. In general, few programs depend on volunteers as primary teaching staff. Two exceptions are the FSI courses and the Maryland ABT programs. FSI depends entirely on unpaid parent volunteers to lead the parent group sessions; the ABT program utilizes the district Chapter 1 liaison and parent volunteers.

Provide training for staff and the opportunity for ongoing, frequent staff communication. All programs conduct regular inservice training, either weekly or biweekly, as well as more intensive training at the beginning of each year.

Relationships with Schools

The involvement of schools in family education programs is a major development in the field, which offers certain benefits both for the programs and the schools. Advantages of the collaboration include:

Access to school resources, such as federal funding, administrative support, and in-kind donation of space and facilities.

Connecting with families, particularly in areas where the schools have a more positive image than other social service agencies, may increase parents' acceptance of the program and also lead to greater understanding by school staff of parents' attitudes and behavior. For example, in Project FIEL, staff report that program retention is higher in sites located at schools rather than separate centers because school staff encourage participation in the family education program. In HIPPY/Miami and McAllen, the fact that the parent educators work for the school district gives them more credibility and respect among families.

Linking homes and classroom instruction through parent group meetings and, less frequently, through home visits. TIPS-Math and Family Math were created to extend classroom instruction to family learning experiences. In Project AHEAD, parent educators review student report cards with parents and prepare them for parent-teacher conferences.

Providing activities to ease the transition from early childhood programs to kindergarten. For example, HIPPY/Miami staff bring children into kindergarten classrooms in the spring prior to school entry; ECFE is beginning to do the same in some districts.

In general, collaborations with school disricts occur at the administrative level rather than the classroom level; close ties between the programs and classroom teachers are difficult to build. Other challenges that family education programs face in collaborating with schools include accommodating adults and very young children as students, sharing space and facilities, and adhering to district personnel regulations. To facilitate collaboration with the public schools, these programs:

Stress that family education is a complementary, not competing district goal. For example, FSI staff make it clear to teachers that their parent groups are intended to help parents create a structured environment for learning that can be applied to any subject area, and not to teach content-specific material.

Build support for the program from district and school administrators. In the Kenan program, school principals are involved in hiring project staff; in McAllen, parent involvement is a districtwide goal and one criterion for staff evaluations.

Acknowledge that the location of both the administrative offices and program activities make a difference in terms of district integration and support. When program staff and activities are located within the main school or district space, programs seem to be better connected with other district programs than when housed in satellite space.

Establishing Program Effects

With limited resources, programs typically collect information to document program activities and to indicate areas for program

improvement. Few family education programs studied have carried out summative evaluations with rigorous, experimental designs. More extensive and rigorous evaluation research, which is badly needed in the field, will have to come from the wider research community rather than from the programs themselves.

The programs in the study, nevertheless, offer strong evidence that their approaches can be successfully implemented in sites other than where they were developed. Program experiences suggest some factors involved in successful transfer: an administrative organization or agency to provide technical assistance and staff training; adequate funding for program adoption; and well-developed curriculum materials.

Future Issues and Challenges for Family Education

Discussions with program directors identified a number of future issues and challenges for family education: developing stable funding both for program operations and for summative evaluation; designing training for paraprofessional staff; training school staff to work more closely and productively with disadvantaged and multicultural families; integrating family education programs into the existing K-12 curriculum in schools; and adapting to changing demographic trends.

While the seventeen promising programs studied are only a subset of the many family education programs currently being implemented, including other strong models, they offer examples of how family education can be provided to diverse populations in a variety of settings. Examination of their implementation has provided rich information on principles of practice that are shared by successful programs. As the interest in family education, family involvement, and family-school cooperation grows, this information can provide a foundation for developing family education initiatives.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator is informed there is a unanimous-consent request pending that the next amendment must be offered by the Senator from Utah [Mr. HATCH].

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 minutes to speak on a subject related to the crime bill.

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

Mr. GRASSLEY. Mr. President, 2 days ago the Senate adopted my amendment requiring courts in capital cases to consider a victim impact statement. I thank Senator BIDEN for his cooperation on accepting that amendment and getting it adopted under certain caveats that were legitimate and appreciated by both sides of the aisle.

In regard to that amendment, this is one occasion, Mr. President, when we in the Senate were actually ahead of the curve, because this very day the Supreme Court held that victim impact evidence is admissible in a sentencing phase of a capital case.

I am gratified by the Court's 6-to-3 decision in Payne versus Tennessee. But, more important, the victims of heinous crimes and their families can no longer be silenced. Now, there will be some element of parity in the sentencing phase of a death penalty case—mitigating evidence about the defendant and evidence from the prosecution about the victim and the impact of the crime on the family. Justice Rehnquist's opinion states the Court's view clearly:

> A State may properly concluded that for the jury to assess meaningfully the defendant's moral culpability and blameworthiness, it should have before it * * * evidence of the specific harm caused by the defendant.

The High Court acknowledged that its previous decisions in Booth versus Maryland, 1987 and South Carolina versus Gathers were wrongly decided. And my amendment adopted on Tuesday, I am pleased to say, is thoroughly consistent with the Supreme Court's decision today in Payne. A victim impact statement in a Federal capital case will contain information about the victim, the extent and scope of the injury and loss suffered by the victim and family, as well as information about any treatment for the victim and family.

A victim impact statement is designed, as the Court noted, "to show * * * each victim's uniqueness as an individual human being. * * *" And there is nothing unfair about the admission of such evidence. In her concurring opinion, Justice O'Connor eloquently offered the rationale for victim impact evidence:

> It transforms a living person with hopes, dreams, and fears into a corpse, thereby taking away all that is special and unique about the person. The Constitution does not preclude a State from deciding to give some of that back.

Our responsibility, Mr. President, is to do what Justice O'Connor says—give some of the victim's personal qualities back to society and the family. No, we cannot replace the life, but we can restore some balance to our criminal justice system. Allowing victim impact evidence is one step in that direction.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, we are waiting for Senator HATCH who is next on the list.

At this moment, I ask unanimous consent that nothing else be in order until we dispose of the Hatch amendment.

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

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 404

(Purpose: To amend title 18, United States Code, to impose criminal sanctions for violation of software copyright)

Mr. SEYMOUR. Mr. President, on behalf of Senator HATCH, I call up amendment No. 404.

The PRESIDING OFFICER. That is in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. HATCH, proposes an amendment number 404.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by striking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by striking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

Mr. HATCH. Mr. President, my amendment is the same as S. 893, which I introduced earlier this year, with good friend from Arizona, Senator DECONCINI as an original cosponsor. I believe that this amendment will be a strong tool for prosecutors and others who are interested in deterring the growing problem of computer software piracy.

In 1982, Congress provided strong criminal penalties for persons involved in the unauthorized production or distribution of multiple copies of phonorecords, sound recordings, and motion pictures. Likewise, this legislation would provide the same enhanced criminal sanctions for the violation of copyright in computer programs.

The willful infringement of copyright in computer software programs is a widespread practice that is threatening the U.S. software industry. The easy accessibility of computer programs distributed in magnetic media format, together with distribution of popular applications programs, has led to persistent large-scale copying of these programs. Studies indicate that for every authorized copy of software programs in circulation, there is an illegal copy also in circulation. Losses to the personal computer software industry from all illegal copying were estimated to be $1.6 billion in 1989. If we do not address the piracy of these programs, we may soon see a decline in this vibrant and important sector of our economy.

Not only is the software industry seriously damaged, but the public is also victimized by these acts of piracy. The consumer is paying full price for a product which he believes is legitimate. However, not only may there be imperfections in the actual reproduction, but the quality of the product is often lower as a result of cheap equipment. Furthermore, the consumer is ineligible for the important support and backup services typically offered by the software publisher.

As was noted during the hearings on increasing the penalties for illegal copying of records, sound recordings, and motion pictures, stiffer penalties toward piracy do act as a deterrent to these types of crimes. Enhanced penalties for large-scale violation of software copyright would be more in line with the seriousness of the crime.

Currently there is no differentiation in penalties between small and large acts of piracy. Because acts of software piracy are only misdemeanors for the first offense, prosecutors are deterred from prosecuting, and there is little deterrence for these criminal acts. The penalties in these software cases are far too lenient as compared to other theft and forgery statutes for other schemes which are also very lucrative.

Under the language of this amendment, a person involved in software piracy would be subject to a fine of up to $250,000 and imprisonment of up to 5 years if the offense involves the reproduction or distribution of at least 50 copies in 1 or more computer programs during any 180 day period. For offenses involving more than 10 but less than 50 copies, the penalties would include a fine of up to $250,000 or imprisonment of up to 2 years.

Mr. President, I believe that this legislation is seriously overdue. We must act now to protect this important industry by accepting my amendment as a key provision of the pending crime bill.

The PRESIDING OFFICER. Is there further discussion?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 404) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, on behalf of the managers, I ask unanimous consent that the following list of first-degree amendments, which I send to the desk, be considered in the order of their sponsor's arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those which the two managers have cleared for consideration.

The PRESIDING OFFICER. Hearing no objection, that is the order.

AMENDMENT NO. 405

(Purpose: To amend chapter 1 of title 18, United States Code, to establish a penalty for inducing a minor to commit a crime)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], proposes an amendment numbered 405.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

Mr. SEYMOUR. Mr. President, my amendment is very simple. It sends a strong and straightforward message to dangerous criminals: Use a kid, go to prison.

That is it.

Of course, as my colleagues know, Federal law already provides for penalties if drug kingpins and traffickers enlist young Americans to engage in this heinous trade. My amendment does not change this provision one bit.

But it's almost naive to think that the drug trade is limited to simply selling drugs on a street corner, or in a school or park. Drugs are about ruthless gangs, guns, drive-by shootings, and other forms of naked violence.

And it is equally untrue to think that drug-related activity represents

the only criminal activity in which adults exploit our kids. Recently, the San Francisco Examiner reported on the growing threat of Vietnamese youth gangs, with members as young as 11 years old, terrorizing northern California communities with late-night invasions to steal cash and other valuables. Law enforcement authorities told the Examiner that many of these young kids are already being recruited as foot soldiers by adults with more expansive organized crime activities, such as gambling, money laundering, and extortion.

Sadly, rather than being recruited for football or the debating team, young kids are being encouraged to join different kinds of teams—teams who believe that the best offense is a good terrorist who can beat the competition with the plunge of a knife or the squeeze of a trigger.

Those who recruit them, induce them, and coerce them must be held accountable. They must pay and pay dearly.

And pay they will if my amendment is adopted. If an adult uses any kid to commit any Federal crime, he can expect to face a maximum 10-year sentence in addition to other sentences that might be levied against him. But just as important, this new provision is not dependent on a crime actually being committed by the minor. A minor who is being forced to commit a crime and fears for his safety, his life, or the life of his family can come forward and know that the law will be on his side.

Kids are our most valuable, our most precious human resource. We have heard the old axiom that children represent the promise of tomorrow. But in too many cases, criminals see kids as a promise of future crimes committed.

Mr. President, this amendment represents our resolve to honor our promise to our kids, to our families, to our communities. And it sends an equally strong message to the criminals of this Nation: "You use a kid, you go to prison." I urge my colleagues to join with me to send that message to these thugs and keep our promise to our kids.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 405) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 406

(Purpose: To amend the definition of "serious drug offense" in section 924 of title 18, United States Code)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 406.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

Mr. SEYMOUR. Mr. President, the amendment that I have offered is a simple amendment. If adopted, it will take up a modest portion of this mammoth legislation, but it is an amendment that will have a major impact on violent career criminals.

We have a tough law on the books that we call the Armed Career Criminals Act. It says that if you are arrested in violation of Federal firearms laws and you have three previous convictions for a violent felony or serious drug offense, Federal or State, you can expect a minimum 15-years at least in prison. End of story. That is it.

But this story does not always have a happy ending. The current law defines a serious drug offense as one which, under either State or Federal law, carries a maximum sentence of 10 years. But there are some States, like my State of California, where a serious drug offense carries only a maximum sentence of 5 years, even though the same crime, under Federal law, carries a maximum sentence of 10 years.

For example, Mr. President, we have in California an armed career thug named Alfred Ethridge. He was picked up for a Federal firearms violation. His record revealed that he had two prior Federal felony convictions—each carried a maximum of 10 years. But he also was convicted five times in violation of State drug offenses—offenses that if tried under Federal law would each carry a maximum prison sentence of 10 years or more. But under California law, the maximum penalty for these five offenses is only 5 years.

In short, Mr. President, we have a violent career criminal with seven serious offenses on his record. But he avoids conviction under our armed career criminal statute only because of a low State sentence. He avoids at least 15 years in prison. So instead of roaming the halls of Lompoc Federal Prison, he will return to the streets to continue his criminal career and his avoidance of justice.

Now this is only one example. But, Mr. President, I have been told by the U.S. attorney's office in Los Angeles that there are hundreds of similar cases—hundreds of Alfred Ethridges who avoid the full force of Federal law.

I propose a simple revision, one which states that if a criminal violates a State drug law and if that violation would carry a maximum sentence of 10 years if prosecuted under Federal law, that qualifies as a serious drug offense under the armed career criminal statute. With this modest revision, we can bring the full force of justice down on the Alfred Ethridges, the criminals who continue to commit heinous crimes at the drop of a hat.

The purpose of the crime bill we have before us is to help State and local law enforcement—those on the front lines in our war against violent crime—to scrape the scum off our streets and stick them in prison. They feed on us and violate the freedoms of our families and our children. They are career criminals—ranging from the violent felon to the major volume drug trafficker—and they pollute our communities. Well, it is time we clean up our communities and put these criminals down—and put them down hard.

The people of our Nation are tired and frustrated. Our law enforcement officers are tired and frustrated. And frankly, Mr. President, so am I. The people want action and my amendment takes that action. It is plain and simple; if you violate a Federal firearms law and we find that you are found to have three serious violent felonies or drug convictions, Federal or State, you do at least 15 years.

In short, Mr. President, this amendment will ensure that the armed career criminal becomes the unarmed career prisoner.

I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 406) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 407

(Purpose: To mandate life imprisonment without release for drug traffickers or violent criminals convicted for a third offense)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 407.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

Mr. GRAMM. Mr. President, I call this amendment the three-time loser rule. Unfortunately in our society, the 10-time loser and the 15-time loser and the 20-time loser are walking around the streets of Washington, DC; and Houston, TX; and Dallas, TX; and Las Vegas, NV; and all over the country.

I gave a speech the other day here on the floor, as we started debate. I am not going to bore the Senate with that full speech again. But there is part of it I want to reiterate because it has to do with why I am for this amendment and why I think Members on both sides of the aisle have decided to accept the amendment.

We have crime without punishment in America. As a result, we have a lot of crime in America.

A remarkable study was done last year by Dr. Morgan Reynolds, who did a study for the National Center for Policy Analysis. What Dr. Reynolds did was collect data on crimes beginning in 1950 and running through 1990. He tried to calculate the expected punishment that would be handed out in prison time for committing various crimes. What he did is take the data on the number of crimes that were reported, the number of crimes that surveys showed were committed but not reported, the number of arrests, the number of indictments, the number of convictions, the prison sentences handed out, and the prison sentences actually served. And he found, Mr. President, that since 1950, the expected cost of serving time in jail for various serious crimes in America has declined by 67 percent. During that same period the number of serious crimes committed has risen by 700 percent.

His data for 1988, which is the last year he has full data on, is pretty startling. Basically, what it says is if you take into account arrest, indictment, conviction, sentencing, and sentences actually served, a person in America who commits murder can expect on average to serve 2.3 years in prison.

A person who commits burglary can expect to serve 17.7 days. A person who commits car theft, when you take into account the probability to arrest, indictment, conviction, and sentencing will expect to serve 4.2 days. Is it any wonder that so many people are out there waiting to steal our car?

The amendment that I have sent to the desk is very simple. It says that when you are convicted of any combination of a violent crime or a drug felony a total of three times, you get mandatory life in prison without parole.

I know, Mr. President, that there are a lot of people who say, "boy, that is tough sentencing." But I think it is important when we look at the facts and note that in a study done looking at 1983 and 1989, that study concluded that of all of the people released from prison in 1983, that 5 years later 62.5 percent of them had been rearrested for another crime.

Mr. President, when you think about the number of people who had originally committed violent crimes and drug felonies in that group that had not been rearrested, I think the odds are very high that as many as 75 percent of those people who had been let out of prison within 5 years had probably committed a felony again. Needless to say, this provision would end that with three-time losers put in prison and kept there for the remainder of their life.

Mr. President, I am not sure what procedure we are following on these amendments. It has been accepted by both sides.

I yield the floor on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 408

(Purpose: To protect the public safety by imposing minimum, mandatory prison sentences for drug crimes involving minors)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 408.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall

not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such shall not be released during the term of such sentence.".

Mr. GRAMM. Mr. President, this amendment is very simple. It says if you are an adult and you sell drugs to a minor and you are arrested, indicted, and convicted that you are going to serve every day of 10 years in prison without parole, no matter who your daddy is, and no matter how society has done you wrong; if you sell drugs to a child and are convicted, you are going to serve 10 years in prison. And if you get out of prison and do it again, we are going to lock you away for life.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 408) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, let me just say that I did not ask for a rollcall vote because we have strong support on both sides of the aisle. I assume each of these amendments would have gotten 90 plus votes. I believe this kind of get tough attitude is needed, and I am hopeful these two provisions will be not only in the bill that passes the Senate when we are through, but will be ultimately in the bill that will be signed into law by the President.

I yield the floor.

AMENDMENT NO. 409

(Purpose: To require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 490.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

Mr. McCONNELL. Mr. President, during the 3 minutes I rise to address the Senate, 14 young people will be physically abused in this country. Since this time yesterday, 1,200 boys and girls have been sexually abused. Child abuse: It has been called the American shame. We should be ashamed, and we should be outraged. American children are easy prey for sexual molestors. Children are such easy targets for these sexual predators, but the typical offender will molest 117 youngsters. That is 117 young victims, Mr. President.

On April 23 of this year, Richard E. Howard, of the State of Washington was arrested for molesting nearly 200 children. Howard's victims were not confined, however, to Washington State. His reign of terror included Oregon, Montana, Idaho, and California. His first conviction was in 1969.

In 1985, a Maryland school psychologist was convicted of child molesta-

tion. He served his time and then he moved to Virginia, less than 100 miles away. He was hired once again as a school psychologist—6 months later, he was arrested by Virginia officials and charged with the molestation of 15 elementary school students. As a part of the elementary school's explanation to the parents of how something like this could have happened, it was pointed out that the school had no means of conducting a criminal background check on prospective employees. Thus, they had no idea that this individual had been convicted of child molestation in Maryland less than 1 year earlier.

As I mentioned, Mr. President, according to the National Institute of Mental Health, the typical child sexual offender will molest an average of 117 youngsters in his or her lifetime and garner multiple criminal convictions from several different States. That is why I have risen today to offer an amendment that would require the registration of all convicted child abusers and child sexual offenders at the National Crime Information Center, NCIC, of the Department of Justice.

By requiring States to register the names and other pertinent information about convicted child abusers, we will be able to clamp down on repeat offenders by having information available and easily accessible to every child organization in the United States. Having child abuser information available will enable these organizations to conduct background checks on prospective employees.

Mr. President, here is how the legislation would work. Once a criminal conviction is handed down by a court of law, the information about the convicted individual is entered into the National Crime Information Center computer network by local or State law enforcement officials.

The information is then on line and available to any agency authorized by the Department of Justice. Such agencies include police departments, State health and human service divisions, and certain offices within the Department of Justice. For instance, a local child care center is about to employ a new individual and would like to confirm that the potential employee does not have a criminal history of child abuse. That child care center can go to their police department with a signed consent form from the prospective employee and request a criminal background check. It is simple, straightforward and effective.

Mr. President, we must act to prevent child abuse. I urge my colleagues to join me in safeguarding the lives of America's children by supporting this measure.

I say, Mr. President, this amendment has been accepted, it is my understanding, by both sides of the aisle.

I have no further observations to make on this amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there further debate?

The Senator from Delaware.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the McConnell amendment and proceed to the Sanford amendment, and on the disposition of the Sanford amendment, which will be accepted on both sides, we immediately return to the McConnell amendment.

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

Mr. SANFORD. Mr. President, I had a conversation a month or so ago with the present Governor of North Carolina, and I said to him just in the way of conversation, is it not striking that the prison population in North Carolina has doubled since I was Governor? Now, that would have been about 25 years ago. He said, "oh, no; not since you were Governor. It's doubled since I became Governor."

And so we have seen a very rapid expansion of prison population, not only in North Carolina but across the Nation, in the last period of a little more than a decade.

We also have to be distressed to know that in the United States our crime rate is the greatest of any nation in the industrialized world.

AMENDMENT NO. 410

(Purpose: To amend section 1902 of S. 1241 to require the Commission on Crime and Violence to make a comprehensive study of the economic and social factors contributing to crime)

Mr. SANFORD. Mr. President, I send forward right now an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 410:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

Mr. SANFORD. Mr. President, this amendment requires the Commission on Crime and Violence as established in the Biden bill to undertake a comprehensive study of the economic and social factors contributing to crime.

As we all know the crime rate and the number of crimes committed rose to a record high in 1990. For that matter, the prison population has also risen, doubling in the last decade. Clearly the substantial expansion of the criminal justice system has failed to solve the problem.

We all want to crack down on crime, but all that has been done—increases in arrests and prosecutions, the imposition of mandatory sentences, the increase in the number of criminal justice personnel, and the increase in the tax dollars flowing out to address the crime problem—has brought little, if any, improvement.

Mr. President, as I looked at and studied this crime bill, I approved of a great many of the provisions, and perhaps would have voted for all of them, but I was bothered by the fact that we kept getting tougher on crime without looking at some of the basic problems of why we have such a rapid increase in prison populations and in crime. It seemed to me it was time for us to look at the broader problems.

The American people do not feel safer in their homes. They do not feel safer on our streets and in our communities.

Unfortunately, criminal enforcement solutions are not enough. We must look to the larger context of society for the answers to this very tough problem. Certainly law enforcement approaches are important but so too are efforts to reduce the likelihood of entry into the criminal justice system in the first place. By asking for this kind of study, this amendment takes the next step beyond the efforts articulated in the bill now before the Senate.

I could have set up a separate commission to look at the root causes of crime, but I found in the Biden bill the Commission on Crime and Violence established to study some of the aspects of criminal law enforcement. It occurred to me that instead of setting up a different commission, we should add to its responsibilities; ask this Commission to take a look in a comprehensive way at the economic and the social factors contributing to this unprecedented crime wave that we are suffering in the United States.

My amendment directs the Commission to address the roots of crime—the social and economic factors that lead to or contribute to crime. Why is our crime rate the greatest in the industrialized world? Why do we have more people in jail than any civilized nation?

I hope we can get this in the bill when it goes to conference. I hope that this expansion of the responsibilities of the Commission already created by the bill will serve to remind us that we cannot just go on punishing crime, though punish we must.

We need now to look at the underlying causes and remind ourselves that, without doubt, there are many things we can do to reduce the crime rate. Certainly, we can take steps to assist

in the rehabilitation of prisoners. We need to give more attention to that.

Upon the conclusion of the study, it is requested that specific proposals be made for legislative and administrative actions to reduce crime and the elements that contribute to it.

Ending the epidemic of violence and crime in America will take many steps. The Biden bill is an important step and I believe the study contemplated by this amendment will help us to take yet another step.

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

The PRESIDING OFFICER. Is there debate on the amendment? The Senator from Delaware.

Mr. BIDEN. Mr. President, we think it is a very good amendment, a very positive contribution, and we accept it. I understand that my Republican colleagues, as well, have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 410) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, with the indulgence of my friend from Kentucky, I ask unanimous consent that our friend from Illinois be able to proceed for 3 minutes as if in morning business to pay tribute to Justice Marshall.

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

JUSTICE THURGOOD MARSHALL

Mr. SIMON. Mr. President, I simply want to join those who are paying tribute to Justice Thurgood Marshall. Justice Marshall has been a tower of strength for basic civil liberties on the U.S. Supreme Court, and his loss will be felt. There are those on the Court who have responded to the wishes and the whims of the power, but Justice Thurgood Marshall has been there, responding like a Rock of Gibraltar to those least fortunate in our society.

This Nation has been served very well by Justice Thurgood Marshall. While we all understand his desire to retire at the age of 83 and to enjoy life a little more, we are grateful for the contribution that he has made.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 170 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

YUGOSLAVIA

Mr. DOLE. Mr. President, with reference to Yugoslavia, I think it is, at this point, a tinder box.

On Tuesday of this week, the Democratic Republics of Croatia and Slovenia declared their independence from Yugoslavia. The parliaments of Slovenia and Croatia issued these declarations in response to referendums on sovereignty which were held in each Republic—referendums in which over 90 percent of the citizens in the Republics of Slovenia and Croatia voted for independence.

It appears that these declarations of independence are more declaratory in nature, than an accurate reflection of the reality of the two Republics' status vis-a-vis the rest of Yugoslavia. These declarations do not constitute acts of secession. In a letter to Secretary of State Baker, the President of the Republic of Croatia stated:

> We remain united and determined to gain full liberty, not by secession, but by decentralized confederation.

Nevertheless, these declarations have led to speculation and fear about the course of events in Yugoslavia. I, too, am watching news reports closely with the hope that incidents of violence will not spread or escalate.

Some say that by announcing their independence, Croatia and Slovenia are triggering violence throughout Yugoslavia.

I think we need to ask, "who has their finger on the trigger?" And I think the answer is clear: It is not Slovenia, not Croatia, but the Yugoslav Army and the hardliners in the central government.

In response to these declarations of independence, the Federal Assembly of Yugoslavia—which I remind my colleagues is made up of unelected, Communist holdovers—called on the Yugoslav Army to take matters into its own hands. And today, the central government wants to discuss instituting a so-called state of emergency, in other words, martial law.

News reports indicate that the Yugoslav Army is on combat alert, and is moving tanks, airplanes, and troops throughout Slovenia and Croatia. The Slovenian side of the border with Austria has been blocked and closed by the Yugoslav Army, and the airport outside Ljubljana has been closed—apparently so that the army can move in reinforcements.

This move by the central government and army to respond to political differences with intimidation and force is what should really concern us—these tactics can hardly facilitate peaceful and democratic dialog.

The United States needs to maintain a firm stand against the use of force by the Yugoslav Army to resolve the situation to its liking.

I remain hopeful that a peaceful settlement of the situation can be achieved. The Governments of Croatia and Slovenia have clearly indicated that they wish negotiations and dialog to continue with the other republics and that they reject the use of force. We need to support this process of negotiation.

Moreover, we need to press the hardline Serbian Government to stop blocking the rotation of the federal presidency. Because of Serbia's obstructionist tactics, Yugoslavia has been without a president or a commander in chief of the Yugoslav Army for the past 6 weeks.

There is no doubt that the repressive and antidemocratic policies of Serbian President Slobodan Milosevic are at the heart of many of Yugoslavia's problems—problems which the Croatians and Slovenians, through their declarations of independence, want to leave behind.

Mr. President, I don't have any solutions to offer with respect to the situation in Yugoslavia. But, placing increased pressure on those like Milosevic who are putting up roadblocks to democracy and dialog—and who advocate the use of force—would, in my view, help to facilitate a peaceful settlement among the Republics of Yugoslavia.

I point out that sometime before the day ends, there will be a bipartisan resolution with reference to the problems right now in Yugoslavia, calling on negotiations, calling on the Army to not use force or violence in dealing with the various Republics.

It is my understanding that resolution has just about cleared both sides of the aisle. It is my hope we can pass it as quickly as possible because I think we need to send a message—that is not much, but it is at least an indication—to the hard line leaders in the central government of how this Senate and Congress feel about the situation.

Mr. BIDEN. Mr. President, parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. We are.

Mr. BIDEN. I ask unanimous consent that we go out of morning business and back to the bill.

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 411

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair wishes to make a clarification. In order for the matter of the Senator from Delaware to be in order, the amendment of the Senator from Kentucky needs to be once again laid aside.

Mr. BIDEN. Valid point, Mr. President.

I ask unanimous consent that the amendment of the Senator from Kentucky be further laid aside until the completion of action on the amendment I send to the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. THURMOND, proposes an amendment numbered 411.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. ROVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

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

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

Mr. BIDEN. Mr. President, these are technical changes of the Sentencing Commission, introduced last year by Senator THURMOND and myself, clarifying the recommendations of the U.S. Sentencing Commission. It has been cleared on both sides.

Mr. THURMOND. Mr. President, I rise to urge my colleagues to support this important amendment which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure passed as a bill, S. 188, earlier this year and was cosponsored by Senator BIDEN and Senator KENNEDY. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator BIDEN, Senator KENNEDY, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes, and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commission's efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to cover.

Finally, this amendment provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to support this important measure.

Mr. BIDEN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 411) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 409

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Kentucky.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Mr. President, I urge adoption of the pending McConnell amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 409) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BRYAN. I thank the Chair, and I also thank my colleague and good friend from our sister State to the south, the senior Senator from Arizona [Mr. DECONCINI], for allowing me to proceed first because I know he has another matter that he wants to present to the floor.

AMENDMENT NO. 412

(Purpose: To strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with a telephone, and for other purposes)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. McCAIN, proposes an amendment numbered 412.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT OR STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to

believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OR PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by in-

serting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. BRYAN. Mr. President, I ask unanimous consent, if it does not appear, that Senator MCCAIN'S name be added as an original cosponsor to the amendment.

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

Mr. BRYAN. Mr. President, this amendment addresses the important issue of consumer fraud, and particularly fraud carried out through use of the telephone. The amendment is the text of S. 2494, which was reported by the Commerce Committee without objection and passed the Senate by unanimous consent in the 101st Congress, with one clarifying addition to specifically include credit card laundering in the definition of telemarketing fraud.

Time did not permit the conferencing of this legislation with the House in the last Congress. Consumers continue to suffer from the practices addressed by this legislation, and the legislation must be processed at the earliest possible opportunity. As we work to enhance enforcement of the criminal laws it is appropriate to enhance the enforcement of the civil penalties against telemarketing fraud, as my amendment does.

As we all know, telephone sales are increasingly being used, both by legitimate businesses for consumer convenience, and by bad actors who are out to defraud and harass the consumer. Over $100 billion in sales are estimated to be made by telephone each year. And, unfortunately, estimates of the annual cost of fraudulent telephone sales are in the $1 billion range.

No one knows this better than the citizens of my own State of Nevada. The Senate Consumer Subcommittee, which I chair, held its first hearing on this issue, focused on penny stock fraud, in Las Vegas more than a year ago, and heard memorable testimony from consumers about fraudulent schemes that have victimized constituents in my State. In fact, it is fair to say that during the 1980's, fraudulent telemarketing "boiler rooms" were a growth industry in Nevada. The State's consumer affairs division has records of over 15,000 written complaints and over 66,000 telephone inquiries from consumers concerned about such fraud. It is estimated that Nevada consumers lost about $8 million between 1984 and 1989 because of telemarketing schemes.

The State government, together with the Federal strike force, has done an admirable job in attempting to deal with this overwhelming problem. The

"boiler room" industry has gone into sharp decline, from 400 telemarketing firms with 20,000 employees in 1988 to 60 operations with 5,000 salespeople in 1989. The State has enacted creative and effective legislation to address this problem, requiring licensing of telemarketers and establishing tough antifraud provisions in the securities area, which I was pleased to sign into law when I served as Governor.

Despite these efforts, the problem has not been eliminated either in Nevada or in the rest of the country. The amendment we consider today is a step toward maximizing the efforts at the Federal level to protect consumers from being swindled out of money they can seldom afford to lose.

Legislation in this area must be carefully crafted to avoid unduly burdening the many legitimate telemarketers, and to find the proper balance between Federal and State enforcement. I believe this legislation achieves both those goals, and will be of considerable assistance to consumers. It is the result of two Consumer Subcommittee hearings on this issue, and many months of work toward this end. As I stated, it passed the Senate by unanimous consent last year.

My Republican colleague, the distinguished junior Senator from Arizona [Mr. MCCAIN] who is a cosponsor of the bill, has been of tremendous assistance in crafting this legislation. He has worked on these issues for some time, and this amendment incorporates several proposals originating with Senator MCCAIN.

Briefly stated, this amendment requires the Federal Trade Commission to promulgate rules defining and preventing telemarketing fraud, as well as regulating the ways in which telemarketing is carried out. This rulemaking will consider, among other things, limitations on the hours of calling and the use of automatic dialing machines, as well as the requirement of a cooling off period in which buyers may rescind purchases which they have reconsidered. These rules will provide supplemental authority to that which the FTC has under current law. This amendment is not intended in any way to alter the FTC's current authority, but merely to provide the FTC with additional weapons in its arsenal against those who would harrass or defraud the consumer.

The amendment also will permit State law enforcement officials, and private parties who have incurred over $50,000 in damage, to sue to enforce the new telemarketing rules in Federal court. However, the amendment will not preempt any existing State laws, so the States will retain all authority they currently have to bring actions in State court against telemarketing fraud or other injuries to their citizens. This amendment merely provides an additional remedy enforceable only in Federal court. Additionally, the amendment provides the FTC with enhanced enforcement tools, such as increased subpoena power, to carry out its consumer protection functions.

To summarize, I believe this is an amendment that will provide valuable enforcement tools for both Federal and State officials and private parties, to protect consumers against the serious threat of telemarketing fraud. However, it is carefully balanced to impose no more burden than is necessary on legitimate telemarketing businesses, whose reputations should benefit from the elimination from their industry of those who commit fraud or otherwise harass consumers.

Consumers deserve to be protected from intrusive, high pressure, and fraudulent sales schemes. They deserve our help in protecting the income they have worked so hard to earn. Today I believe the Senate has the opportunity to take a significant step on behalf of the consumer. I welcome my colleagues' support in this effort.

Mr. President, I would represent to my colleagues that this has been cleared on both sides of the aisle and I urge its immediate adoption.

Mr. MCCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has made great strides in offering American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. However, the expansion of the industry has unfortunately led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens to give them their money, and then run, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent last fall.

I am again pleased to be working with Senator BRYAN in reintroducing this legislation as an amendment to the crime bill in an effort to protect consumers from telemarketing and consumer fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these "boiler room" scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

Senior citizens are particularly susceptible to consumer and telemarketing fraud. Fraudulent practices are successful with the elderly for many reasons. First, senior citizens are sometimes more easily pressured by individuals seeking to defraud them. Second, seniors are major consumers of services and products for which they are targeted by con artists, such as medical devices, drugs, and nutritional products. Third, fixed incomes make get-rich-quick schemes seem attractive. Finally, illnesses or diseases suffered by seniors may make wonder cures very enticing.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud or quackery, is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of health quackery.

Not only is such fraud dangerous to consumers' health, it is also costly: Current projections by the National Council against Health Fraud indicate that health care fraud is costing Americans close to $25 billion per year.

Health care fraud can be life threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimers' disease—symptoms of senility. At

last—now now there is hope. Call this number for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken one-half hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, six days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleaning is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however MasterCard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. While telemarketing fraud is not confined to older Americans, it is often successful among this group. Consumer items for purchase, and medical and health services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. Unfortunately, the consumer often loses by not receiving the ordered item, receiving a copy rather than an authentic item, or suffers some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items were sent to the company which, in turn, cashed the checks and never delivered the merchandise. This operation generated over 1,300 complaints.

Mr. President, examples such as this one go on and on, and the list continues to grow.

A third area of great concern is life care communities, some of which cause the elderly to lose their money as a result of fraud or mismanagement. Life care communities can be a practical solution to the problem of assuring independent and supportive living for older Americans, while guaranteeing 24-hour nursing care for those who require it.

However, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, the misrepresentation of the mortgage lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer who never receives the item or receives an item which is different from the promised item. There is an additional effect on the banking institutions, which, upon receiving the complaint from the consumer, or having to acquire the accounts of telemarketing merchants who went out of business, must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact situation took place in my State of Arizona. On February 15, 1990, Gateway National Bank from Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency Gateway claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these issues, this legislation would minimize the practice of telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commision [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice, and establishes liability for the merchants who knowingly work in concert with fraudulent telemarketers.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include; First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of

"physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 412) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 413

(Purpose: To prohibit advertisements intended to promote or facilitate the illegal distribution or transfer of a schedule I controlled substance)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 413.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. as used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

Mr. DECONCINI. Mr. President, this was an amendment adopted last year on the crime bill. It is identical to last year's amendment. It deals with the Controlled Substances Act, and inserts a new section. That section makes it "unlawful for any person to print, publish, place, or otherwise cause to appear in the newspaper, magazine, handbills, or other publication any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance."

In essence, this will prohibit the advertising of marijuana seeds in publications where you can send away for them. Marijuana seeds are being advertised today in several U.S. publications, including one known as High Times magazine.

High Times is available in many bookstores right here in our area and in the State of Arizona. In the past, the companies offering the marijuana seeds were located in the Netherlands, but today they have moved to the United States and you can buy these seeds right here.

Let me give my colleagues just a couple of examples that you can find under the classified sections of weekly publications. One is as follows. It reads:

Free seed catalog. New service. Quality strains. Exceptional value. CM Group, P.O. Box 725163, Royal Oaks, MI.

Under a section of the catalog, if you send away for it, the ad will read:

Ordering Information.

Due to concerns from our customers about order records, cash is the only acceptable method of payment. Registered mail will be accepted, but remember, this generates a permanent record. All actual records will be destroyed immediately.

This is what we are seeing happening today with the sale, through publications and catalogs, of marijuana seeds. These marijuana seed companies are promoting an illegal drug that is used by at least 20 million Americans. Marijuana is the gateway drug to cocaine and heroin. That is hardly disputed any longer. Marijuana production in the United States has created an underground industry that is the leading cash crop in several States today.

The marijuana produced from these seeds is known as sinsemilla. This marijuana can command up to $4,500 a pound. Drug agents say that we grow the best, most expensive, and most potent marijuana in the world, here in the United States.

An example of the sophisticated criminal network that is involved in marijuana production in the United States is a case the DEA made last year against an Albuquerque drug group called "The Company." The Chicago Tribune outlined the inner works of "The Company" in an April 2, 1990 article. The DEA said: "The ring had started with 13 cuttings cloned from a superplant produced by a botanical genetics expert in Washington State who sold the starter"—that means the plants—"to the New Mexicans for $27,000."

"The Company" is a group involved in the drug trade. Besides earning $1,750 a week, each worker for "The Company" was given 2 ounces of marijuana each week, apparently to keep them from stealing from their own supplies.

We have a problem here that I think needs to be dealt with. Last year the Senate approved it. We did not get it passed in the conference with the House because we ran out of time. I ask at this time that the amendment be considered.

I advise my colleagues it has been cleared by the minority as well as the manager on the majority side of the bill.

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LAUTENBERG). Is there further debate?

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 413) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank my distinguished friend from South Carolina, the minority ranking member.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUSTICE THURGOOD MARSHALL

Mr. DECONCINI. Mr. President, I want to just make a short comment on the notice of intention to resign by Justice Thurgood Marshall, today.

I think the country has been extremely fortunate to have this distinguished jurist serving the Nation since 1967. Thurgood Marshall came to the court with a wealth of experience, having tried over 30 cases, civil rights discrimination cases with the Supreme Court as general counsel of the NAACP. He won, I believe, 29 of those cases. He distinguished himself.

I had an opportunity to read a lot of his cases when I was a prosecuting attorney, particularly dealing with the death penalty. I did not agree with the Judge on the death penalty cases but I have grown to have the utmost respect for Justice Marshall. His opinions do not deal just with discrimination as it relates to race. They deal with discrimination so often as they relate to all individuals in our society. He has had a unique perspective in interpreting the United States form of constitutional government, where the individual is supreme, over the State in almost all areas.

And for that I must say that we owe him a great deal of credit and accolades because of his foresight, because of his determination and his unalterable guidance of what he felt for the Constitution and how it should be interpreted as it relates to individuals.

As I said, there are many opinions I disagreed with Justice Marshall on, but I must say intellectually and legally, he has to be one of the outstanding jurists of this century because of his capabilities of expressing himself and never altering from his view of the Constitution.

So I truly hope that President Bush looks at this seat with the possibility of another minority representative. What is a minority, I guess, is somewhat debatable. I believe that there are some very outstanding people who could serve in that capacity.

I am not trying to be too parochial, but Stanley Feldman of my State, a Jewish-American lawyer, and now Chief Justice of the Supreme Court of Arizona, has that same intellectual insight that I have witnessed, as he has become a Supreme Court justice and indeed as a trial lawyer before that.

He just comes to my mind. There are many, many other fine jurists. I hope that President Bush looks as carefully as he did in the nomination of Justice Souter, as someone who is not dogmatic, someone who has the capacity to grow into the job of a Justice of the Supreme Court, and express his views and has a real understanding of the Constitution, whatever that may be in your mind or my mind, Mr. President, but in the person's mind—that the Constitution is not hard and fast, based on our own narrow interpretation at times.

I look forward to serving on the Judiciary Committee to review whomever the President appoints.

Again my compliments to Justice Thurgood Marshall on his outstanding career. He will be missed, even though by some he has been criticized at times, and this Senator as well disagreed with some decisions.

It is a remarkable career that he has put forward. As I said, I think he will be recognized as one of the outstanding jurists of this century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WIRTH. Mr. President, I ask unanimous consent to proceed as if in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 3 minutes.

JUSTICE THURGOOD MARSHALL

Mr. WIRTH. Mr. President, we were, I believe, all very surprised today to hear of the resignation of Justice Marshall who has served the country for so long, so well, and been an advocate for so many issues that the occupant of the Chair and I and so many others in this country share the right of individuals, the opportunities for all Americans. Much of what the American dream stands for was represented by Thurgood Marshall, and what he stood for.

We are going to be faced, Mr. President, with an enormous challenge, and I am struck in trying to think through the timing of Mr. Marshall's resignation. This occurs about 3 weeks after the Court's, I think, very, very unfortunate ruling on the gag rule and the elevation of that issue so dramatically in American government, in American society, among groups of all kinds today.

The gag rule issue and the issue of choice for women has been raised to a plane significantly higher than it has been for a number of years. And now I believe the Marshall resignation and the quest of the Bush administration for a replacement is going to raise not only the gag rule issue but the choice issue even higher. It is going to make everybody in this body focus once again very clearly on women's rights, the rights of individuals to privacy, the kinds of issues that I believe we must expect from our Supreme Court.

I hope that, as the Bush administration examines potential candidates to fill the very, very large shoes of Justice Marshall, they understand that many of us, and I believe a majority of this body, will be waiting for a very clear signal from whoever that nominee is, a very clear, unambiguous statement about where that individual is not only on the gag rule issue but on choice overall.

I believe, finally, Mr. President, that we have an obligation to ask that question and to get a very, very clear answer. There is no way we are going to go through the ambiguity that we went through before. It seems to me that all of that sort of nice discussion, which I found somewhat charming at the time but extremely disappointing in result, is something that we cannot tolerate again.

I hope that my colleagues will join with me in making sure that this administration understands that any nominee that they send up here has to receive 51 votes and that this issue, making it clear on the issue of women's rights and choice, is going to be the determinant. That issue is now at the highest level of expectation, at the highest level of focus that it has been in this country ever before, and it must remain at that level and it will.

Mr. President, today the Nation learned the sad news that we will be losing one of the Supreme Court's most forceful and eloquent advocates for individual freedom and liberty. Thurgood Marshall's historic legacy has been one of protecting those who are most vulnerable in our democracy—and he has been one of the staunchest voices on the Court for civil rights, freedom of choice, and individual rights.

Like the tides, our Nation has experienced waves of bigotry and intolerance—and time and again Thurgood Marshall has stood like a rock to meet these tides. His departure from the Court will certainly diminish the ranks of those of us who strongly believe in protecting a woman's right to reproductive choice and ensuring equal opportunity for all preserving our fundamental rights to live our lives as we choose.

President Bush will have the opportunity to replace Justice Marshall. His nominee will face the considerable challenge of his legacy. The Senate, in its role of providing advice and consent on Supreme Court nominees, should not approve anyone who cannot express clear views on critical constitutional questions that the Court may address.

Marshall stated that his resignation would be effective "when my successor is qualified." We in the Senate are responsible—responsible for ensuring that the next Supreme Court Justice is qualified. We also must ensure that we know just that—how the nominees will interpret our Constitution. The implications are too great to leave this to the unknown.

I view this resignation as a call to arms for Congress—we must step in

where the Court has, and will, fail us. We recently have witnessed the Court diminishing many rights that Americans have historically held dear and must hold the line on any further erosion of our liberties. Where we cannot depend on the Court to uphold those rights, the responsibility falls on the shoulders of Congress to legislate those rights—to ensure a free and just America for each and every one of us.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 414

(Purpose: To amend the Federal Deposit Insurance Act, the Federal Credit Union Act, and the Crime Control Act of 1990 to strengthen prohibitions against individuals convicted of financial institution crimes, and for other purposes)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE, proposes an amendment numbered 414.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. . SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. . FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. . FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. . CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

Mr. CHAFEE. Mr. President, this is an amendment that I am offering this evening on behalf of myself, Senator PELL, Senator RIEGLE, and Senator GARN. It is an amendment to the crime bill. The purpose of this amendment is to protect depositors from criminal abuses at the Nation's federally insured banks and credit unions.

This amendment has been cleared by both sides. It is my understanding it is acceptable to the managers and that a rollcall vote on it will not be necessary.

Briefly, Mr. President, the financial institutions fraud prosecution amendment would strengthen penalties against individuals convicted of certain crimes, and prevent those individuals from securing employment at a federally insured depository institution. A similar provision was enacted last year to prohibit savings and loan criminals from employment at an FDIC-insured bank for a period of 10 years.

Criminal activity has been a serious problem in the financial services community. The Justice Department estimates that at least 50 percent of the Nation's insolvent savings and loan institutions were victimized by fraud; 50 percent, half of all the savings in solvent S&L's were victimized by fraud.

In my home State of Rhode Island, 45 banks and credit unions were closed by our Governor on the first day of January of this year due to the collapse of a scandalously mismanaged private deposit insurance fund. Examinations are underway to determine the origins of Rhode Island's crisis, but it is believed that criminal activity contributed to the State's worst financial crisis since the Great Depression.

The shameful truth is that too many of the directors, managers, and employees at our financial institutions have enaged in criminal activity for their own personal enrichment.

We have all heard about corrupt financial executives leading jet-set lifestyles complete with yachts, fancy jewelry, furniture and paintings. In Rhode Island, one prominent bank official has apparently fled the country with $13 million stolen from depositor accounts. His actions contributed significantly to the State's banking emergency—but also revealed a web of deceit and criminal activity at institutions insured by the State's private deposit insurance fund.

In my view, the financial industry's competitive challenges are stiff enough without the added worry that unlawful activity will further undermine the stability of our banks and credit unions.

Let me briefly describe the major components of this amendment which is titled the "Financial Institutions Fraud Prosecution Amendment."

First, individuals convicted of certain crimes—fraud, dishonesty, breach of trust, money laundering, obstruction of a Federal examiner—will be barred from any employment at a federally insured credit union for a period of 10 years. Let us take the Rhode Island situation as an example. If a director of a closed credit union is convicted of fraud, he or she would be barred from securing employment at any federally insured credit union for a period of 10 years. Legislation approved last year would also prevent that person from working at an FDIC-insured bank.

Second, last year's crime package established that obstructing or attempting to obstruct a financial institution examination by a federal regulator is an offense punishable by up to 5 years in prison. The amendment builds upon that provision and would require that any individual convicted of such an offense would also be barred from employment at a federally insured financial institution for a period of 10 years.

The final portion of the amendment would urge the Justice Department to expand its interagency task force to

gauge the impact upon the Federal Government of the collapse of a private deposit insurance fund.

You might say, after the experience that we have gone through in our State, are any of these private deposit insurance funds still out there? Well, there are. In several States, there are institutions, credit unions, some locally chartered banks, that do not have Federal deposit insurance provided, nor does the National Credit Union Administration provide insurance.

The January collapse of Rhode Island's private deposit insurance fund was the Nation's third such collapse in 5 years. In 1985, private insurers in both Ohio and Maryland became insolvent. Independent examinations into the origins of these financial institutions crises have revealed that fraud and criminal activity contributed significantly to these financial disasters.

Alarmingly, private insurers continue to operate in at least 20 States. The Federal Government needs to quantify the risks associated with private deposit insurance funds. My amendment would require the Justice Department to assess the risks to the Nation's economy, and to propose any legislative initiatives that might limit the Government's exposure in these matters.

Mr. President, this is a modest, yet important, amendment that has been endorsed by the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the U.S. attorney in my State. In addition, the U.S. Justice Department has reviewed the amendment, and all its recommendations—that is the recommendations of the Department of Justice—have been included.

This amendment builds upon existing law, and would protect depositors across the Nation by ensuring that those convicted of fraud-related offenses will not have the opportunity to return to a career in the banking or credit union industries for a very long time.

I appreciate the managers' support for this proposal, and I look forward to the swift enactment not just of this amendment, but of the underlying legislation.

Mr. President, if I could get the attention of the manager of the bill, I have represented that this is agreeable to the managers, and I believe the manager will confirm that.

Mr. THURMOND. Mr. President, we accept the amendment.

Mr. CHAFEE. Mr. President, I want to thank my distinguished senior colleague for his support on this amendment.

Mr. President, I ask unanimous consent that an article from our Providence paper, the Providence Journal-Bulletin, dated June 21, in connection with the fraud and bribery that was believed to be involved in the Depositors' Insurance Program that we have in our State, be printed in the RECORD.

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

[From the Providence Journal—Bulletin, June 21, 1991]

FRAUD, BRIBERY HINTED IN FALL OF RISDIC

(By Mike Stanton)

Providence.—Fraud, bribery and extortion may be among the factors that led to the demise of the Rhode Island Share and Deposit Indemnity Corp., the commission investigating the state banking crisis has found.

The first indication by the RISDIC Commission that it has uncovered evidence of criminal wrongdoing has emerged in court papers filed in Massachusetts in a battle to compel former RISDIC director Norman R. Baris to testify.

In a six-page brief filed in District Court, Attleboro, Mass., commission lawyers paint a broad picture of the causes of a crisis that led Governor Sundlun to close 45 banks and credit unions on Jan. 1, depriving more than 300,000 depositors of access to $1.8 billion in savings.

"Although the Select Commission's investigation is still in a very preliminary stage," the brief said. "It appears that negligence, poor lending practices, breach of fiduciary duty, insider dealing, professional malpractice, fraud, bribery and extortion all contribution to the insolvency of several RISDIC-insured financial institutions, their failure, the failure of RISDIC, and consequently, the issuance of Governor Sundlun's closure order."

The commission is asking District Court Judge Antone S. Aguiar Jr., to order Baris, an Attleboro resident, to testify. If the judge complies and Baris refuses, he could be held in contempt of court. A hearing before Agular is set for Friday at 2 p.m.

The court petition was filed after Baris, the retired president of Pawtucket Credit Union, refused to honor a subpeona to testify before the commission.

The brief identifies Baris as a key RISDIC insider who made a "large withdrawal" from an unspecified institution last December.

A grand jury is probing the alleged embezzlement of at least $13 million from the Heritage Loan & Investment Co. by fugitive president Joseph Mollicone Jr. Heritage's failure last fall was the first major domino leading to RISDIC's Dec. 31 collapse.

And a statewide grand jury is investigating the banking practices at six institutions—Heritage, Marquette Credit Union, Davisville Credit Union, Rhode Island Central Credit Union, Central Credit Union and Greater Providence Deposit & Trust.

"We have indications of (criminal wrongdoing)—through allegations or testimony or hard evidence—but that's not to say that were bringing all these cases in next week," Alan I. Baron, the commission's special counsel, said last night. "These are some of the things that could emerge. We have active investigations ongoing in several areas, and in many we've developed hard facts."

Baron stressed that the bribery he referred to in the brief is commercial bribery, not political.

"Hypothetically, if someone pays somebody at a bank to do something for them—gives them a benefit to approve a loan that wouldn't have been approved otherwise—that's commerical bribery," he said.

Regarding possible extortion cases the commission is investigating, Baron said, "It's possible that some people extended money or other favors in return for doing something."

Early withdrawals based on inside information have been the commission's first priority. The commission chairman, Rep. Jeffrey J. Teltz, D-Newport, has said potential civil and criminal actions could follow public hearings that will open July 8 on that topic.

In the meantime, the commission also has about a dozen financial investigators poring over loan files and financial records at many of the closed institutions, looking for potential wrongdoing in other areas.

The commission, named by Governor Sundlun in February to probe the causes of the banking crisis, has subpoenaed thousands of documents and taken secret depositions from more than 50 witnesses thus far. But it has said little publicly about what it has found.

"The investigative phase of the Select Commission's inquiry is necessarily confidential," the Attleboro brief said, "but the Commission is actively investigating several individuals who may bear civil liability, criminal liability, or both, arising from the collapse of RISDIC."

Teitz and Baron declined last night to elaborate on the commission's investigation, or on where Baris fits in.

But the Attleboro brief identifies Baris—the first witness to resist a subpoena—as "one of the three or four key insiders at RISDIC" who made a "large withdrawal" last December.

"Preliminary investigation reveals that Mr. Baris may have breached fiduciary duties to RISDIC or financial institutions he served by making a large withdrawal from a RISDIC-insured financial institution during December 1990," the brief said. "Mr. Baris's testimony is therefore crucial to the Selection Commission's inquiry."

Five other former RISDIC officials or directors have appeared before the commission but invoked their Fifth Amendment right against self-incrimination and refused to answer questions.

They are RISDIC chairman Joseph Bellucci, RISDIC president Peter A. Nevola, Marquette president Charles A. Paquin, Rhode Island Central president John R. Lanfredi and Eugene V. Leco, who also is president of the Rhode Island Credit Union League.

A subpoena issued for Baris on May 9 instructed him to appear before the commission May 16. That date was postponed because Baris needed more time to obtain documents to prepare for this testimony.

Shortly thereafter, commission officials say, Baris and his lawyer, James F. McAleer of Providence, informed the commission that they would not appear.

Baris, who lives at 80 Morse Ave. in South Attleboro, had no comment, his wife, Yvette, told a reporter yesterday. McAleer did not return telephone calls to his home and office.

Baris was RISDIC's first vice chairman and a member of its executive committee at the time of its collapse, and he was appointed by the RISDIC board last November to run Heritage after it failed.

Earlier yesterday, the RISDIC Commission recalled a previous witness, Pawtucket real estate broker William Slattery, to testify again.

Slattery, who first appeared June 11, was questioned in secret yesterday for about one hour. He and his lawyer, former state Senate Minority Leader Robert D. Goldberg, declined comment afterwards.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, I note the presence on the floor of my distinguished colleague. I know he has comments on this particular legislation.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very glad to be a cosponsor of Senator CHAFEE's amendment to the crime bill.

Many of my colleagues know that Rhode Island is currently held in the grasp of a banking crisis.

This crisis is now entering its seventh month with no immediate help in sight for many depositors with funds frozen in closed Rhode Island banks and credit unions.

This amendment would provide no money for Rhode Island, but it would provide punishments for those who engage in credit union-related fraud. This amendment would also increase the penalties against those who obstruct efforts to conduct an examination of a bank or credit union.

The Governor of the State has created a commission to examine any wrongdoing associated with the Rhode Island banking crisis. This commisson has been actively at work gathering information on possible illegal activities that led to the collapse of many private insured Rhode Island banks and credit unions.

Those who caused the Rhode Island banking crisis through fraud or other illegal acts should be punished with every means possible. The State of Rhode Island is making a serious effort to uncover any illegal acts associated with our banking crisis. This amendment will ensure that any punishment that results from this crisis will be more severe than the penalties that are currently on the books. The amendment also creates new penalties for those who betray the public's trust and commit acts of fraud while operating a credit union.

I congratulate and thank my colleagues from Rhode Island for proposing this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 414) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Vicky Stack, a health fellow on the staff of Senator DOLE, have the privilege of the floor during consideration of S. 1241.

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

Mr. ROTH. Mr. President, I ask unanimous consent we set aside S. 1241, as if we were in morning business, for the purpose of making two statements.

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

CONVENTIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe.

We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop.

The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach many-faceted.

One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market.

Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers.

Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his arms control initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East.

This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations.

Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market.

The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased politi-

cal will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore.

Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

Mr. CRANSTON. I ask unanimous consent to proceed as if in morning business.

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

UAE ARMS SALES: BUSINESS AS USUAL IN DEATH'S BAZAAR

Mr. CRANSTON. Mr. President, several days ago I announced my intention, together with that of the distinguished chairman of the Foreign Relations Committee, Mr. PELL, to oppose the proposed sale of arms to the United Arab Emirates.

Today I am happy to report that over one-quarter of the Senate, 26 Members, have now joined together to sponsor this effort. Many more will do so in the days ahead.

The issue here, it seems to me, goes beyond the administration's plans to sell 20 AH-64 Apache attack helicopters—offensive weapons—along with 620 Hellfire missiles and related equipment, and spare parts to the UAE.

The issue, the larger issue, is the very credibility of the administration's call for arms control in the Middle East.

This arms sale, to a small nation sandwiched between Saudi Arabia and Oman, comes just days after the administration called on major arms suppliers to restrain arms traffic in the region.

It also comes at a time when those of us in Congress are still waiting for the administration to let us in on its long-term strategy in the Middle East—if indeed it has a strategy.

The unclassified justification for the sale offered by the administration is a musty retread that obscures more than it illuminates:

> This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services.

Please compare this to the well-reasoned argument contained in an article in yesterday's Washington Times by Ze'ev Binyamin Begin, chairman of the subcommittee for national security policy in the Israeli Knesset.

He wrote:

> The root cause of instability in the Middle East—the enormous Arab edge over Israel in conventional arms—must be addressed in any arms control initiative * * *.

Begin pointed out that, from the period 1979–88, Arab countries in the Middle East received weapons valued at $168 billion, while Israel received arms worth $10 billion.

He noted that plans by the five major arms suppliers to the Middle East, including the United States, to establish guidelines for restraints on destabilizing transfers of conventional arms will be only as useful as the compliance these strictures generate.

Begin said:

> Judging realistically from past performance, expected promiscuous arms sales behavior by one or two of them would be enough to put the others in competition and detach the American vision from Middle East reality * * *.

Obviously, the $682 million sale to the UAE will not help set a forbearing precedent as we sit at the table to urge our fellow arms suppliers to forbear.

It will not help restrain the arms race. It will not help solidify a well-articulated U.S. policy in the region—there is none. Nor will it further the prospects for regional peace.

Mr. President, there is one other point I would like to make about the Emirates' notable lack of enthusiasm for international treaties concerning the laws of warfare. Before doing so, I note the chairman of the committee is on the floor and I would be delighted to yield to him—he is a cosponsor of this legislation, which means a great deal—if he wishes to comment.

Mr. PELL. I thank the Senator from California for his kindness and courtesy, and at this point I congratulate him on his leadership. I congratulate the American people that he is giving this leadership.

I hope very much that this passes. I think the statistics that he cites are truly amazing when you think of the relative amount of arms going to the Arab world as compared with Israel. The general impression is it is just the opposite.

Mr. CRANSTON. Absolutely. I thank the distinguished chairman of the committee for his leadership on this issue as on so many others.

Mr. President, the following is relevant to this. It is a list of treaties to which the United States is a party but the United Arab Emirates is not, treaties that are very important to civilization and to our efforts to develop a more peaceful world. We have signed these. The United Arab Emirates has not done so:

The Hague Convention Respecting the Laws and Customs of War on Land, 1907;

The 1925 Geneva protocol, which developed the existing principle against the use of projectiles whose sole object is the diffusion of asphyxiating or deleterious gases, found in the Hague Convention II of 1899;

The Antarctic Treaty of 1959;

The Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water, or the Partial Test Ban Treaty, of 1963;

The Outer Space Treaty of 1967;

The Seabed Arms Control Treaty of 1971;

The Convention Concerning the Protection of World Cultural Heritage—Paris 1972—and

The 1977 Environmental Modification [ENMOD] Convention.

Not being a signatory of these important international covenants does not mean the UAE has or will enter into a flagrant violation of any one of them.

Nor does the State Department's finding, contained in this year's annual human rights report, that "principal human rights concerns continued to be abuse of prisoners and restrictions on freedom of speech and press, assembly and association, the right of citizens to change their government, and women's and worker rights," make the UAE the worst regional government ever to receive U.S. security largess.

But the record there is not very good. Not one that inspires confidence. Not a record for the new world order, and certainly not a record to lay side-by-side with the sacrifice of our troops recently returned from the Persian Gulf.

It is, however, one more good reason to say no to this arms sale, and I urge my colleagues to do so.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURNS. I ask unanimous consent I may proceed as if in morning business for no more than 4 or 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1403 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RESIGNATION OF THURGOOD MARSHALL

Mr. METZENBAUM. Mr. President, today, one of the greatest and most courageous champions of civil rights, Thurgood Marshall, resigned from the Supreme Court. It is a tragic loss for this country. From his early days as an attorney for the NAACP Legal Defense

Fund, until his last days on the Supreme Court, Thurgood Marshall spent nearly a half century advancing the cause of civil rights. No lawyer labored harder to wipe away the stain of racial discrimination than Thurgood Marshall. He was there when so many others were not.

While at the NAACP Legal Defense Fund, he conceived and executed the brilliant strategy for desegregating the Nation's schools. His tireless pursuit of that strategy ultimately led him to the Supreme Court, where he argued the case of Brown versus Board of Education. A unanimous Supreme Court adopted Marshall's view, ruling that the Constitution of the United States forbids segregation in our Nation's schools.

Thurgood Marshall's unceasing efforts to outlaw segregation changed forever the social and legal landscape of this country. But his efforts to protect and expand the civil rights of all Americans did not end with his victory in Brown. He continued to champion the cause of equal justice after he became a member of the Supreme Court. No member of the Court has done more to protect the rights of minorities than Thurgood Marshall.

Mr. President, Thurgood Marshall spent his entire career making the ideals of equal justice and equal opportunity a reality for all Americans regardless of race or ethnicity. He spent his entire career working against prejudice, ignorance, and hate. He spent his entire career working for tolerance and racial harmony. He was an idealist, but he was tough as nails. He was a brilliant lawyer and an able Justice, but he was also a warm man with a great sense of humor. Ours is a more just and fair society because of his efforts. I am sorry that the Court is losing him, but I am grateful that we will always have the chance to be inspired by his accomplishments.

Mr. President, it is a tremendous loss to this Nation for Thurgood Marshall to resign. And there is no secret about it, that the Supreme Court in recent years, with the new changes, has no longer been the defender of the constitutional rights and liberty of the people of this country, and with Thurgood Marshall gone it will make the challenge and the job that much more difficult.

I think it would be a magnificent gesture on the part of the President of the United States if he would see fit to bring to the Supreme Court someone who in some ways represented the ideals, and convictions, the concerns, aspirations, and the hopes of Thurgood Marshall. I do not think we need any more of the so-called right wing conservative bloc. It is there. It is in a majority. But there ought to be someone on that Supreme Court, someone who can carry forth as did Thurgood Marshall, standing up for the hopes and aspirations of people of this country, standing up for the Bill of Rights, standing up for the Constitution of this country. Without him there, our challenge in the Congress is that much greater.

There was a time in our history when the people of this country could not count upon their Congress and they looked to the Supreme Court to protect their rights. Now I am afraid, Mr. President, that is no longer the case. I do not think the people can look to the Supreme Court. I think they must look to the Congress of the United States, and it makes our responsibilities that much more greater.

I am grateful to Thurgood Marshall for the years that he spent on the Court and for challenges and the leadership that he provided us over the years.

The PRESIDING OFFICER (Mr. DODD). The Senator from Iowa.

JUSTICE THURGOOD MARSHALL

Mr. HARKIN. Mr. President, I join my friend and colleague from Ohio, Senator METZENBAUM, in paying tribute to a truly unique and truly great American, one of the real giants in American history, Thurgood Marshall, who today announced his retirement from the U.S. Supreme Court.

This is indeed a sad day today for all who respect justice, for all who have looked to the Supreme Court as the final arbiter of fairness and justice for all in our society, for the little people, the left out, the unrepresented, and for those for whom the scales of justice more often than not do not fall evenly. These are the people that Thurgood Marshall always had in mind during his years with the NAACP, and later on the Supreme Court.

When reading Thurgood Marchall's opinions, whether they are for the majority of the Court—less frequently, I might add, in these later years—or dissenting opinions, there is the sense that here was an individual who understood people, who knew what it was like to be discriminated against, who knew what it was like to be left out, who knew what it was like to go to the bar of justice and have justice denied, as so often he was in his earlier life, and as so many African-Americans were and still are today.

His writings provide the sense that he feels deeply and passionately about the promise of America, about the promise that this country is more than just 260 million individuals each running around trying to get the most for himself or herself. Instead, he understands that the American promise is that all Americans are one family, where "the interest of one is bound up with the welfare of all," in the words of Franklin Roosevelt.

Thurgood Marshall represents the finest in what it means to be a Justice. He is, not someone who simply rubber stamps old dicta, or believes that whatever was decided before must continue. He understands that the Constitution is a living and growing document, that the truths and fundamentals of the Constitution are indeed eternal, but as times and conditions change those applications must change also to suit the ever-growing, expanding concept of freedom and justice.

So this is indeed a sad day. The Senator is indeed sorry to see Thurgood Marshall go. I do not believe that anyone will ever be able to fill his shoes, at least not in the way that he approached his life's work, certainly not in the way that he committed himself over a lifetime to eradicate discrimination and unfairness in this country.

As the distinguished Senator from Ohio said, the unanimous decision in Brown versus Board of Education finally broke down those barriers in our society. Yes, we still have discrimination today. There is no doubt about it. But Brown versus Board of Education clearly and unequivocally said that every child in America, regardless of race, is entitled to equal public education, and equal opportunity.

Especially in this time when we are debating civil rights and what the concept of civil rights means in our country, it would do us all good to carefully study the life of Thurgood Marshall. It is refreshing to know that we have such people who are willing to dedicate their lives in the cause of justice and fairness.

So, Mr. President, I commend Justice Thurgood Marshall on his career in public life, for his dedication to all that is best in our constitutional form of government, his dedication to all that is best within the human spirit. I only wish that he could live to be 200 years of age, to stay on the Court for another 50 to 75 years.

I trust and hope that the administration will do everything they can to find another individual in the same mold, with the same kind of character and with the same kind of dedication and feelings that Thurgood Marshall exhibited.

That person will not be another Thurgood Marshall. But at least I hope that the person they pick will follow in the path and try to fill the shoes of Thurgood Marshall. I hope that is the kind of nominee that the President will send down to us.

I yield the floor.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 10 minutes as though in morning business.

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

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

(The remarks of Mr. DANFORTH pertaining to the introduction of S. 1407,

S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The Senator from Colorado is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. WIRTH. Mr. President, for the last day or so, I have been attempting to have an amendment cleared by both sides, and I wanted to take these few minutes to discuss the substance of that amendment to bring to the attention of my colleagues that amendment and, most important, to put my colleagues on notice that this important amendment is something I think they are going to want to support.

One might call this amendment, which is related to public information, the sunshine in the S&L crime business amendment. I think it is an amendment that any Senators interested in the S&L crisis and interested in the vast amount of taxpayer money that is going into the S&L crisis are going to want to support. Let me tell you why.

We are spending, Mr. President, hundreds of millions of dollars a day, billions of dollars overall, in taking over failed S&L's. The Government is going in, buying the assets of those S&L's, and paying off the depositors, in many cases with a vast amount of taxpayer money. But does the public know what is going on within that S&L, what the examination showed, why that S&L failed, what we knew in the past and ought to know in the future? Not the case.

The public is spending billions of dollars but has no idea what those dollars are going to. This amendment would require that those examinations of a failed S&L, in the case where that failed S&L is being bailed out with taxpayer money, be made public documents. We ought to know the pattern of why these institutions have failed; it ought to be a matter of public record, and we ought to be able to learn from the failures of these S&L's.

Second, Mr. President, if there is litigation surrounding the failure of an S&L, if there are lawsuits between various customers, between the customers of the S&L, and between people who have been borrowers at the S&L and board members of the S&L, and if those lawsuits are settled, do you believe that lawsuit and that settlement done with a vast amount of taxpayer money is made public? No, it is not. That is not made public either. So we have no idea who is being paid off, why the settlement was reached the way it was, and how much taxpayer money was at stake.

This amendment also would cover the settlements of lawsuits. It seems to me that the taxpayers of this country, already overburdened with billions and billions of dollars of expenditures in the S&L crisis, ought to be the beneficiary of some knowledge as to where their money is going.

I remind you, Mr. President, that we originally heard, in August 1988, from the then man in charge—the Deputy Secretary of the Treasury in charge of the S&L crisis—that the S&L crisis was going to cost us $19 billion. After that $19 billion was sent, problems were going to be resolved; that was all the money that was needed.

Soon after the election in 1988, the administration came back to us and told us that $19 billion was not adequate, that, in fact, what we were going to need was another $30 billion or $40 billion, in fact. And then not long after that, another $50 billion was added to it. So that up until this year we had gone from a modest $19 billion, Mr. President, to $80 billion.

This last week we have heard from Mr. Seidman and yesterday from the Secretary of the Treasury, Secretary Brady, that it is going to cost now another $80 billion in cash out of hand. We have gone from $19 billion through a process of a year and a half to $80 billion. And now we have added on top of that another $80 billion; a total of $160 billion being spent to clean up the S&L mess that came out of this ridiculous deregulatory scheme foisted upon the American public in 1982. We are now at $160 billion.

When that $160 billion goes out, Mr. President, the American public ought to know where that $160 billion is going: What kind of settlements were there; what kind of arrangements were in the S&L that caused it to fail to begin with; what kind of settlements were made of the lawsuits that are surrounding these. And there are a vast number of those. We gave a great degree of resources to Mr. Thornburgh down at the Justice Department to enforce all of these.

We still have not seen a great deal of them coming out. Slowly and surely, it is happening. When the enforcements occur, when these settlements occur, it ought to be a matter of public record. We ought to be able to learn from these. There will be resistance to this amendment. Bank regulators in the past very much opposed having this kind of sunshine out there.

For example, the regulators opposed changes in FIRREA that required the bank regulators to publish final orders on enforcement action. They said there would be bank runs. They said the sky would fall in. That did not happen.

The regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all their enforcement orders and agreements. They said there would be runs; they said the sky would fall in. It did not.

Most regulators do not like this kind of out in the public sunshine activity. But fortunately, there are some people in the administration who have supported this. For example, the current Chairman of the Securities and Exchange Commission, Richard Breeden, has stated:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. . . . I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented. We disclose every enforcement action against a broker, dealer, a firm, or against an individual if it amounts to over $100 in value. And I think that's an excellent policy. And I generally think historically it's true. The bank regulators have had—there has been an attitude and approach to problems that they should—that we shouldn't worry the public, and we should try and resolve these matters confidentially. But, I think we have probably erred too much on the side of keeping matters that investors and the public should be entitled to know about, and that have a great deterrent effect when they are disclosed, that we should make more use of the disclosure of these matters.

That is from Mr. Breeden, who not only is now Chairman of the SEC, but was the White House point man on the S&L cleanup when President Bush first took office.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts, has stated on the issue of sunshine:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quite" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think it's clear that there has been a culture of non-disclosure in the banking world. * * * And I think that when you move forward * * * you should keep the requirement of the APA and the Sunshine Act up front and center. I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

Mr. President, I think Mr. Breeden and Mr. Breger and Justice Brandeis are right. Sunlight is the best disinfectant. It is time that we shed some light on this bank examination process as it is focused on this enormous crisis in the savings and loan industry.

To summarize, Mr. President, we are spending billions and billions and billions of dollars to buy out hundreds and hundreds of S&L's. This failed

process, this failed deregulation of the savings and loan industry, a failure that now is the greatest crisis and scandal in American financial history, that should be made public. And so far, Mr. President, it has not been.

The purpose of the amendment which I will be offering goes right to the question of sunshine in the S&L crisis.

Mr. President, I ask unanimous consent that a summary of the amendment and the amendment itself be printed in the RECORD.

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

SUMMARY OF PUBLIC DISCLOSURE AMENDMENT

In general, this amendment provides that if a bank or thrift is closed by the FDIC, or given public assistance, that the federal banking regulators will publish their prior examination reports if the deposit insurance fund is relying on taxpayer funds to meet its obligations. Furthermore, the FDIC is prohibited from entering into secret agreements to settle any claims arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

The requirements of this amendment only apply when the deposit insurance system has received appropriated funds from the U.S. Treasury, or has received a loan from the Treasury, either directly or indirectly through the Federal Financing Bank or a Federal Reserve Bank.

If a bank or thrift goes out of business, but it does not need a rescue from the deposit insurance fund, the publication requirements of this amendment do not apply. Furthermore, even if a bank or thrift does require a rescue from the deposit insurance fund, the publication requirements do not apply, unless taxpayer funds are either directly or indirectly involved in the rescue.

This amendment would apply to all savings and loan that are either resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC Resolution Fund because both of those entities had used tens of billions of taxpayer money to meet their obligations.

The publication requirements of this amendment would not currently apply to banks, because the FDIC is not currently using taxpayer funds, and has not borrowed any money, directly or indirectly, from the Treasury. However, if the Administration's proposal for the FDIC to borrow $70 billion from the taxpayer becomes law, the publication requirements would be effective for as long as that potential taxpayer liability was outstanding.

If the regulators believe that publication of an examination report would seriously threaten the safety or soundness of any insured institution, they may delay the publication of an examination report for up to 6 months.

Under current law, important information related to a bank or thrift failure is unavailable to the public even when taxpayers' funds are used to cover the institution's losses. In many cases, settlements of lawsuits filed by the government against individuals and businesses involved in a financial institution's failure are sealed. In addition, the examination reports of financial institutions are also not available to the public for review. This material can provide valuable insight into why an institution failed and it became necessary to use tax dollars to cover the institution's losses.

AMENDMENT TO S. 1241

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent, as in morning business, to be permitted to introduce a bill and make a short statement.

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

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1412 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I ask unanimous consent to proceed as in morning business.

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

The Senator from Oklahoma is recognized.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN pertaining to the introduction of S. 1407, S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed, not to exceed 10 minutes, as though in morning business.

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

TRIBUTE TO GEN. A.M. GRAY, COMMANDANT, U.S. MARINE CORPS

Mr. SYMMS. Mr. President, there is a definition of leadership in a 1991 Drill & Ceremonies Manual of the Royal Canadian Air Force which reads as follows:

> Leadership depends on simple human qualities; above all a leader requires the confidence of his men and this is to be gained only by commanding their respect for his personal character and professional knowledge, his sense of justice and his common sense, his energy, keeness of forethought; his indifference to personal danger and readiness to share his men's hardships; his cheerfulness in the face of difficulties, the clearness and simplicity of his orders and his firm insistence on their execution; the pride he takes in his command.

Mr. President, those are fairly high standards. It is hard to imagine someone consistently meeting those standards. It is equally difficult to find an individual who not only is the epitome of those standards but infuses them in all who serve with and for him.

Today, Mr. President, it is my privilege to pay tribute to such a person, Gen. A.M. Gray, Commandant of the U.S. Marine Corps.

Mr. President, on June 28, which will be tomorrow, at the Marine Barracks in Washington, DC, the command of the Marine Corps will pass for the 29th time in our Nation's—and the corps'—history. It will be the last official ceremony of the 29th Commandant of the Marine Corps.

Mr. President, this occasion cannot pass this body without giving appropriate recognition to General Gray, whose career of dedicated military service equals that of his country's most renowned military leaders.

General Gray enlisted in the Marine Corps in 1950. In 41 years Private Gray rose to Commandant of all marines. He led marines at all levels, from a squad to a marine expeditionary force to a fleet marine force, prior to being appointed by the President to become Commandant of the Marine Corps. He saw combat first in Korea, initially as an enlisted infrantryman, and again as a second lieutenant forward observer for an artillery battery. In the Southeast Asia conflict he served over 3 years. His personal decorations for valor and outstanding service are numerous. There is no question, Mr. President, Al Gray is one of America's foremost warriors.

Mr. President, there is more to Al Gray than just being a warrior. That service alone is not what places him among the greatest leaders. What places him among the foremost military leaders is his love for his country, his love of his corps, his infectious leadership and, most importantly, his vision.

For 41 years at every level of organization in the Marine Corps, General Gray dedicated himself to providing this Nation a professional, highly trained, well disciplined corps capable of responding on a moment's notice to unanticipated crises throughout the world—a corps of warriors who can come from the sea in defense of our Nation and its interests.

Mr. President, we in the Congress never heard from General Gray that if the corps did not receive all they asked for they could not do the job. When he thought that they were trying to cut him too much, he said we cannot do it. But most of the time what we heard is "Whatever you feel you can give the Marine Corps, we will use it to accomplish our mission to the best of our ability." That is the attitude that is the epitome of General Gray. And he has instilled that mindset into all who have had the privilege to serve under his command.

Mr. President, today we have a Corps of Marines—as General Gray calls them, a corps of warriors—who know that they can get the job done. All one had to do was watch the events that took place in the Persian Gulf recently to see what the 1st Marine Division, the 2d Marine Division, and the important role that they played in the liberation of Kuwait City—the importance of the Marine aviation units, that they played in that event, in that crisis—to know that General Gray had a vision which could anticipate what the possibilities were going to be in the world. He recognized that this Nation would need a highly professional naval expeditionary force. He then set his marines on that course, and strove to articulate what that asset could mean to our country.

In all forums, here and elsewhere, no one in this country has been more eloquent in making the case for the Marine Corps' role as the Nation's leading force in readiness, the point of the spear in our national defense.

He reemphasized the Marine Corps back to basics in training, dedication, and professionalism. He ensured that every marine, from private to Commandant, was ready to receive our Nation's call in the time of crisis as well as in the future.

At the same time, General Gray dedicated his energy to ensuring the corps was ready to enter the 21st century. He looked forward into the future. He identified what would be needed to fight the future battles and win, and then set out to convince those in our Military Establishment what was needed in command, control, firepower, mobility, night capability, to ensure that the corps would come from the sea and win in the next century.

Finally, Mr. President, General Gray's vision foresaw that future conflicts would be met by combined forces and ensure that his Marine air-ground forces training with and were prepared to fight with all of the other U.S. forces in combined operations.

In short, General Gray prepared his marine warriors for all contingencies anywhere in the world, and Desert Storm was the test of his vision. The course of professionalism, readiness and capability was put on the line. The result is known by all.

We can thank the leadership of Gen. Alfred Gray for the corps we have today, and those others that have gone before him. The corps will miss such a leader, and this Nation will truly miss a great patriot who has magnificent vision.

Mr. President, I say thank you, General Gray, for a job well done; thank you for preparing those who follow to lead our sons and daughters in the tradition of the U.S. Marine Corps.

I also say to my colleagues, and I would also say to our President at the other end of Pennsylvania Avenue, we should continue to call on General Gray to help us make the tough decisions that we will continue to face in protecting our Nation's freedom and the freedom of our friends around the world.

Mr. President, I hope that this administration will call on this fine man for further duties in terms of preparing for the defense of peace, freedom, and liberty on this globe.

Mr. President, I yield the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following list of first-degree amendments be considered in the order of their sponsors' arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those that the two managers have cleared for consideration.

The list of amendments is as follows:

The Glenn amendment on the Bureau of Prison study.

The Dixon amendment on international child abduction.

The Bryan and Metzenbaum amendment on insurance fraud.

The Durenberger amendment on child abuse registration.

The D'Amato amendment on increased penalties for illegal alien smugglers.

The Kasten amendment on rural crime.

The Kasten amendment on crimes against the elderly.

The Sanford amendment on limits on administrative spending.

The Bingaman amendment on juvenile border crime.

The Bingaman amendment on national commission to study border crime.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President, I ask the distinguished floor manager: There is no time agreement then that would be placed on the bill or no other limitation after the disposition of this unanimous-consent agreement; is that correct?

Mr. BINGAMAN. That is correct.

Mr. SYMMS. I have no objection.

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

AMENDMENT NO. 415

(Purpose: To assist States, local governments, and community-based organizations in developing, operating, and coordinating effective programs to address and reduce the unique crime and drug-related problems faced by juveniles and their families living near our Nation's international borders)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 415.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public and private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Ports of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the cost of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

Mr. BINGAMAN. Mr. President, the amendment I have sent to the desk on behalf of myself and Senator DOMENICI relates to the very real and growing problem of youth crime and drug abuse in a particular area of the United States that involves my home State of New Mexico.

The 2,000 mile border between the United States and Mexico is one of the fastest growing regions, both of this country, and of our neighboring country of Mexico. Between 1950 and 1980, the population of Mexico's six border States tripled from 3.7 million to 10.7 million. During the same 30-year period, our four United States-Mexico border States doubled in population from 19.8 million in 1950 to 41.9 million in 1980.

This enormous population growth has created many economic opportunities for residents on both sides of the border. Unfortunately, the growth has also led to an increase in a number of social and familial problems, including the serious problems of crime and illegal drug abuse. Auto theft, illegal immigration, and drug smuggling are among the more publicized crimes occurring along our borders. But more and more frequently, evidence is pointing toward a growth in other crimes. And more and more frequently, these crimes, whether robbery, arson, drug trafficking, or illicit drug use, involve young people, our Nation's school children.

This amendment is specifically targeted at these youth. First, it proposes that we add a modest and extremely beneficial grant program to the Antigang Grants Program authorized under title XV of the Youth Violence Act. The grants I envision here would help States, local government, and nonprofit organizations develop effective, innovative programs aimed at addressing the unique problems that border communities and their juvenile residents face in dealing with the temptations of crime and illegal drug and alcohol use.

Mr. President, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 415) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The notion to lay on the table was agreed to.

AMENDMENT NO. 416

(Purpose: To direct the Commission on Crime and Violence to include in its purpose and responsibilities, recommendations for improving coordination of international border crime control efforts and an examination of the impact increased international trade and border development has had on crime and violence in the United States, particularly with respect to youth)

Mr. BINGAMAN. Mr. President, I send another amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI proposes amendment numbered 416.

Mr. BINGAMAN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

Mr. BINGAMAN. Mr. President, this amendment deals with the same set of issues that the previous amendment dealt with. This amendment would direct that the Commission on Crime and Violence, which this overall bill creates, expand its purpose and its responsibilities to include the issue of border crime.

I believe this added duty could be a crucial part of the comprehensive and effective crime control plan that we are charging this Commission with developing. Certainly, the Commission's national blueprint for action in the 1990's will not be complete unless it addresses the growing national problem of crime along our international borders.

Mr. President, as you know, the Senate recently voted to extend to the

President the fast-track trade negotiating authority to negotiate an agreement with Mexico. This extension is expected to result in a free-trade agreement with Mexico within the next few years.

If such an agreement is entered into, undoubtedly, it will result in increased trade with our neighbor to the south, and it will further boost population expansion on both sides of the border.

We have taken steps to provide for the tremendous growth on the border. We are, for example, increasing ports of entry in my home State of New Mexico, I am pleased to say. While these ports of entry will allow my State to reap some of the potential benefits of trade with Mexico, they will also provide greater opportunity for criminal activity.

I am especially concerned about the increased potential for criminal activity, particuarly as it involves children and teenagers in that border area.

In addition to providing for increased trade with Mexico and establishing new ports of entry, I believe we need to begin to provide for a social infrastructure on the border. We must begin to support the border States like New Mexico in their efforts to coordinate law enforcement along that border.

That is why I am proposing we add two additional duties to this Commission on Crime and Violence mandate. As part of its development of a comprehensive and effective crime plan, we should direct the Commission to, first of all, recommend improvements in the coordination of local, State, Federal, and international border crime control efforts; and second, to examine the impact of enhanced and/or new international trade agreements, immigration, and increasing numbers of international parts of entry on crime and violence in the United States.

In my opinion, these two additions are essential if the Commission's report is truly to be a blueprint for national action on crime control in the 1990's. We need to draw special attention to the problems facing youth along the international borders. These amendments will do that.

Mr. President, I believe this amendment, as with the previous amendment that was considered by the Senate, is a useful addition to the legislation we are considering.

I believe that we must draw special attention to the problems facing youth living along our international borders. In addition to providing educational opportunities and routine, basic, and preventive health care, we must also work to lessen the temptations of crime, drug trafficking, and drug use that our youth face. For this reason, I am proposing that we authorize, under title XV of the Youth Violence Act, a special category of grants specifically targeted as border communities and their young residents.

The grants I envision would allow States, local governments and nonprofit organizations to:

Establish model anticrime and antidrug and alcohol use programs for testing and replication; and

Specifically focus efforts at international ports of entry and other border towns, including those located in rural areas.

Mr. President, I believe these are both important amendments, and I urge my colleagues to support them.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 416) was agreed to.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 417

(Purpose: To limit the amount of funds made available to state and local agencies and private entities under the authorities of the bill that may be used to pay administrative costs)

Mr. SANFORD. Mr. President, a couple of years ago, I noted, in following through with efforts we were making to control the drug problem, an official of my State had built himself quite an administrative substructure with the drug money that he obtained from the Federal Government.

Mr. President, I send the following amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 417.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) sections 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

Mr. SANFORD. Mr. President, my amendment places ceilings on the amounts of funds available for administrative purposes under the various provisions of the Biden bill.

Four areas are affected by this amendment, which is intended to ensure that the moneys provided to the States are used to the greatest extent possible for the programs themselves, and not to further layer and encumber the bureaucracy.

Specifically, this amendment limits to 5 percent the amount of funds available for administrative purposes for regional prisons. It limits to 5 percent the amount of funds available to the States for administrative purposes for major drug-related emergency grants.

In addition, it limits to 10 percent the amount of funds available for administrative purposes for antiaging grants, programs which include education, prevention, treatment, enforcement, reduced juvenile drug trafficking and gang prevention, and the use and sale of illegal drugs by juveniles.

Finally, the amendment limits to 10 percent the amount of funds available to the States for rural law enforcement agencies.

I believe that it is not necessary to provide large sums for administrative purposes. The States can handle that. I recognize that to limit this fund too severely invites debate away from the real point at issue. I would have preferred a 2-percent limit. This amendment says that these programs are important and that there needs to be assurances that the focus is on the program itself. Far too often we have found that what is listed in the name of administrative costs turns out to be more than a matter often ensuring some kind of job security or administrative entrenchment. Such activity neither benefits the program nor the people who need to participate in that program the most.

I want these programs to succeed and I want them to be available to as many people as possible. This amendment will, I hope, move in the direction of achieving that goal.

Mr. President, I understand that this amendment has been cleared on both sides. I thank the floor managers of the bill for their support of this proposal.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? Is there objection? Without objection, the amendment is agreed to.

So the amendment (No. 417) was agreed to.

AMENDMENT NO. 418

(Purpose: To protect insurance consumers from fraudulent activities in connection with the business of insurance)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. METZENBAUM, proposes an amendment numbered 418.

Mr. BRYAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

"(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzlers, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance' has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance,".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraph:

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

Mr. BRYAN. Mr. President, as part of our efforts to address our Nation's crime problem, this amendment will combat fraud and corruption in our Nation's insurance industry. Insurance fraud is a growing problem, and has now become one of the key areas of concern for State insurance regulators.

As chairman of the Commerce Committee's Consumer Subcommittee, I began holding hearings earlier this year to examine the financial health of our Nation's insurance industry. This examination was begun in response to the growing number of failures in the insurance industry. Over the past decade, insurance company failures have grown from an average of 4 to close to 20 per year. These failures have amounted to billions of dollars of losses, which are ultimately borne by policyholders, taxpayers, and consumers, through lost investments, bailouts, and increased rates.

In just the last 2 months, we have witnessed four of the largest failures in the history of the insurance industry. These failures include the takeovers of the Executive Life Insurance Co. of California and its subsidiary, Executive Life of New York; the First Capital Insurance Co. located in California; and the Fidelity Bankers Insurance Co. located in the State of Virginia. These three companies combined represent over $80 billion of business, and involve more than 800,000 policyholders. Evidence from hearings held in the Commerce Committee show that these 800,000 policyholders who are located in all 50 States, are now at considerable risk of losing their investments and life-long savings.

In March of last year, a study was released by the House Energy and Commerce Subcommittee on Oversight and Investigations on insolvency in the insurance industry, the study, which entailed a 3-year investigation of the industry, found that company fraud has become one of the primary contributing factors to insolvency in the industry. Such fraud includes deliberate misrepresentations to consumers and policyholders regarding the value of policies and the financial condition of companies, falsification of financial records, and submission of false financial statements to State regulators—all of which severely complicate the

ability of State officials to monitor the financial condition and operations of insurance companies.

The insurance industry, like many financial industries, has experienced tremendous growth and change over the past three decades. What used to be primarily a parochial business has now developed into a major interstate and international enterprise. As a result, the fraud that exists today in the insurance industry is not confined to simple and isolated incidents that can be easily detected by local officials, but involves very complex multistate and international schemes. Since the adoption of the McCARRAN-FERGUSON Act in 1945, the regulation of insurance companies has been reserved to the States. The States themselves, however, have recognized that the current multistate regulatory structure is an enormous obstacle to their ability to guard against complex fraudulent operations that extend across State lines, and have requested introduction of legislation such as the amendment I am offering today. A few notable examples of these fraudulent interstate schemes are the failures of the Beacon & Northwestern Security Insurance Co. of the State of North Carolina.

In 1984, the North Carolina State Insurance Department moved to take over the Beacon Insurance Co., which was in a seriously financially impaired condition. Upon the takeover of the company, it was discovered that the company was actually owned by a Bermuda company, which, in turn, was owned by a Nebraska company. The company was managed by a firm in Dallas, TX, and had only one shareholder. The company also failed to report to State regulators millions of dollars of business it wrote in London in the required time period. The company is now insolvent by over $100 million. The company's creditors are located throughout the country and the world. State regulators are faced with major legal and financial difficulties in the prosecution of any official responsible for the company's downfall.

Another example, Northwestern Security, involved a company that was domiciled in the State of North Carolina, but was controlled by two shell corporations located in the States of Florida and California. The company was managed by officials in California, who transferred over $10 million from the company almost immediately after they acquired the company.

Regulators also have been unable to account for millions of dollars that were in the hands of company officials. Like the Beacon case, regulators face major obstacles in the prosecution of any of the company officials.

Because of the difficulties faced by regulators in pursuing these fraudulent operations, they have now requested the assistance of the Federal Government. They have recognized the need for uniform criminal laws that specifically address insurance fraud, and are in strong support of the legislation we are introducing today.

Mr. President, I ask unanimous consent that a letter written by the National Association of Insurance Commissioners, a body that consists of insurance regulators in each of the 50 States be printed in the RECORD. This particular letter is addressed to me, dated June 25, 1991, signed by the president of the National Association of Insurance Commissioners, Mr. James E. Long, and by its vice president, Mr. William H. McCartney.

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

NATIONAL ASSOCIATION
OF INSURANCE COMMISSIONERS,
Washington, DC, June 25, 1991.

Hon. RICHARD H. BRYAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: We write to you, as the officers of the National Association of Insurance Commissioners (NAIC) in support of your amendment to S. 1241 which would establish as a Federal criminal offense certain types of insurance fraud that State regulators have been found to be key contributors to some insurance insolvencies.

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While State insurance regulators, in cooperation with State and Federal law enforcement officials, have pursued the perpetrators of insurance fraud using both State and Federal criminal statutes, we have come to realize that existing Federal and State laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

specifically addresses insurance fraud, and prescribes strong criminal penalties, and

can be used in the prosecution of complicated, multi-state and international schemes, and

provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

Your amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. We commend you for your intitiative in this worthy effort.

Sincerely,

JAMES E. LONG,
NAIC President, Commissioner of Insurance, North Carolina.
WILLIAM H. MCCARTNEY,
NAIC Vice President, Director of Insurance, Nebraska.

Mr. BRYAN. I might also add parenthetically that I visited with Mr. McCartney just this afternoon, and he orally reinforced the statements that are contained in the letter, which is now a part of the RECORD, in expressing the strong support of the National Association of Insurance Commissioners for the amendment which Senator METZENBAUM and I are offering this evening.

The legislation establishes stiff Federal criminal penalties in an attempt to deter and guard against company fraud. The bill specifically provides criminal penalties for knowingly filing false financial statements; the embezzlement or theft of company funds; the falsification of company records with the intent to defraud the company, policyholders, and creditors; and the criminal obstruction of State regulatory proceedings. Under the terms of this amendment, any person found guilty of submitting false statements, embezzlement, or falsifying company records, would be subject to a fine of up to $1 million, and up to 30 years of imprisonment.

In addition, the legislation would ban any individual who has been convicted of any of the offenses under the statute from engaging in any insurance related activities, except with the specific approval of the authorized State regulator. This provision is designed to prevent scam operators from jumping from company to company in one State to another. The legislation also provides for the forfeiture of any assets or moneys fraudulently obtained by company officials.

Mr. President, I believe this legislation provides effective new tools to deter and prosecute insurance fraud. It is strongly supported by State insurance regulators and is very much needed for the protection of consumers. I urge all of my colleagues to join with us in supporting this amendment.

Mr. President, I also ask unanimous consent that letters of support be sent on behalf of the insurance commissioner in the State of California, the superintendent of insurance in the State of New York, the insurance commissioner in the State of South Carolina, the insurance commissioner in the State of Iowa, the insurance commissioner in the State of Missouri, and the insurance commissioner in the State of Wyoming also be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

INSURANCE COMMISSIONER,
Sacramento, CA, June 25, 1991.

Hon. RICHARD BRYAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRYAN: On behalf of millions of California insurance consumers, I am pleased to add my voice of support to your efforts to broaden and strengthen Federal criminal sanctions against insurance fraud.

Your amendments to the Federal crime bill currently before the Senate, embodying proposals from the National Association of Insurance Commissioners, would strengthen

our hand at the state level by imposing penalties worthy of the crimes involved, and by acknowledging the complex interstate nature of the acts certain sophisticated "white collar" wrongdoers commit.

I hope your colleagues will come to the aid of the insurance commissioners in their own states by supporting this legislation.

Sincerely,

JOHN GARAMENDI.

STATE OF NEW YORK
INSURANCE DEPARTMENT,
New York, NY, June 25, 1991.

Hon. RICHARD BRYAN,
Chair, Subcommittee on Consumer Protection, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: On behalf of Governor Cuomo and the New York Insurance Department I commend and support your efforts to amend the pending legislation on federal crimes and criminal procedure to specifically cover offenses committed in connection with the business of insurance. New York was pleased to chair the NAIC Task Force that drafted the proposal from which you have adapted your amendment.

These provisions, if enacted, would strengthen and complement our ongoing efforts to deter and detect financial crimes committed against insurers, producers and others in the business of insurance to the detriment of honest policyholders, claimants and insurance businesses. The amendments would expressly outlaw such offenses as the knowing filing of false financial statements with state insurance regulators, embezzlement of insurance company monies, falsification of insurance corporate records with intent to defraud, and obstructing state insurance regulatory proceedings. In addition to imposing lengthy jail terms and fines up to one million dollars, the amendments would generally bar insurance related activity by anyone convicted of those offenses. This legislation also lengthens the applicable statute of limitations to afford federal prosecutors sufficient time to fully investigate and prepare for prosecutions that frequently involve numerous and complex multi-state transactions.

In our view, existing federal laws on mail and wire fraud are inadequate to fully deter these kinds of crimes. Moreover, the current five-year statute of limitations is insufficient to enable prosecutors to unravel complicated schemes perpetrated across state and often international borders.

Passage of these amendments would enable our Department and other state regulators, along with the NAIC, to work effectively with the Justice Department and United States Attorneys in this critical area. Insurer solvency and consumer satisfaction are both too important to be subverted by fraud, theft and obstruction. These amendments will materially assist state insurance regulators in meeting their responsibilities to achieve both goals.

Sincerely,

SALVATORE R. CURIALE,
Superintendent of Insurance.

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE,
Columbia, SC, June 25, 1991.

Hon. STROM THURMOND,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR: As the Chief Insurance Commissioner of South Carolina and as a member of the National Association of Insurance Commissioners, I would like to voice my strong support for the enactment of a federal statute making certain types of fraudulent activities conducted in connection with the business of insurance a federal crime. It is my understanding that an amendment to S. 1241, which is now being considered by the United States Senate, will be offered in the very near future by Senator Richard H. Bryan of Nevada. We hope that you will actively support the adoption of this amendment.

Senator, the NAIC adopted a resolution at its spring meeting in Charleston, West Virginia, endorsing this proposal. We believe the passage of a federal statute will better address the multi-state nature of many of the fraudulent activities committed by an officer, director, agent or employee of an insurance company engaging in interstate commerce.

We thank you for your consideration of this matter, and if I can ever be of assistance to you, please do not hesitate to write or call.

Respectfully,

JOHN G. RICHARDS,
Chief Insurance Commissioner.

INSURANCE DIVISION,
IOWA DEPARTMENT OF COMMERCE,
June 25, 1991.

Hon. Senator CHARLES GRASSLEY,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRASSLEY: I write to you in support of an amendment to S. 1241 which would establish as a federal criminal offense certain types of insurance fraud that state regulators have found to be key contributors to some insurance insolvencies (offered by Senator Bryan).

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and state laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear: there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

The Bryan amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. I would respectfully ask for your support of this amendment.

Sincerely,

DAVID J. LYONS,
Commissioner of Insurance.

STATE OF MISSOURI DEPARTMENT OF
ECONOMIC DEVELOPMENT, DIVISION
OF INSURANCE,
Jefferson City, MO, June 26, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: It is my understanding that Senator Richard H. Bryan of Nevada may offer an amendment today to S. 1241 establishing as a federal criminal offense certain types of insurance fraud. I urge you to support that amendment to bar the types of activities which have been found by state regulators to be key contributors to insurance insolvencies.

All state regulators charged with the protection of the insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators who are merely glorified con artists who ply their trade from board rooms rather than the streets. The business of insurance is based upon an act of faith in which money is exchanged for a promise to pay later, an activity which seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and states laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with statute of limitations which provides sufficient time for the preparation of a solid case.

I believe that Senator Bryan's proposed amendment to the crime bill would fill all the gaps in the existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with nothing but their autograph.

Your support of Senator Bryan's amendment would do much to protect your fellow Missourians and all other insurance consumers for fraudulent insurance activities. I would be happy to discuss the amendment with you or your staff members.

Sincerely,

LEWIS E. MELAHN,
Director.

STATE OF WYOMING,
INSURANCE DEPARTMENT,
Cheyenne, WY, June 25, 1991.

Hon. ALAN K. SIMPSON,
U.S. Senate,
Dirksen Building,
Washington, DC.

DEAR ALAN: At a recent meeting of state insurance commissioners, I actively supported the proposal to solicit legislation that would make certain types of insurance fraud a federal offense. After what, we have been going through with the liquidations of Oxford, Commerical General and Laramie Insurance, it is painfully obvious that state statutes are simply inadequate when attempting to pursue the crooks that were involved in these kinds of inter-state operations.

Senator Richard Bryan has proposed an amendment to S. 1241 that appears to ad-

dress the very problems that we have experienced. It purports to specifically address insurance fraud, prescribes strong criminal penalties, is appropriate to complicated, multi-state schemes, and provides a statute of limitations long enough to prepare a solid case. I believe that the proposal is essential and strongly urge that you give it your closest attention. It's adoption will be a major help to us here in Wyoming and has the support of the vast majority of insurance commissioners throughout the country.

Best personal regards and stay in good health, old friend. We need you.

Sincerely,

KEN ERICKSON,
Commissioner.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BRYAN. If the Senator will suspend a moment, I would like, before he takes the floor, to acknowledge publicly, to Members of this body as well as others who might be interested, the outstanding work that Senator METZENBAUM has performed over many years of service in inquiring into the operation of insurance companies and other related activities and the very strong and active participation and support we have had in drafting the amendment which we ask consideration for this evening.

His support has been appreciated. It has been in the public interest. I think insurance policyholders, taxpayers and ratepayers all over America, Mr. President, will benefit as the result of the effort Senator METZENBAUM has put into this particular amendment.

Mr. METZENBAUM. Mr. President, I am pleased for the kind comments of my colleague from Nevada. It is very complimentary. It is a privilege to have had the opportunity to work with him in connection with matters of insurance, as well as so many other matters. He brings a wealth of knowledge to this subject and with his background as a former Governor of his State I think he understands the problem as well or better than any of us here in the Senate.

I am very pleased to join him as a cosponsor of this legislation that will impose Federal criminal sanctions for insurance fraud. For the first time Federal prosecutors will be given the needed tools to help deter insurance fraud and protect the millions of policyholders who purchase life, health, and property and casualty insurance policies.

The Insurance Consumer Protection Act, is a step in the right direction in our fight against white-collar crime. This amendment recognizes that in order to stop insurance fraud by insiders you must go after the executives, directors, officers, agents, and others who participate in fraudulent schemes, loot insurance companies, and leave consumers holding an empty bag.

Federal law enforcement officials now believe that insider insurance fraud is the No. 1 trend in white-collar crime. One has only to pick up a newspaper to read about the latest insurance scandal. Sophisticated white-collar insurance swindlers use a variety of fraudulent schemes to practice their trade, including overvaluing assets, investing in questionable deals, setting up bogus insurance companies, embezzling funds, filing false financial statements, and bribing State officials.

White-collar insurance fraud is a nationwide problem.

In Wyoming, a former insurance executive rented assets from another insurance company for a short time to give State regulators the illusion of solvency.

In Florida, the founder of an insurance company masterminded a scheme to drive a competitor out of business by saddling the competitor with hundreds of bogus life policies.

In Texas, a former insurance executive used a health benefits scam to defraud churchworkers of millions of dollars. The executive set up a health plan for church employees nationwide, then siphoned more than $1.6 million for himself—plus a salary and expense account.

In North Carolina, a former owner and chairman of an insurance company was indicted in State and Federal courts on 90 counts of bribery, and mail and bank fraud. The fraud involved the alleged theft and misapplication of more than $37 million in insurance premiums over 5 years.

And the list could go on and on.

According to John Saxton, former chairman of the Texas State Board of Insurance, virtually anyone can go out and start an insurance company. In Mr. Saxton's words:

> I could go out and start an insurance company, * * * sell you the best-looking policy in the world at half what it is being sold by another company, * * * generate all this cash flow, and I can run $10 million through my company before the State board ever knew what was going on and be in Switzerland and gone * * *.

Like the savings and loan industry, the insurance industry has suffered many insolvencies as a result of fraud. Last year a special grand jury investigated 60 belly-up Texas insurers and found fraud in half of them.

Stories of executives who paid themselves kingly salaries, while they lavished policyholders' money on outlandish business deals to benefit themselves and their friends, bear an alarming similarity to what happened in the S&L debacle.

Efforts by State regulators to monitor fraud in the insurance industry have been an abysmal failure. State regulation of insurance varies from State to State, and is often handicapped by outmoded equipment, improperly trained personnel, and meager budgets. Fewer than half of the States have antifraud units. Less than 6 percent of the taxes that States collect on premiums—this is an amazing figure—less than 6 percent of the taxes that States collect on premiums is spent on insurance regulation, and fewer than half the States conduct on-site financial examinations at least every 3 years.

According to the GAO:

> When State insurance laws and regulations are violated, or when companies become insolvent, there is very little apparent investigation and enforcement to punish offenders * * *. State regulators do not aggressively look for the causes of wrongdoing and gross mismanagement, or issue sanctions and penalties when they are found. State law enforcement also seems lax in prosecuting insurance violations * * *.

To make matters worse, available penalties are out of step with the needs of today. Persons responsible for the insolvency of an insurance company usually face only the prospect of civil litigation arising from their breach of duty. And that is not very significant. Those suits, even when brought, are hampered by problems of proof and documentation. Without adequate enforcement and suitable penalties, there is little reason for potential violators to follow the law.

With respect to State criminal penalties, the attorney general of Louisiana observes that:

> It is absolutely amazing, even astounding, that a person who robs a convenience store—in Louisiana—with a gun, stealing a few dollars, may be sentenced to 99 years in prison. Yet, one who robs with a fountain pen and computer depriving our economy of millions of dollars, will suffer less than 3 years under the criminal provisions in both our insurance and banking codes.

Moreover, the National Association of Insurance Commissioners [NAIC] acknowledges that State law enforcement agencies do not have the capability to conduct complex nationwide or foreign investigations and pull together a single prosecution. For that reason, the Nation's insurance commissioners support this amendment, as has already been pointed out by my colleague from Nevada. They cite the case of Beacon Insurance Co. as an example of why this amendment is necessary.

The Beacon Insurance Co., in rehabilitation since 1984, had its domestic office in Winston-Salem, NC, and was owned by a Bermuda company which, in turn, was owned by a Nebraska company with its only shareholder located in Texas. Beacon was managed by a firm in Dallas. Beacon opened an underwriting agency in London, which wrote millions of dollars of business which was not reported on its financial statements in the required timely manner. Beacon is now insolvent by more than $100 million and its creditors are located around the country and across the globe. Prosecution of anyone responsible for the company's downfall in a State court would require extradition on a massive scale, and could fail due to jurisdictional problems.

Current Federal law enforcement efforts are also of little help. Looting an

insurance company is not itself a Federal crime, and the 5-year statute of limitations on mail and wire fraud has often run before a case can be successfully developed.

Fearing that white-collar insurance crooks are slipping through the patchwork of State laws, the Justice Department recently created a special insurance fraud prosecution unit. The Justice Department has also organized five insurance task forces in troubled areas around the country. The Insurance Consumer Protection Act will go a long way in giving Federal prosecutors the tools they need in their fight against white-collar crime in the insurance industry.

The Insurance Consumer Protection Act establishes Federal criminal penalties for:

Knowingly filing false financial statements and reports;

Embezzlement or theft of company funds;

Falsification of company records with the intent to defraud the company, policyholders and creditors; and

Criminal obstruction of State regulatory proceedings.

Penalties under the bill range from $250,000 to $1 million in fines and/or 30 years imprisonment. In addition, the legislation prohibits individuals who have been convicted of any offense under the act, or any criminal offense, from engaging in the insurance business except with the specific approval from State insurance regulators.

I enthusiastically support this bill because it will help stop white-collar fraud in the insurance industry. It's time to send a clear and unmistakable message to the swindlers, con men, and crooks who would pillage our Nation's insurance companies that their fraudulent activities will no longer be ignored or tolerated.

The Insurance Consumer Protection Act strikes a crippling blow to white-collar crime in the insurance industry. We call ill-afford to stand by and watch another financial industry destroyed.

I again congratulate Senator BRYAN for his leadership in bringing this amendment forward and urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. Is there further debate? Is there objection to the amendment? The Senator from Kentucky.

Mr. FORD. Mr. President, I am not opposed to this amendment that is being proposed now by the Senator from Nevada and the Senator from Ohio. Having been Governor, as my good friend from Nevada, I understand the problems from a State level nearly as well as he does. One thing I am afraid we are getting here is the imagery of the insurance industry. I have heard no kind words said about the insurance industry at all; maybe it is all bad. But out of 20 insurance companies that are insolvent annually, as I heard the Senator from Nevada say, can anyone tell me how many insurance companies are in business today? Thousands?

Mr. METZENBAUM. About 5,000.

Mr. FORD. Five thousand; 5,000 insurance companies, at least. They are doing better than banks. A lot better than savings and loans.

So, Mr. President, I am not going to object to the amendment. I think it is fine, and I think if we had this kind of law as relates to savings and loans, maybe we would have saved something there. But with 5,000 or more insurance companies, and the possibility of 20 having problems during a year, that, it seems to me, is something that ought to be said rather than no kind words: There are no good insurance companies, they are all bad, we have to get after them, we have to stick it to them.

That is well and good but at some point along the way you ought to say there are some good ones. We have some good savings and loans. Not one went bad in Kentucky. Not one bank went bad in Kentucky, yet we can paint with the broad brush with savings and loans and banks.

So I hope with the imagery being left here by my colleagues, we would only say we want to prevent anything else from happening. I think this is getting there, before we let the horse out of the gate. But I still think there should be at least some kind words said about some good insurance companies that are out there doing a good job, fighting every day to protect the individuals. They do not make as much money as they used to. They have enough in reserve that they have been able to be strong. Some are stock companies, some are mutual companies, but all of them are doing very well.

As I say, I am not objecting to the amendment that is before us, but just trying to prevent a tendency that we get around here, that once we bring an amendment it is all downhill. We say there are no good ones out there. Every once in a while you find a bad apple on a tree but you get several bushels of apples on a tree.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would say to my colleague from Kentucky, I agree with him. I think in dealing with this amendment I do not think anybody wants to suggest that all insurance company executives are swindlers or engaging in improper conduct. Certainly many fine insurance companies are in this country, and many men and women engaging in the insurance industry are doing a fine job. They add much to our economic strength in this country.

I think this amendment is only directed at the bad apples, just to see that the bad apples pay an appropriate penalty. But the Senator from Kentucky's point is very well taken and I am glad he made it.

The PRESIDING OFFICER. Is there further debate? If there be no further debate the question is on agreeing to the amendment.

The amendment (No. 418) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 419

(Purpose: To require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 419.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagrpah (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the the designated State law enforcement agency. If the person fails to mail the verification form to the the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Mr. DURENBERGER. Mr. President, this amendment I believe has been cleared on both sides of the aisle. The amendment is based on a freestanding bill that I introduced earlier this year entitled "The Crimes Against Children Registration Act." It is S. 1170.

My amendment will require that people who are convicted of a sexual offense against a child register a current address with State law enforcement officials for 10 years after their release from prison.

We adopted an amendment today that was offered by my distinguished colleague from Kentucky, Senator MCCONNELL, which will require a one-time registration of crimes of child abuse. My amendment targets a particularly dangerous segment of child abuse criminals—those who sexually abuse or exploit children.

Mr. President, more than a year and a half ago, I became especially concerned about the vulnerability of America's children because of a tragic event that took place in my home community of St. Joseph, MN. On October 22, 1989, an 11-year-old boy named Jacob Wetterling was abducted by a masked man at gunpoint while returning home from a convenience store with his brother and a friend. Not a single word has been heard from Jacob or his abductor since that day.

There is not a community in Minnesota that was not shocked and heartbroken by what happened to Jacob. St. Joseph is a small, close-knit, safe community, and Jacob could have been anyone's child. Jacob's parents, Jerry and Patty Wetterling, remain hopeful that Jacob will be found, and we all pray for the day when Jacob will return home safely to his family.

Local, State, and Federal law enforcement officials responded quickly to Jacob's abduction. If local and State police had been aware of the presence of any convicted sex offenders in the community, it would have been of invaluable assistance during those first critical hours of investigation. This amendment would provide law enforcement officials with this tool.

The National Center for Missing and Exploited Children has expressed its support for a national system of registering child sex offenders, not only to protect children from abductions, but to protect every child that may be a victim of sexual abuse or molestation. The amendment that I am offering today grew out of the work of Patty Wetterling and her colleagues on the Minnesota Governor's task force on missing children.

Because of their efforts, a bill establishing this registration requirement just became law in our home State of Minnesota. A similar law just passed in the State of Texas. And 13 other States already have an address registration requirement: Alabama, Arkansas, Arizona, California, Florida, Illinois, Montana, Nevada, Ohio, Oklahoma, Rhode Island, Utah, and Washington.

The reasons for enacting this legislation on the national level are clear: Sexual crimes against children are widespread; the people who commit these offenses repeat their crimes again and again and again; and local law enforcement officials need access to an interstate system of information to prevent and respond to these horrible crimes against our children.

If there is any doubt about the seriousness of the problem, consider the following statistics, provided to me by the National Center for Missing and Exploited Children:

ChildHelp USA estimates that 1 in 3 girls and 1 in 6 boys will be sexually abused or victimized before age 18. More than half—54 percent—of sexually abused children are victimized before age 7, and 84 percent are younger than 12 years old. Two-thirds of reported nonfamily child abductions involved sexual assault. Of the 2.4 million reported cases of child abuse in 1989, 380,000 involved sexual abuse. These statistics seem high, but child molestation is actually one of the most underreported crimes—only 1 to 10 percent of these crimes are ever disclosed.

The widespread tragedy of sexual abuse and molestation of children is compounded by the fact that child sex offenders are serial offenders. A National Institute of Mental Health study found that the typical offender molests an average of 117 children, most of whom do not report the offense. Those who attack young boys molest an average of 281. A study of imprisoned offenders found that 74 percent had one or more prior convictions for sexual offense against a child.

The behavior of child sex offenders is repetitive to the point of compulsion. In fact, one State prison psychologist has observed that sex offenders against children have the same personality characteristics of serial killers.

Sex offenders against children are not only repeat offenders, but they are also dangerous and they are violent. The Justice Department has reported that over 85 percent of nonfamily abductions involved force and over 75 percent involved a weapon. Of the homicides that occur from stranger abductions, almost 40 percent involved rape or another sexual offense, and those are only the cases in which the circumstances were known.

Under this amendment, the type of crimes that would trigger the registration requirement include the kidnapping or false imprisonment of a minor, criminal sexual conduct toward a minor, solicitation of minors to engage in sexual conduct, the use of minors in

a sexual performance, or the solicitation of minors to practice prostitution.

When a person convicted of any of these crimes is released from prison, the individual will be informed of his or her duty to register a current address with law enforcement for the following 10 years. Each time the offender moves, he or she will be required to register the new address within 10 days. This information will then be entered into the State law enforcement and National Crime Information Center computer networks, and will only be allowed to be used for law enforcement purposes.

To ensure that offenders are complying with the registration requirement, a nonforwardable verification form will be sent to the offender's last registered address each year. Failure to return the form within 10 days would constitute a violation of law unless the offender could offer a valid reason for failing to respond to the inquiry.

Mr. President, the Crimes Against Children Registration Act may require some of us to choose between two interests. One of those interests is the interest in protecting children from sexual abuse and exploitation. The other interest is the inconvenience to convicted child sex offenders who would be required to register an address with a State law enforcement agency once a year and each time they move.

Mr. President, for this Senator, there are no competing issues to debate. If a national registration requirement for convicted child sex offenders will assist law enforcement authorities in one criminal apprehension or deter one single kidnaping, I believe it is worth implementing.

I am pleased that we adopted the registration of child abuse crimes amendment offered today by Senator MCCONNELL. I hope that my colleagues will joint me in supporting my amendment to protect America's most vulnerable and precious resource—our Nation's children.

Mr. President, I understand that this amendment has been cleared on both sides of the aisle, so I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, we do not oppose this amendment. We think it has considerable merit. It is true that crimes generally are prosecuted in the State where they occur. But as the able Senator said, these people go from State to State. For that reason, we feel it is warranted that we pass a Federal law on this subject.

These people who take advantage of children and commit offenses against them are repeaters. They repeat, repeat, repeat. In one State, when they feel like they are about to get caught, they move to another State. So in view of that, it appears to me that it is warranted we pass a law at the Federal level on that subject.

The PRESIDING OFFICER. Is there further debate?

Is there objection to the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No 419) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, Senator D'AMATO has an amendment, which, as I understand it, has been cleared on both sides. I will present that amendment for him.

AMENDMENT NO. 420

Mr. THURMOND. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND], for Mr. D'AMATO, proposes an amendment numbered 420.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate section 1324(a) of title 8, United States Code, shall be assigned not less than offense level 25 under section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of title 8 United States Code.

Mr. D'AMATO. Mr. President, The Immigration and Naturalization Service has informed us that during the last year, over 3,300 alien smugglers were apprehended, an increase of 23 percent over 1989. There is increasing violence associated with alien smuggling as organized crime become more involved. Some aliens are subjected to lives of servitude, trapped in a vicious cycle of debt and despair.

SPECIFICS OF THE AMENDMENT

Current law, 8 U.S.C. 1324(a), provides a maximum of 5 years imprisonment in the broad category of "Bringing in and harboring aliens."

If a defendant pleads guilty to a first offense, often the sentence received is either probation or 6 months in jail—the Sentencing Commission categorizes a first offense as a base 9 offense level, or 4 to 10 months. The maximum term of imprisonment is the same for the leader of an organized smuggling ring as it is for a poor truck driver hiding an alien in his truck.

This amendment directs The U.S. Sentencing Commission to promulgate guidelines, or amend existing guidelines, to raise the sentence to approximately 5 years in jail for a first offense—base 25 offense level, or 57 to 71 months—if any of the following factors exist:

First, the offense involved five or more aliens; or

Second, if the offense involved criminal activity such as violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

Third, if the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

Fourth, if the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

Fifth, if the offense involves dangerous or inhumane treatment of the persons smuggled; or

Sixth, if death or serious bodily harm occurs to persons smuggled—in this specific instance, the amendment adds three more offense levels to get to a minimum of 78 to 97 months for a first offense, which is approximately 7 years.

ILLEGAL ALIEN DEBT AGREEMENT

INS has provided us with a copy of a translated agreement between an illegal Chinese alien and a smuggler. This document shows how the smuggler extorts great sums of money from the illegal immigrant. The agreement states

that within 2 days of the alien's arrival in the United States, a guarantor in the United States shall pay $15,000 to the smuggler's organization.

The balance amount, $7,800, shall be paid by the guarantor in Hong Kong within 7 days. If the guarantor fails to pay within 7 days, a compensation of 2 percent of the total amount shall be paid to the organization each day. INS tells us that when the illegal immigrant does not pay the syndicates that smuggle them in, the alien is often kidnaped and tortured.

EXAMPLES

A Washington Post article on June 17, 1991, entitled "A Dark Road From China to Chinatown," describes the problem of smuggling illegal Chinese immigrants. The following are quotes from this article:

* * * They [illegal Chinese aliens] typically pay from $35,000 to $50,000 to Chinese smugglers, many with connections to Chinese organized crime * * *. They will become essentially indentured servants, working in sweatshops in the garment district, in restaurants, laundries, or other businesses. They will work as long as five years—often seven days a week, day and night, for minimum wage or less—while living in squalor, to pay off the loans that brought them here.

Some are lured to the quicker money to be made by smuggling drugs, becoming enforcers or engaging in prostitution for the Chinese gangs that lent them money * * * "Anyone who scrapes together $50,000—about 100 years' salary for the average Chinese—is compromised on arrival in the U.S.," [Michael T. Lempres, INS Operations Director] said. The newly arrived are living "in a form of slavery," paying rent and buying food from the smugglers, he said. The pressure on these immigrants to turn to crime can be overwhelming.

* * * Passengers who made it to New York likely will stay underground and blend into the 300,000-member Chinese community there, which includes about 30,000 illegal workers, according to New York City estimates * * * INS officials have counted 51 countries that are connected to the smuggling rings, either as part of the transportation web or the manufacture of documents * * *. Of the $35,000 to $50,000 fee smugglers collect from emigrants, only about $10,000 goes for the trip itself * * *. The rest, as much as $40,000, is divided up by the rings * * *.

New York Daily News, "Merchants of Misery: Ring Led Illegals To Risk Ruin and Worse," September 24, 1990:

* * * From the early 1980's on, [Immigration agents] tracked Cheng [Chiu Peing, a Fujinese woman based in New York City's Chinatown] and her husband from China through Latin America and the U.S., struggling to break a ring they charged smuggled thousands of Chinese illegals and made at least $30 million * * *. Her smuggling has produced wealth kept safely outside the U.S.

The assets include a garment factory in Shenzhen, a free-trade zone near Hong Kong, and a video arcade and import-export business in western Hong Kong, the investigators said * * *. INS agents arrested illegals [coming from Toronto] later in Albany aboard a bus to New York City. They also got a warrant for Cheng, who was nabbed in Vancouver en route to Mexico * * *. District Court Judge Richard Arcara rejected Cheng's pleas for leniency and sentenced her to the maximum, six months in jail * * *.

The following article describes the gruesome death that five aliens faced as they tried to make their way to the United States. Valley Morning Star, Texas, January 28, 1991, "Alien Smuggler Gets 18 Months":

A convicted alien-smuggler linked to the deaths of five immigrants was sentenced Monday to 18 months in prison by U.S. District Judge Filemon B. Vela. Renato Avila Botello, 29, of Houston, was a fugitive for most of 1990 after a January 23 indictment for alien smuggling in connection with a botched operation in which five people died. They had been loaded in Harlingen onto a boxcar filled with corn flour fumigated with the poisonous chemical phostoxin.

Judge Vela said Monday, he would have liked to give him a longer sentence. "If it weren't for the guidelines, I would have given him five years for every alien that died," Vela said. Federal sentencing guidelines call for probation to six months, but Vela said exceeding the guidelines was necessary under the circumstances.

CONCLUSION

Mr. President, these smugglers are indeed the merchants of misery. They take desperate people, hungering for a better way of life, and force then into circumstances in many ways worse than their previous lot. This is outrageous and totally despicable. As a nation which strives to provide the huddled masses with an improved life, we should not tolerate downtrodden people being forced into a life of prostitution, drug trafficking, indentured servitude, or slavery. I thank my colleagues for accepting this important legislation.

Mr. THURMOND. Mr. President, as I say, I am informed this amendment has been cleared on both sides and there is no objection. I call for a vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 420) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of S. 1415 and S. 1416 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PELL. I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that I be named as the first cosponsor of the legislation that the distinguished Senator from Connecticut [Mr. DODD], introduced this week regarding El Salvador, and which I will more closely identify for the clerk.

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

Mr. LEAHY. Mr. President, I am pleased to join my good friend the distinguished Senator from Connecticut on this year's version of the Dodd-Leahy El Salvador amendment we put on the foreign operations appropriation last fall. I delayed a few days in joining him in introducing this new bill to withhold half of El Salvador's military because I was making a last ditch effort to persuade the administration not to begin releasing the money withheld because of the Dodd-Leahy amendment last November.

Unfortunately, as the newspapers make all too clear, I was unsuccessful in urging the administration to continue the restraint it has shown over the last 6 months. The President intends to begin committing the $42.5 million in this year's Salvador military aid. There is no reason for me to delay any longer in the hope of mutual restraint by both Congress and the executive branch on El Salvador.

My friend from Connecticut and I will now work as hard as we can to persuade a majority of our colleagues in the Senate that the United States Congress must again take a stand in favor of peace and reconciliation in El Salvador. We won convincingly last fall, and there is every reason to continue to put pressure on both sides, the Salvadoran Government and the FMLN rebels, as they negotiate for a cease-fire and a peace agreement.

We are convinced that the Dodd-Leahy military aid withhold enacted last year contributed significantly to the decisions made by both sides in this terrible war that there must be a negotiated settlement and an end to the killing. I am confident our view will prevail again, and once more the Senate will send strong signals to the Government of El Salvador and the FMLN rebels that they must continue the U.N.-sponsored peace negotiations and conclude a cease-fire promptly.

Last year, for the first time in a war that has claimed the lives of over 70,000 people, the Congress sent a strong signal to the Salvadoran military. Senator DODD's and my amendment, which passed overwhelmingly, withheld $42.5 million—one-half of the military aid. We tied the release of that aid to the FMLN's conduct in the peace negotiations and on the battlefield.

And we put other conditions on the government. The law says that all military aid is to be withheld if the

government does not conduct a thorough investigation and prosecution in the Jesuits' case.

What has happened?

Only 2 months after our legislation became law the President reported that the FMLN had violated its conditions. At the same time he ignored the lies and obstruction of justice by the Salvadoran military in the Jesuits' case, which under our law would require that all military aid be withheld.

To his credit, the President held off releasing the aid at that time. Despite intense lobbying by administration officials against our amendment last year, they discovered that it gave them leverage over both sides in the negotiations. That is exactly what we told them it would do.

Senator DODD and I, in a letter signed by 35 Senators, urged the President to continue withholding aid and keep the peace negotiations alive.

I renewed that plea in separate meetings with President Bush and Secretary Baker, and later in several discussions with Assistant Secretary Aronson.

Our legislation has accomplished more in El Salvador in 6 months than anything in the past 6 years. For the first time, we showed that the American people will not support endless war in El Salvador. We showed that if the Government of El Salvador expects our support it must get serious about reining in the military and the death squads.

And, most importantly, we showed that by tying our aid to the peace process we can get results. After years of on-again, off-again negotiations in which neither side was serious and nothing was accomplished, on April 30 the two sides signed an agreement on a wide range of issues.

To use Secretary Aronson's words:

> They have achieved already at the bargaining table an enormous number of concrete agreements that are far-reaching and reshaped Salvadoran society, that reshaped their judicial system, that reshaped their electoral system, that reshaped human rights and the rule of law, and that fundamentally reduce and alter the role and structure and size of the armed forces.

What that agreement shows is that both sides take the negotiations seriously and have concluded that the war is unwinnable and that a political settlement is the only option. Since then they have been meeting to try to agree on the terms of a cease-fire.

Let there be no mistake, the negotiations have been very difficult. As Secretary Aronson said, "in any negotiation, in some ways the closer you get, the harder it comes." He said, "the two sides are very close on most issues, but there remain some tough issues * * * the progress is forward, but sometimes there are steps backwards on both sides."

We all want to see the war end, and the sooner the better. But whether it takes another month or a year to get a cease-fire, and I abhor the thought of it taking a year, one thing is clear. For the first time the negotiations are working.

It would be folly to do anything that would give the hardliners in the military or the FMLN an excuse to drag the talks out indefinitely or sabotage them altogether.

That was the decision of the House of Representatives when it refrained from including conditions on aid to El Salvador in the 1992 foreign aid bill. Recognizing that the negotiations have been progressing and are in a critical stage, the House honored the administration's request not to do anything that might send the wrong signal and disrupt the peace process.

But those Members also urged the administration, for its part, to refrain from releasing any of the withheld 1991 aid.

So did the Foreign Relations Committee, where a majority decided not to take any action on El Salvador in order to give the negotiations every possible chance.

I give a great deal of credit to Secretary Aronson for his efforts to use the withheld aid during these past 6 months as leverage to push the negotiations forward. He is working hard for a peace agreement, and I do not doubt his commitment to that goal. He has had a difficult task but has always performed with the utmost professionalism and deserve praise.

Yet despite those efforts and the Congress' willingness to delay action on an issue that has aroused such passions, it now appears that the hardliners have won out. The decision has been made to begin releasing the withheld aid within the next week to 10 days.

I also recognize the administration's attempts to show restraint as it releases the military aid. The administration indicates it will send only nonlethal equipment—uniforms, vehicles, radios and the like—at least at first. But there is about $80 million in the pipeline of undisbursed prior year military aid, all of which is available for guns, bullets, rockets and mortars. The reality is that we will continue to bankroll the government's military operations.

And a critical element of the Dodd-Leahy law will be continued to be ignored.

I challenge anyone in the administration to say there has been a thorough investigation and prosecution in the Jesuits case, as our law requires. Even the administration admits that the military has concealed evidence, destroyed evidence, lied and obstructed justice, but still they want to reward the conspirators. Under our law they should withhold all the aid. Instead they want to give it away.

The truth is that neither side has fully complied with our law. But the answer is not to jettison the law.

Mr. President, let us not forget the effects of our policy of quadrupling the size of the Salvadoran military and turning a blind eye to corruption and atrocity after atrocity.

Over 70,000 dead. Another 7,500 disappeared and presumed dead.

A million and a half refugees, most now living in squalor in the United States. Another half a million Salvadorans displaced within their own country and living hand to mouth.

We can learn from this lesson. But not if we continue to ignore the tragedy of how our aid has been misused. Not if the administration refuses to uphold the law.

The Salvadoran military needs to know that the Congress has not forgotten. We have not forgotten the Jesuits and the other atrocities. We support the peace process. We will not go back to the old days of writing a blank check to the Salvadoran military.

Mr. President, S. 1352, the new Dodd-Leahy bill would again withhold one-half the military aid and tie the release of that aid to the peace process and human rights, including progress in the Jesuits case. But this time if the President decides to release any of the aid he must first notify Congress through the regular 15-day notification process.

This will give the Congress time to review the President's decision and ensure that the law is applied evenhandedly. We will hold both the government and the FMLN accountable if they violate conditions in the law.

Mr. President, the Dodd-Leahy legislation is just as necessary today as it was 8 months ago. In El Salvador the fighting continues. The suffering continues. A year and a half later we are still waiting for justice in the Jesuits' case.

But there is far more optimism today than 8 months ago that a cease-fire is within reach. This legislation will send a strong signal to both sides that they will pay a heavy price if they walk away at the 11th hour.

I urge all Senators to join us in cosponsoring S. 1352. Let us once again stand for peace in El Salvador.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Craig Schiffries for today.

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

AMENDMENT NO. 421

(Purpose: To amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse)

Mr. LEAHY. Mr. President, I am pleased to join with Senators BROWN and KOHL in offering the Computer Abuse Amemdments Act of 1991, S. 1322, as an amendment to the crime bill, S. 1241. I send that amendment on

behalf of myself, Mr. BROWN, and Mr. KOHL to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair understands that this is one of the amendments that was considered in the unanimous-consent request to be offered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. BROWN, and Mr. KOHL, proposes an amendment numbered 421.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be diapensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. LEAHY. Mr. President, it is important to update our laws to stay abreast of rapid changes in computer technology and computer abuse techniques. In the 101st Congress, the Senate responded to the threat posed by new forms of computer abuse—destructive viruses, worms, and Trojan horses—by unanimously passing S. 2476. That bill was not considered by the House of Representatives in the last Congress, so I joined with Senators BROWN and KOHL in reintroducing the bill, S. 1322.

The Computer Abuse Amendments Act of 1991 is the product of over 2 years of work by the Subcommittee on Technology and the Law. In the 101st Congress, I chaired two hearings on computer abuse. S. 1322 has been drafted and revised on the basis of careful review of issues raised in the subcommittee's hearings, and with the benefit of consultation with computer experts. The bill has been broadly supported by the computer industry and by computer users. At the subcommittee's hearing on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "provides a useful improvement over and clarification of, the scope of existing law."

Mr. President, the free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology, and national security.

The National Research Council [NRC] recently published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. According to the NRC study, "Tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb." The NRC study underscores the need for immediate action to protect our computer systems.

This legislation deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms, and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified.

Computer breaches can cause economic disaster and even threaten human life. Right now we are still trying to find out what caused the computer problem with the telephone system that blanked out service to millions of Americans yesterday. I do not mean to suggest in any way that this problem was the result of a criminal act or was a virus, Trojan horse, or worm. The preliminary news accounts are that it was just a malfunction in the programming. But I mention it, Mr. President, because if somebody wished to introduce the kind of virus that we are talking about here, which would be a crime under my amendment, they could do the same kind of damage we saw yesterday. In fact, they can do far more, and we could see many more States blanked out like this.

Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image

display system. Hidden programs can also hopelessly clog computer networks, as we saw with the Internet worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, the Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a time bomb, built into the system's hardware to deter outside access. The manufacturer of the software had failed to inform the State that a special code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly not criminal.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a "worm" that was introduced onto the Internet computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As several witnesses testified in the subcommittee's hearings, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow, develop the telecommunications or computer technology to lead the United States into the 21st century. He or she represents our future and our best hope to remain a technologically competitive Nation.

Mr. President, this bill clarifies the intent standards, the actions prohibitied and the jurisidiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicated upon the violator's gaining "unauthorized access" to the affected "Federal interest computers." However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained "access" in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer "access."

The bill makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code, including destructive computer viruses, without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access(ing) a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious—or even intentional—and they are treated differently. The bill creates a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The bill creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The bill expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just "Federal interest computers," as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The bill addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, (Art. I, Sec. 8).

Mr. President, this amendment has been cleared by both sides. I want to thank Senators BROWN and KOHL for joining me in offering this amendment. I urge my colleagues to join us in supporting this measure. In the 101st Congress, an identical bill was unanimously reported by the Judiciary Committee and unanimously passed by the Senate. Enactment of this sound and balanced legislation would help ensure that our laws keep pace with new forms of computer abuse.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 421) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to table to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I wish to acknowledge the work of Ann Hawkins, my chief counsel, Katie Miller, a former member of our staff, Craig Schiffries, a congressional science fellow who has been working with us, John Bliss, Senator BROWN's chief counsel, and Jon Leibowitz, Senator KOHL's chief counsel, as well as others of the staff of the Judiciary Subcommittee on Technology and the Law, on both sides of the aisle, who have worked so hard in this. I wish to acknowledge them because this is an extremely complicated piece of legislation, and without the hours and evenings and weekends of work they put in, we would not have this excellent initiative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1414 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I yield back my time.

The PRESIDING OFFICER. Did I understand that the Senator has suggested the absence of a quorum?

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FREDERICK MOSTELLER

Mr. MOYNIHAN. Mr. President, earlier this month, Harvard University awarded an honorary degree to Frederick Mosteller, that indomitably cheerful scholar who has so illuminated the often mournful issues of public policy.

I ask unanimous consent that his Harvard citation be printed in the RECORD at this point, and that it be ordered that a flag be flown over the U.S. Capitol in honor of a distinguished son of West Virginia and luminous citizen of the world.

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

Frederick Mosteller: Where others see chaos, he sees patterns; in a confusion of fragments, he finds connections, ordering disciplines, illuminating disciples.

Pop Quiz: What do the following have in common? (1) Assessing the costs, risks, and benefits of surgery. (2) Assigning the authorship of certain disputed Federalist papers to James Madison. (3) Determining whether the better team really does win the World Series.

The unifying factor in this improbable trio is Frederick Mosteller, Harvard's Roger I. Lee Professor of Mathematical Statistics Emeritus. And that sampler merely hints at what Harvard Public Health School Dean Harvey Fineberg has called the "astonishing array" of methodologies that Mosteller has applied to "an equally wide variety of problems in the world."

Universally regarded as the greatest living biostatistician, Mosteller has used statistics to illuminate issues in business, economics, public policy, educational assessment, and weather prediction. Through NBC-TV's Continental Classroom series of the 1960s, he instructed thousands in the basics of his discipline.

He has produced more than 200 articles for professional journals, and has helped write or edit more than 60 reports, pamphlets, and books (including several textbooks and teachers' manuals). Speakers of Chinese, French, German, Italian, Japanese, Russian, Spanish, and Turkish know him in translation. Since he began teaching at Harvard in 1946, his activities have enriched five different faculties: Arts and Sciences, Law, Medicine, Government, and Public Health.

Mosteller's range and depth have earned "the admiration of statisticians and mathematicians (plus those with no numerical facility at all) throughout the world," Fineberg observes, and the statistician's capacity for work is the stuff of legend: "One of his books was written exclusively during airplane flights."

Mosteller has been a mentor to generations of faculty and students. "He is as close to the complete teacher-scholar as anyone I know," says Fineberg.

Among Mosteller's many honors are the Samuel S. Wilks Award of the American Statistical Association (ASA; 1986), the Medallion of the Centers for Disease Control (1988), and the 1989 Statistician of the Year Award of the ASA Boston Chapter.

Mosteller was born in Clarksburg, W. Va., on Dec. 24, 1916. After earning his Bachelor (1938) and Master (1939) of Science degrees from the Carnegie Institute of Technology, he went to Princeton for his M.A. (1941) and Ph.D. (1946). He was named to the Lee Professorship in 1978. He retired in 1987 but remains as active as ever.

AN ALL-AMERICAN CITY

Mr. MOYNIHAN. Mr. President, Albany, NY, will always hold for me many fond memories. It was there I met my wife, and spent happy years working for Gov. Averell Harriman in that august State capitol building. Albany was my home. I knew then it was a special place, not just for me, but for many. With what little surprise then, but still great pride, did I learn that recently Albany was named an "All-American City" by the National Civic League.

In 1894 President Theodore Roosevelt and other concerned civic reformers established the National Civic League to promote citizen involvement in community problem solving. For some 42 years now this worthy organization has been presenting the "All-America City Award" to those of our cities which have displayed excellence in this capacity. Earlier this month Albany was among the winners of this prestigious prize. No small achievement, given that it was among but 10 cities selected nationwide. I would like simply to commend the citizens of New York's capitol and its mayor, Thomas Whalen, on the deep pride and hard work they have put into improving their fair city. The civic and governmental initiatives they have undertaken have formed a unique and highly successful partnership. In addition, Albany has attracted many arts groups, among the most notable the Berkshire Ballet. For these and other strengths, it was chosen by a distinguished panel of judges as a model city. Mr. President, with news of this award, there is great cause for optimism about our cities, both in New York and in the Nation. I know that my fellow Senators join me in saluting Albany, NY, "Cradle of the Union."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,294th day that Terry Anderson has been held captive in Lebanon.

THE LAST DOMINO

Mr. MOYNIHAN. Mr. President, the last of the totalitarian states has begun to tumble. In a compelling op-ed article which appeared in the New York Times on Thursday of last week, Sali Berisha, the chairman of the Democratic Party of Albania, describes Albania as the last domino. I commend the article to my colleagues. The cold war is over, but totalitarian leaders cling to personal power around the world, in Albania, Cuba, North Korea, and, of course, in totalitarian China. Democrats like Mr. Berisha deserve our strongest support as they struggle to sweep away the legacy of more than 40 years of isolation and repression. I ask unanimous consent that Mr. Berisha's excellent article be printed in the RECORD.

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

[From the New York Times, June 20, 1991]

THE LAST DOMINO

(By Sali Berisha)

TIRANA, ALBANIA.—Tomorrow, Secretary of State James Baker will make the first visit by an American Secretary of State to Albania. His arrival will mark one more step in my country's march toward freedom. To continue that march, to consolidate democracy and join the world economy, we need help from the west.

For Albanians, the U.S. has always been synonymous with freedom and democracy. President Woodrow Wilson kept our neighbors from partitioning our country after World War I. Mr. Baker's visit makes us hopeful.

Forty-seven years of Communist rule have made us the poorest country in Europe. We are desperate for humanitarian aid—food and medicine—as well as technological and economic assistance. Albania needs American business to invest in developing highways, textile industries and oil exploration.

Albania overthrew the most perverse and militant Communist regime in Eastern Europe. In December, students took to the streets and forced the Albanian Communist Party to relinquish its 47-year monopoly on power by holding multi-party elections. Intellectuals and professionals immediately formed the Democratic Party and other opposition groups.

Though foreigners, rarely allowed in Albania under Communist rule, weren't able to observe this historic event, they were present in March to view the elections.

The Democratic Party emerged as the main alternative to the Communists. We won 75 seats in the People's Assembly, one-third of the total. Most of our support came from the cities, where residents, after four months of activism, were no longer afraid of the Government.

The Communists won two-thirds of the vote, mostly from the countryside. Foreign observers misinterpreted the election results, reading them as a sign of Communist strength. But the rural vote was based largely on fears that are no longer realistic: the Democrats' victory showed the peasants that it was possible to act against the Communist Party and survive.

This proved true two months later when 350,000 workers went on strike, demanding higher wages and greater freedom. The food and other support the workers received from the villagers enabled them to hold out and force the Communists to relinquish power and form a new coalition.

On June 12, a transition Government with representatives from all political parties was installed. It is expected to preside until new elections are held next year. In recognition of these steps, Albania was admitted to the Conference on Security and Cooperation in Europe at the foreign ministers' meeting in Berlin this week.

For students, intellectuals, workers and peasants, socialism is dead in our country as elsewhere, and we are disposing of its remains. Building a democracy won't be easy.

Aside from our grave economic problems, we are concerned about the abuse of the human rights of the Albanians in Kosovo, Yugoslavia. A great threat to peace in the Balkans is posed by Slobodan Milosevic, the president of the Yugoslav republic of Serbia.

Still, with the advice and friendship of the United States, I am certain that Albania will soon make its own contributions to the world.

RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. SANFORD. Mr. President, today Justice Thurgood Marshall announced his retirement from the Supreme Court.

While I personally can wish him a long and happy retirement, I do so with a great measure of sadness. My sadness is because I believe the Nation is losing an able and dedicated champion of liberty and individual rights and protections under the U.S. Constitution.

Justice Marshall has been a stalwart and dedicated servant protecting the rights and interests of the American people.

He has served the Nation on the Supreme Court since his appointment by President Johnson in 1967.

His career has distinguished itself through service to our society. After graduation from Howard University Law School, Justice Marshall began a long and historic involvement with the National Association for the Advancement of Colored People. Over several decades he fought against segregation in voting, housing, public accommodations, and education.

As many know, the culmination of his career as a civil rights attorney came in 1954 as chief counsel in a series of cases grouped under the title Brown versus Board of Education. Mr. Marshall argued that case before the Court he would eventually so ably serve and succeeded in convincing the Court to declare segregation in public schools unconstitutional.

Subsequently, he was appointed to the Second Circuit Court of Appeals by President Kennedy. He then served as the Nation's first black Solicitor General, winning approval in that capacity for the 1965 Voting Rights Act.

The appointment of Justice Marshall's successor to the Court will be without a doubt one of the most significant appointments of this decade. I hope the President chooses wisely.

I hope the President will recognize the unique presence he is now called upon to replace and that he will be motivated to try genuinely to recapture many of the qualities Justice Marshall brought to the Court. His ideals, his principles, and his leadership should not pass from the Court with his retirement. This appointment represents a special challenge to the President to send us an appointee of Thurgood Marshall's stature and character, and I hope he will accept it.

In conclusion, however, I must again say that I wish Justice Marshall the very best during his retirement and that I shall truly miss his presence on the Court.

IN PRAISE OF JUSTICE THURGOOD MARSHALL

Mr. WELLSTONE. Mr. President, I am deeply saddened to learn of the resignation of Justice Thurgood Marshall from the Supreme Court. He has been a champion of those members of our society who were least able to defend themselves. His tenure on the Court has been marked by compassion, sensitivity, and a deep and abiding belief in the principle of "equal justice under the law." He is without peer and will be sorely missed.

Justice Marshall's resignation signals the end of an era on the high court. With his departure, the Supreme Court will now be more firmly in the control of Reagan-Bush nominees, who will hold the fate of the country in their hands for years to come.

I intend to examine closely the qualifications and record of any nominee the President puts forth. And with my colleagues, I will hold him or her to the highest possible standard. I also urge the President to seriously consider nominating a person of color to the Nation's Highest Court. The Court, as our most important judicial institution, should represent all the country's people.

Finally, I want to extend my personal best wishes and thanks to Justice Marshall. For 50 years—first as the legal counsel to the NAACP and then on the Court—he has fought to protect the civil and individual rights of all Americans. He has helped to breathe life into the Constitution. And he has been a beacon for all those who look to the Court for justice and equality.

REFUGEE ISSUES IN THE 1990'S

Mr. PELL. Mr. President, the new U.N. High Commissioner for Refugees, Mrs. Sadako Ogota of Japan, delivered an address at Georgetown University June 25 entitled "Refugees in the 1990's: Changing Reality, Changing Response." It is an important statement.

We had the honor of welcoming the High Commissioner to the Foreign Relations Committee on the afternoon before her Georgetown speech. Her command of the subject matter of her responsibilities is impressive. This despite the fact that she has been in her high office for less than 4 months.

Madame Ogato is the first Japanese and the first woman to hold the position of High Commissioner. In a sense her entire life and career can be seen as preparation for this most important position. She holds a Ph.D. from the University of California at Berkeley and a masters degree from Georgetown—so her address there was a homecoming.

Over the years she has represented her Government on the U.N. Human Rights Commission and at the United Nations in New York. She has served as president of the UNICEF executive board, and is recognized as a leading scholar and spokesperson on humanitarian issues.

The High Commissioner was elected by the U.N. General Assembly in December to succeed Thorvald Stoltenberg of Norway, and she took office in February. She was immediately plunged into the urgent refugee crises in Iraq and its borders with Turkey and Iran, and in the Horn of Africa. The number of refugees worldwide continues to mount from 14 million 2 years ago to nearly 17 million today.

I want to express my personal support for the High Commissioner in the awesome responsibilities that she has taken on. Already it is clear she is carrying out these responsibilities with an effective blend of principle and pragmatism. She stands with the refugees, and she knows how to get the job done.

I ask unanimous consent that the text of the High Commissioner's address at Georgetown University June 25 be printed in the RECORD.

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

STATEMENT OF THE HIGH COMMISSIONER—REFUGEES IN THE 1990'S: CHANGING REALITY, CHANGING RESPONSE—GEORGETOWN UNIVERSITY, JUNE 25, 1991

It is a great honour to address Georgetown University on my first visit to the United States as United Nations High Commissioner for Refugees. I am very happy to be here as it was at this very University that I began my graduate studies in political science forty years ago. It is therefore with great pleasure that I take this opportunity to share with you my thoughts after having been in office for some four months.

Within weeks of assuming office I was faced with one of the most difficult refugee situations in UNHCR's history. I speak of the exodus from Iraq. My induction, however, was not limited to the Middle East. I was also confronted with the tragedy of millions of refugees and displaced persons in the Horn of Africa as well as around Liberia; with the persisting refugee situations in southern Africa, Afghanistan and Southeast Asia; and with the increasingly difficult situation of asylum-seekers arriving in industrialised countries. Of course, there have been some positive developments too, particularly in Central America, Western Sahara and Angola. The extraordinary dynamism of the events confirm, more clearly than ever before, the radical changes in the nature of the refugee situation. In my talk this evening I would like to share with you my analysis of the situation and then propose some ideas on how to mould a new response.

How has the refugee situation changed?

Firstly, the refugee issue has become part of a much larger movement of people across frontiers and within them. The mass exodus of migrant workers, evacuees, refugees and internally displaced which the Gulf War produced represents in a microcosm the kind of movements with which we are increasingly confronted as we come to the end of the twentieth century. The process of political and economic adjustment which we are experiencing today, the widening economic gap between the North and the South, the pressures of poverty and the aspirations of a better life, coupled with technological advances

in transport and information, have led to massive movement of people. If we put refugees and the internally displaced together, the estimate is over 30 million persons. There is hardly a corner in Africa which has been spared displacement. In Asia, Central America, Middle East, Europe or North America, there are refugees and displaced people.

Second is the growing complexity of the root causes of refugee flows. The Iraqi refugees clearly fell within the classical definition of refugees as persons fleeing persecution. However, in many parts of the world refugees are victims of civil war and political conflict rather than of persecution. Africa, burdened with its colonial past, provides many grim examples of ethnic tension, exacerbated by poverty, population explosion and environmental degradation, leading to repression and violence. Communal strife and civil war intensify famine and food shortages, forcing people to move in search of safety and survival, for example in Mozambique, Liberia and the Horn of Africa.

Thirdly, displacement is not only an issue across national frontiers but also within them. In Iraq, Ethiopia or Mozambique, to name but a few situations, the causes which led to external displacement have also created a large displacement of persons inside their own country. For the human being directly affected, legal definitions—or artificial borders—are meaningless. For the Ethiopian, the suffering is the same whether he crosses the border into Sudan as a refugee or remains displaced inside Eritrea in a refugee-like situation as a result of the conflict. In the present situation, however, no single organization has the mandate, nor capacity, to take care of the internally displaced. UNHCR has a direct interest in the resolution of this vacuum. Not only as a humanitarian agency responsible for human beings, but also since internal displacement may trigger external flight. Aid and protection to the internally displaced can therefore be considered both preventive and curative.

Fourthly, not only do refugees originate from developing countries, the vast majority also find asylum in developing countries. Because of the limited capacity of receiving countries to absorb refugees and with the change in the East/West relations, the political imperatives for local integration or resettlement abroad are dwindling. Increasing emphasis is being placed on the role and responsibility of the country of origin. Voluntary repatriation has become the most viable option, but is often predicated on an acceptable political settlement. Recent progress on a number of regional conflicts have promoted the possibility of returns to Western Sahara, Angola and Rwanda. At the same time, I am concerned that lack of adequate security conditions impede returns in many other parts of the world, including Cambodia, the Horn of Africa, southern Africa and Liberia, while five million Afghan refugees in Pakistan and Iran have spent a decade in exile. In the case of northern Iraq, one million refugees returned from Iran or the Turkish border within weeks of the exodus.

However, almost half of that number remain displaced inside Iraq because they are afraid to return to their home villages or are prevented from doing so, or wish to return to villages which were evacuated and destroyed in the course of the Iran/Iraq war. The evolving security situation will determine any further returns. I cannot but be concerned about future security arrangements in northern Iraq.

Finally, an aggravating feature of the changing reality has been the growing movement of refugees from their regions of origin to Europe and North America, as part—sometimes even a minority—of a larger movement of migrants escaping poverty. I would like to emphasise that refugees and migrants are distinct categories, requiring different responses. In the case of migrants there is an element of choice and planning in their movement. A refugee on the other hand is forced to flee from political conflict to save his life and freedom, and therein lies his need for protection, even if he does not fear persecution in terms of the 1951 Convention on Refugees. I believe the "temporary protected status" devised by the United States is a useful mechanism to meet the needs of this broad group of refugees. The mixed movement of refugees and migrants has created an acute problem in Western European countries and also in Southeast Asia with the Vietnamese, of how to deal with those who do not qualify for refugee status and are not in need of international protection. Afraid of large movements not only from the South but also from the East, particularly the Soviet Union, western governments have sought to reinforce immigration and border controls, putting pressure on the fragile edifice of asylum and challenging their own liberal human rights traditions. It is ironic to see this happen at a time when human rights and refugee protection institutions are being built in the very countries of Eastern and Central Europe which not so long ago were producers of refugees.

It is clear that the magnitude, scope and intensity of the refugee situation far exceeds the limits of existing institutions and conventions. States and international organisations are at a crossroads on forging a new and global humanitarian system. As discussions proliferate on the restructuring of the humanitarian arm of the United Nations, I see the need for response at two levels. The first is operationally: to develop the humanitarian capacity of the United Nations to meet the emergency needs of refugees and the displaced through a concerted international effort. The second is politically: to utilise the prevailing positive spirit of multilaterism to develop a new approach which can meet the protection and assistance needs of refugees and promote durable solutions in a comprehensive manner. Above all, I see an important catalytic role for the United Nations to keep alive the humanitarian commitment and traditions of the Western world.

In a world grappling with natural and man-made disasters, we are faced with refugee emergencies of unprecedented scale and complexity. Often the United Nations has been criticised for its slow response and lack of coordination—and rightly so. When I visited Iran and Turkey a week after the refugee exodus began in early April, I could see that our preparations designed to meet the needs of 100,000 persons fell far short of the enormous needs of the people which in 5 short days reached 700,000. Let me emphasise this is no reflection on the dedication and competence of UN staff, but rather on the lack of an adequate emergency response system within the UN. I am convinced that with all the best will in the world there is *no* way that the United Nations High Commissioner—or any other UN agency for that matter—can handle large emergencies rapidly or effectively without some fundamental changes in the system. At the moment individual UN agencies engaged in emergency operations, whether UNICEF, the World Food Programme or UNHCR, are neither financed nor staffed in a way in which we can meet large scale crisis situations. For every emergency we must issue a fresh appeal and pledges come too slowly. If you consider the long lead time it takes to obtain, for example, vehicles and to place them where they are needed, then how can food and other relief goods reach the beneficiaries in time, not to mention the staff required to administer and monitor the delivery of life-sustaining assistance.

If greater efficiency and effectiveness is to be expected of the United Nations, then the contingency planning and delivery capacity of the UN agencies must be strengthened. Right now various models are being proposed. Whatever the eventual outcome of the discussions, I would strongly urge against an additional layer of bureaucracy, but would stress the importance of reinforcing emergency preparedness by the United Nations. These efforts should involve three aspects: firstly, financial resources. We cannot respond to emergencies on credit or on a shoestring budget living hand to mouth. A UN humanitarian emergency fund has been often debated. Donors must place at the disposal of the United Nations a standby financial reserve to ensure funding within hours of a recognised emergency. Secondly, stockpiles of basic relief items should be established in locations easily accessible to air transport and a central databank should be set up on the range of goods and services which the UN system can either offer or mobilise from other sources. Thirdly, the UN must organise a standby pool of international emergency experts to respond immediately to any emergency. Such a pool could be linked to civilian disaster relief corps of member governments.

In short, what we need is a flexible, light and pragmatic emergency preparedness and response coordination mechanism, which gives the UN the money, goods and people to respond rapidly and effectively to emergencies. Hand in hand with preparedness goes the need for access and a minimum of level of security to allow UN agencies to operate in emergencies. When were forced to withdraw from Somalia—although I should add that we were the last of the UN agencies to leave Mogadishu—it doubly penalised the very persons we were meant to assist. However, ideas like "zones of peace" or "corridors of tranquility" have been used, for example, in Mozambique, where parties to the conflict agreed to allow safe passage of humanitarian assistance. Operation Lifeline in southern Sudan is another example. We are now using it, with the help of UNICEF and WFP, to get relief across to Sudanese refugees who fled from Ethiopia to Sudan in recent weeks. As security situations worsen in many parts of Africa, we must build on principles of humanitarian law and past experience of UN agencies, ICRC and NGOs to develop a legal framework and practical guidelines for "humanitarian access", so that international protection and assistance can continue to be provided in areas lacking security or under conflict.

So far I have spoken of a new operational response. Now let me turn to the political aspect of promoting a preventive and solution-oriented approach. As the analysis of the underlying causes clearly shows, the refugee problem is multi-facetted and cannot be resolved in isolation from the major political and economic challenges facing the international community. Therefore, the refugee issue must not be seen only as a matter for humanitarian agencies of the UN but also as a political problem which must be placed in the mainstream of the international agenda

as a potential threat to international peace and security. The Security Council Resolution 688 on Iraq created a historical precedent by finally acknowledging the link between human rights, refugees and international peace.

This Resolution marks a watershed in the approach to the refugee problem by focusing on the responsibility of the country of origin to prevent refugee flows. Ultimately the responsibility for the safety and welfare of refugees—as of other individuals—lies with States. As the linkage between refugees and human rights is increasingly recognised, the notion of state responsibility must be given greater importance in the sense of States exercising the political will to look into root causes, and undertaking action to resolve the situation. The country of origin must accept responsibility for its own citizens, both in terms of preventing situations which can give rise to refugee flows and creating conditions which allow their safe and voluntary return. The principles of international solidarity and cooperation also demand that other States should help the country of origin to fulfil this responsibility.

However, the complexity of the refugee situation as well as the enormity of the needs is increasingly placing the burden on international organisations to replace what is rightly the responsibility of statehood. Northern Iraq is a case in point. The problems of protecting nationals in their own country and the limits of UHNCR's mandate once refugees have returned home in northern Iraq have shown clearly that a humanitarian organisation like UNHCR can support but *not* substitute governmental responsibility for a population at risk.

Northern Iraq demonstrated also the irrelevance of borders in responding to the humanitarian needs of the displaced. Today, the protection and assistance needs of the internally displaced are no less compelling than that of those who cross national frontiers. To what extent should national sovereignty shield governments who disregard or are unable to fulfil their responsibilities towards their own citizens? How can international concern be balanced with the need to encourage governments to accept greater responsibility for the plight of the displaced?

These questions are crucial because the response to internal displacement may be a means of preventing refugee flows. The problem goes beyond the capacity of any one agency. What is needed is a coordinated and concerted response from the UN system, ICRC and NGOs. We should also watch carefully initiatives such as the recent agreement between the Salvadorean Government and the FMLN rebels to allow UN observers to monitor the human rights situation in El Salvador. It may yield important lessons for the protection of the internally displaced in other parts of the world.

There is growing recognition of the need for a broad response, which takes into account the totality of the refugee problem from its root causes to its solution, and which addresses the continuum of refugee flows from exodus and relief to return and reintegration. I am convinced that it is only through such a comprehensive approach which includes *all* parties and *all* aspects of the problem that an effective strategy can be developed which recognises the close relationship between human rights, economic development, peace-building and population displacement.

This was the approach adopted by the International Conference on Central American Refugees, called CIREFCA. It grew out of a political commitment to improve regional stability. Solutions for refugees and the internally displaced were therefore incorporated into the more durable process of peace and development in the region. The positive environment in which CIREFCA was born and which it has fostered in turn has led generally to the strengthening of protection for refugees in the region. On the other hand, the durability of the solutions depends on the extent to which refugee aid can be married to development assistance, and more importantly, to the overall resolution of the complex economic and social problems facing the Central American countries.

In contrast, the Comprehensive Plan of Action or CPA in South East Asia was fashioned by the need to tackle a mixed movement of migrants and refugees within a very complex political context. The CPA is still in the process of evolving but I am sure that its ultimate success will be determined by the willingness of the international community to address the underlying root causes of the migratory movement from Vietnam.

CIREFCA and CPA can provide lessons for refugee situations elsewhere. Sweden has just published a proposal for what it calls a "Comprehensive Refugee and Immigration Policy". The basic theme is to preserve international protection for refugees and at the same time encourage greater development assistance with support for democratisation and respect for human rights in refugee-producing areas so that those who have left can be encouraged to return home and others will not need to leave.

This is obviously the ideal solution but it is also a long-term one and requires strong political commitment and, equally importantly, adequate resources. I do not think UNHCR should assume the responsibility of running development programmes but we must play a catalytic role in encouraging others to join hands. All this, however, requires money. Every emergency draws funds away from other activities. In order to feed and house refugees, we have had to cut down on education and self-reliance programmes, yet these are the very activities which prepare the refugees to cease to be refugees and become part of the community building process when they return home.

In conclusion, it is clear that the United Nations must play a much stronger role, both operationally and politically, and must be given the resources and support by governments to do so. The refugee issue lies at the heart of the quest for a stable world order. Unless existing refugee situations are addressed properly and simultaneously by governments as well as humanitarian organizations, they have the potential to blight the prospects for peace and progress which the new political climate offers. As we are confronted with emergencies in the Persian Gulf, Africa and elsewhere, it is clear that we have reached a critical stage. The challenge has never been greater, the stakes have never been higher. I believe now is the time for the international community to respond urgently and flexibly to strengthen the capacity of the UN, politically and in humanitarian terms, to cope with refugee situations. I look forward to playing my part in formulating a comprehensive strategy for a new world order on a firm humanitarian base.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, the distinguished Republican leader, the managers, and several interested Senators have been participating throughout the day in a series of meetings in an effort to determine how best to proceed on the pending measure, and specifically with reference to the gun control provisions of the bill.

I have discussed in just the last few minutes with the distinguished Republican leader a procedure under which the following would occur, with consent: First, that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill. Those provisions are the four gun control provisions of the bill, the semiautomatic ban, and the waiting period provision. We believe there is no objection to that on either side. That would be done in just a few moments, without objection.

Then Senator STEVENS would be recognized to offer a handgun control amendment on which there would be 1 hour for debate equally divided with no second-degree amendments in order, and a vote up or down on that amendment after 1 hour of debate.

Because there is uncertainty as to whether we would then be permitted to proceed to completion of the bill without the need for a cloture motion, I indicated to the distinguished Republican leader that it would be my intention, absent some agreement, to file a cloture motion prior to midnight tonight to permit it to ripen on Saturday. It is my hope that if we were required to do that, which I think we will not be required to do, but it may be necessary, we could have a cloture vote tomorrow. That would, of course, take consent.

In lieu of that, the distinguished Republican leader suggested that we simply seek to gain consent that would permit—should events require tomorrow, and it may not be required, and in fact I hope will not be required—that I could file a cloture motion on tomorrow, and it would be deemed to have been filed prior to midnight tonight. The only thing is we would be in a position not to have lost ground. There would be no advantage to it were we to do so this evening. So we then have an up or down vote.

We would first strike the four what I refer to as minor gun provisions in the

bill. We would have an up or down vote on the Stevens amendment on handgun control, which would be a substitute for the Brady provisions in the bill. That would be it for this evening.

We would then reconvene in the morning in what I hope would be a position to proceed to the completion of action on the bill. But if that proves not to be possible, and the cloture motion is necessary to be filed, it would be filed, then deemed to have been filed prior to midnight tonight so we would set it out for a cloture vote not later than Saturday.

I invite the comments of the distinguished Republican leader on what I have just stated.

Mr. DOLE. Mr. President, let me underscore another reason. The majority leader has the choice to file cloture right now or to ask consent to file it tomorrow, and it be deemed to be filed before midnight tonight. If he files cloture now, I think it might jeopardize the disposition of the Stevens amendment.

So I hope that we will proceed as outlined by the majority leader. I would be happy to join the distinguished Senator from Delaware in a motion to strike out those four provisions, and then we would lay down the Stevens amendment—I think everybody is familiar with it—maybe 1 hour of debate equally divided. We would give the majority leader consent to do as he suggested if it is necessary tomorrow that he file cloture tomorrow, deemed to have been filed before midnight tonight. It seems to me that is an orderly way to proceed.

That still leaves us with a $64 question. If the Stevens amendment is adopted, that is one thing. If the Stevens amendment fails, then the so-called Brady amendment still is in the bill, and the question then becomes whether you move to strike that provision, whether you do nothing, whether you offer a compromise.

I think there is some division on this side, maybe none on the other side, on how that is approached. Some would say, well, one more vote on striking the Brady bill. Others of us feel we ought to try to compromise the differences and vote on the compromise. Whether or not that contained the preemption provision has not yet been determined.

So I hope that my colleagues on this side will not object to the request I assume the majority leader will make, and, if we could resolve the questions with reference to guns, it is my thought that we might be able to get an agreement on any other amendments, not try to dispose of all of those tomorrow, but agree that only these amendments will be in order, and maybe complete action as soon as we are back for the second day.

The Senator asked me a good question. What do we do if we win?

Mr. MITCHELL. We do the same thing as if the reverse happens: We go home and sleep on it, as I think we ought to do anyway. It has been a very long and difficult effort. I must say that the negotiations at all levels have been conducted in perfectly good faith, in a very serious effort to resolve honest differences of approach on an important but contentious issue. I hope we can do this so we can begin to move toward bringing this matter to a conclusion.

Mr. President, following this discussion, unless any Senator has a question, I will proceed to propound the request.

Mr. RUDMAN. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. RUDMAN. I certainly will have no objection to what the leader has just captioned, but I have this question: There are some of us who realize how important this gun issue is, but who have other issues which we think are as important, or maybe more important. I have waited the entire day, hoping to offer an amendment, which will take maybe a half an hour, on which we can have a very energetic debate with my friend from Delaware.

I would hope, if we are going to get into long negotiations again tomorrow, that while those are going on, at least we can address some other issues. I do not ask the majority leader to put that in his request. His word is good enough for me. I just hope we can do that tomorrow.

Mr. BIDEN. Mr. President, if the majority leader will yield for a moment for me to respond. I first say to my friend from New Hampshire that I will be delighted to do that and guaranteee him that we will vote on his amendment tomorrow. But it is my sincere desire that between now and 10 o'clock tomorrow morning—it is 28 minutes before 12—he will go home and sleep on his amendment, and maybe leave it under his pillow and not come back with it. But if he does, we are prepared to enter into a time agreement, debate it, and vote on it.

Mr. RUDMAN. I thank my friend. I assure my friend from Delaware that I will sleep on it; it will be a short night, so I will not sleep on it too long, but I will try.

Mr. CHAFEE. Mr. President, can I just ask this: When the majority leader is through with his unanimous-consent request, and we have this vote, then do we go home for the night?

Mr. MITCHELL. We will have this vote after 1 hour of debate, and then we will go home.

Mr. CHAFEE. That is right. Who cares about 1 hour at this time. When we are through with the hour, that will be the last vote of the evening?

Mr. MITCHELL. That is right. I anticipate that the first amendment by Senator BIDEN to strike certain provisions of the bill, to which I referred, will not require a vote, will not require any debate, and it will be done by consent in about a minute. And then Senator STEVENS will be recognized for 1 hour of debate and a vote on his amendment, and that will be it for tonight. We do not know what will happen. We will come back in the morning and decide. The distinguished Republican leader laid out what the options are about proceeding then.

Mr. CHAFEE. I think it would be well to stress that under the Senate rules, they need not use the full hour.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill; that there be 1 minute for debate, equally divided, with no amendments to the language proposed to be stricken in order; that following the disposition of the Biden amendment, Senator STEVENS be recognized to offer a handgun control amendment on which there will be 1 hour for debate, equally divided in the usual form; that no second-degree amendments or amendments to language proposed to be stricken be in order; that no motions to recommit be in order during the pendency of these amendments; and that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, proceed to vote on the Stevens amendment.

I further ask unanimous consent that if the cloture motion on the bill is filed tomorrow, Friday, June 28, it be deemed to have been filed today, Thursday, June 27.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, then Senators should be aware that a vote will occur on the Stevens amendment, up or down, in approximately 1 hour or less, if all the time is not used. I thank my colleagues for their cooperation.

I yield the floor.

AMENDMENT NO. 428

Mr. BIDEN. Mr. President, I send an amendment to the desk on behalf of myself, Senator DOLE, and Senator THURMOND.

Mr. STEVENS. Mr. President, I reserve the right to object. I would like to inquire of the Senator from Delaware, will that strike title 12, subtitle C, title 12, section 1237, title 12, sections 1223 and 1245?

Mr. BIDEN. That is precisely correct. It strikes all of that and no more.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. DOLE, and Mr. THURMOND, proposes an amendment numbered 428.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 140, strike from line 3 through line 20.

On page 149, strike from line 13 through line 24.

On page 153, strike all from line 1 through line 19 on page 158.

Mr. BIDEN. Under the 1-minute time limitation, Mr. President, and admonition of the Senator from Rhode Island, I yield the floor and yield back my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DOLE. We yield back all our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 428) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 429

(Purpose: To amend title 18, United States Code, to establish procedures for mandatory instant background checks of the criminal histories of prospective buyers of handguns and to establish mandatory prison sentences for the commission of a crime with a firearm in addition to any other penalties)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 429.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain an operations system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardward and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) IN GENERAL.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) ADDITIONAL FUNDING.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

Mr. STEVENS. Mr. President, I feel a little strange at this point, because the amendment that I had prepared and had been waiting to present had provisions to deal with six specific items in Senate bill 1241. The four that have just been stricken were part of the amendment. What has just been eliminated now in the amendment offered by the Senator from Delaware is: The magazine ban and registration provision, the multiple sale registration provision, the pretrial detention for gun crimes, and the misdemeanor forfeiture of rights provision. They were four of the six provisions that we had substantial objections to.

The amendment I have sent to the desk provides for a mandatory instant identification of felons to prevent the purchase of guns by those who are already prohibited under existing law from purchasing guns. It is the argument of those who back the Brady bill that the Brady bill is necessary to prevent felons from getting guns. Yet, the Brady bill does not mandate any check of the history of the prospective purchasers of guns. My amendment will. It will mandate the instant criminal history background check of prospective purchasers of handguns, while preserving the second amendment historic rights of law-abiding citizens.

Twenty-four months after enactment there will be mandatory checks from an improved State and Federal criminal history record or if a State does not comply with that the price will be the loss of justice assistance grants.

This amendment authorizes $100 million in Federal grants to assist in the establishment of this background check system. It does have protections for individuals in it concerning the use of such information and will prohibit any kind of a national registration list as a result of an instant check system. It will mandate 10 years in prison for commission of violent or drug trafficking crimes with a firearm; if a firearm discharges with intent to injure, the penalty is 20 years; if the firearm is a machinegun or silencer, 30 years; repeated offenders receive additional penalties.

I might say that provision was added by the distinguished Senator from

Texas [Mr. GRAMM] and he will discuss that section.

The amendment will direct the Attorney General to expedite the incorporation of the remaining State criminal history record into the Federal record system and expedite the revitalization of initiatives for technologically advanced fingerprint and criminal record identification. This is an amendment that will set up a system which will prevent those who should not purchase guns through our gun stores throughout the country to acquire guns contrary to existing law.

Mr. President, this crime bill has more restrictive gun control provisions than any legislation we have considered since the Gun Control Act of 1968. The gun control provisions in this bill will ban some guns outright and establish a national waiting period for handgun purchases.

These restrictions will do nothing to reduce violent crime. My amendment strikes the waiting period and in its place requires a mandatory instant criminal background check and mandatory sentences for commission of a crime with a firearm.

We should eliminate the national waiting period in this bill for one simple reason: It will not do anything to reduce crime.

Virtually no felon who wants a firearm to commit a crime buys it from a gun store. A review of States who have waiting periods or background checks for gun buyers bears this out. Generally less than 1 percent of all who obtained a weapon from a gun store had a criminal background. And there is evidence to suggest that even these purchases were for something other than criminal acts or out of ignorance about the restrictions.

Percent of denials based on felony criminal convictions in jurisdictions with waiting periods and background checks[1]

	Percent
New Jersey	.725
Columbus, Georgia	.141
Illinois	1.62
Pennsylvania	.0348
Virginia	1.2

[1] Source: Daniel B. Kopel, Independence Issue Paper No. 4-91, Independence Institute, March 25, 1991.

If waiting periods reduced crime, why is crime so high in waiting period States? Sixty-seven percent of all homicides occur in States with waiting periods, 33 percent happened in States without them; 74 percent of all violent crime occurred in States with waiting periods, while 24 percent occurred in States without them. While California's waiting period was increasing from 2 days to 15, the homicide rate was increasing 132 percent—more than double the national average.

California's experience with waiting periods is instructive. While its waiting periods did not reduce crime, the information generated by the waiting period has led to the creation of a government database of gun owners. This is precisely what the lawful gunowner fears will happen if the national waiting period in this bill is enacted.

We should eliminate the waiting period and other gun control provisions in this bill for another reason: There is no correlation between gun ownership percentages and crime rates. From 1900 to 1930 the American per capita handgun ownership was unchanged. During this period, the homicide rate increased tenfold. From 1937 to 1963, handgun ownership rose 250 percent. Homicides decreased 35.7 percent.

There is irony in this waiting period proposal. The sponsors say it is needed to curb urban crime. Yet most urban areas, and even the States that surround these high crime urban areas, already have waiting periods and background checks. Therefore, the national waiting period in this bill will be imposed generally on States that do not have major crime problems and do not supply illegal guns to high crime urban areas. This is unjustified. There's no reason to infringe on the second amendment rights of Alaskans in order to tackle the crime problems of cities such as Washington, DC, and New York City.

Nobody should be under any illusions that passing these gun control provisions will be the end of gun control legislation. This bill is just the beginning of a flood of restrictions planned by gun control advocates. That is because these provisions will not reduce crime. When that becomes apparent, it will be argued that we need even tougher provisions. Once you buy into the argument that restricting lawful ownership reduces crime, there will be no end to the demands for greater controls.

This is not just a theory. Already, one gun control proponent in the other body has announced the next step. He will soon introduce legislation for a complete national registration list of every honest American gun owner.

If you think there is a crime epidemic now, wait until arms are taken out of the hands of honest citizens. A 1986 study of felons found that 56 percent were more worried about confronting an armed victim than running into the police. Fifty-two percent said a criminal would not approach a victim that is armed.

Private gun use for personal protection against criminals is common. In fact, it is about as frequent as the arrests made by the police. In 1980 alone, guns were used for personal protection about 1 million times. My amendment would strike most of the gun control provisions in this bill.

My amendment would also establish a system for instant criminal background checks of all handgun buyers. The statistics show that only a tiny fraction of gun purchases from gun stores are made by felons. Nevertheless, I am willing to set up systems to check the backgrounds of prospective purchasers because this amounts to nothing more than enforcement of existing law.

My amendment will also improve both the accuracy and access to the Nation's criminal records systems. It authorizes $100,000,000 in grants to States to improve criminal records and set up instant check systems. The amendment also conditions the Justice assistance grants which States now receive on the establishment of background check systems.

The amendment also authorizes such sums as are necessary for the Federal Government to accelerate current efforts to upgrade its already substantial criminal history database. Accelerated criminal records improvements will be useful far beyond background checks for handgun purchasers. Record upgrades will assist our law enforcement efforts in many different areas.

More accurate records will mean better protection for police officers and the public. The records improvement efforts under the bill will be given 24 months to complete. The Director of the Federal Bureau of Investigation has said that he needs only 18 months to upgrade all existing Federal criminal records. Once this is done, the FBI files will include the records of most young active criminals. My amendment provides 24 months for States to establish background check systems.

My amendment will not permit the registration of either a gun or a gun owner. In fact, the amendment specifically prohibits keeping any records about lawful sales. This will eliminate the possibility of an assembly of gun registration lists by local, State, or Federal authorities.

The point-of-sale background check systems which my amendment sets up are feasible. The State of Virgina has a system that gun dealers access by telephone to learn if a prospective gun buyer has felony record. The average time for a background check in Virginia is under 2 minutes. Delaware and Florida have also developed systems similar to the one in Virginia.

The Justice Department prefers background checks to waiting periods. On March 21, Paul NcNulty, Acting Director of the Office of Policy Development at the Department of Justice, testified before the House Judiciary Committee:

> If the Department is going to devote its resources to an identification program, the point-of-sale approach is preferable. * * * it must be emphasized that the desirability of the point-of-sale system is that it involves instant background checks that are just as reliable as those performed during a 7-day waiting period. Both identification systems are dependent upon the same criminal history records.

As this Justice official notes, a national point-of-sale system, like a waiting period for handgun purchases, depends on accessible criminal records.

The records on over 23 million felons are automated and are available in the national criminal information computer. It is important to realize that regardless of whether Congress sets up a point-of-sale background check system or requires a waiting period before a handgun purchase, more must be done to make criminal records more accessible.

The advantages in criminal records improvement of my amendment over S. 1241 are substantial. My amendment will mean more resources and incentives for overall records improvement than the bill. My amendment offers a deadline to get our Federal records up to date. It also gives authority to the Attorney General to set deadlines for State record improvements.

Waiting periods do not stop crime. But swift and sure justice will. Consider this statistic from the Department of Justice. Unarmed felons were asked why they did not carry a gun during the commission of their crime. Fully 79 percent said stiffer penalties for carrying firearms during the offense was the reason.

My amendment increases the penalties for crimes committed with firearms. It mandates 10-year prison sentences for the commission of a violent or a drug trafficking crime with a firearm. If the firearm discharges with intent to injure during the crime, the penalty is 20 years. If the firearm is a machinegun or has a silencer, the penalty is 30 years. Repeat offenders face additional penalties. All mandatory penalties are in addition to any penalty imposed for the underlying crime.

Let me conclude by saying the vote on this amendment is going to tell whether you want to control criminal behavior or control the rights of honest, lawful Americans who own guns.

I urge my colleagues to adopt the amendment.

Thank you, Mr. President.

Mr. President, I want to point out that we do have records right now of over 23 million felons that are automated and are available in the National Criminal Information Computer. The Brady bill does not set up any mandated check; it merely provides for a waiting period.

I know that there is a philosophically significant position of difference between Members of the Senate. I cannot buy the fact that the waiting period for the thousands of legal citizens, people who have a right to buy guns, people who have a need for guns, for them to wait merely because some people believe that if a waiting period were put in effect there would be less people who would seek to acquire guns illegally and for criminal purposes.

It is important to realize that regardless of whether Congress sets up a point of sale background check system or requires a waiting period for handgun purchase, more needs to be done for criminal records to make this information more accessible. That is one of the major intentions of this amendment.

Mr. President, I would be pleased to answer any questions anyone has about this amendment. As I said, I feel like I am presenting a rather robust turkey that has just been plucked, because some of the amendment has been taken out and what we are really looking at now is a concept of trying to offset this rather well-hyped concept of a waiting period.

I take the position that a waiting period is nothing but a preliminary to another series of bills that will be offered. As a matter of fact, a proponent of this Brady bill in the House has already announced a national gun registration bill, and that is why we are here tonight. We want to try to make people realize that a vote for the Brady bill merely sets in motion the next step of the whole development of control of guns by those who have a right to have them under our Constitution.

It is, and I am glad to see the Senator from Ohio on his feet, a clear difference of opinion between the Senator from Ohio and me, and those who agree with me, that we do have a right to have guns. We have a use for handguns. And there are legal ways to obtain handguns now.

It is unfortunate that the drive is now starting, I believe, in this country to ultimately take away from us the guns we wish to use in our lifestyle. It is a very regional split in this country. It is going to lead to great division in this country in my opinion if this split continues.

I urge the Senate to support this amendment. It is a strigent requirement to check to prevent the acquisition of guns by those who have no right to them, those who have already been denied the right to them under current law.

Mr. President, how much time have I used, please?

The PRESIDING OFFICER. The Senator has used 8 minutes.

Mr. STEVENS. I wish to yield from my time 10 minutes to the Senator from Idaho [Mr. CRAIG]; 5 minutes to the Senator from Texas [Mr. GRAMM]; 2 minutes to the Senator from Idaho [Mr. SYMMS]; 3 minutes to the Senator from New Hampshire [Mr. SMITH]; and retain the remainder for myself.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Mr. President, is the Senator from Delaware charged with the time in opposition?

The PRESIDING OFFICER. The Senator opposed to the amendment is in charge of the time.

Mr. BIDEN. Yes. I want to make sure.

Mr. STEVENS. They do not seek that time now. I am sure the Senator from Ohio is ready to speak. I just want to allocate the time rather than yield it. I allocate the time made available to me in the manner I just indicated. I understand it will leave 2 minutes to me.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield 6 minutes to my distinguished friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I appreciate the time allocated to me by the managers of the bill.

I rise to say that we need some clarification as to where we are. There is not anybody in the U.S. Senate that I know of who wants to take away anybody's gun. There is no provision in this bill that is pending before us, there is no provision in the Brady bill, the Brady amendment. Nobody has any desire to take away anybody's gun.

What we are talking about is a totally different issue. We are talking about passing the Brady bill, which provides for 1-week waiting period. And we are also talking about this new proposal which is the so-called Staggers amendment. Under this amendment it calls for an instant check within 2 years as to whether or not a person has a criminal record or has a mental record.

The NRA is singing the same old song in an effort to defeat the Brady bill. The NRA somehow thinks that this amendment which was originally known as the Staggers amendment is going to solve the problem. At least it is going to make it appear to solve the problem.

Three years ago there was a McCollum amendment. And that amendment told the Attorney General to implement the instant check within 1 year. All those things are fine. Tell the Attorney General to do it in 6 weeks, tell him to do it in 1 year, tell him to do in 3 years. We are still waiting for the Attorney General, and nobody believes that it can be done in that short a period of time. And yet the idea is we will get this instant check, so-called, or think that we are going to get it, and therefore eliminate the need for the waiting period.

Now last month in the House the Staggers amendment was said to set up an instant check system of months, everybody has a new idea: 6 months, 1 year, 2 years, 3 years. The only problem is it cannot be done. The House wisely rejected that amendment and passed the Brady bill instead.

Last year I asked the Office of Technology Assessment to conduct a study on an automated system to identify felons who try to purchase firearms. I asked them to tell us truthfully how long will it take to have one of these automated systems in effect so you can press a button and find out whether the

individual who is applying to get a gun has a criminal record. One Senator on the OTA board has held up that report and the report is very relevant to this issue.

Senators have a right to know what the OTA findings are. Since the final report is not available, I am going to cite from the Office of Technology Assessment draft what they indicated in that draft and the final report is not out as yet. I had hoped that it would be.

In that report, it provides that, and they tell us that an instant check will take 5 to 10 years to develop, not 2 years, not 1 year, not 6 months. They tell us that it will cost hundreds of millions of dollars. They tell us that the waiting period can work in the interim. That is what we say in the Brady bill. Let the Brady bill be put into effect, provide for the waiting period, and when that instant check day comes along we do not have any more problem about the waiting period.

Until a nationwide instant check is possible, there should be a Brady bill in effect. It is in the proposal that is before us. We ought to leave it in.

The facts are clear. We are not going to have an instant check any time soon. Whether you pass the Stevens amendment or the Staggers amendment or the McCollum amendment or anybody else's amendment, passing an amendment does not provide an instant check.

Under this amendment, it states that if there is not an instant check in 2 years, they will lose justice assistance grants. Nobody wants them to lose justice assistance grants. We want the money to be available. Why should we deprive those who are in need—the law enforcement officials, the legal departments, others who need the money—of the legal assistance grants?

It is not a question of dollars. It is a question of what makes sense for this country. Those grants total $425 million and this amendment orders the States to do the impossible or to lose their share of that $425 million. I for one do not want to see them lose that money and I do not believe that any Member of the Senate wants to see their State deprived of the legal assistance grant. That is not a realistic approach. It takes their law enforcement money away when they fail. Why do that? That is only compounding the problem. This is what I call a solution that exacerbates the problem rather than helps solve the problem.

This amendment is nothing more than a sham to make the American people think that we are doing something to keep guns from criminals. It would not do that. I urge my colleagues to stand up to the NRA and stand with the police of this country. The police of this country are opposed on this amendment. They support the Brady amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I yield the Senator an additional minute.

Mr. METZENBAUM. We should stand against the NRA, stand up with the police officers of this country, stand up with the forces of law and order, and vote against this sham amendment to kill the Brady bill. It will serve no useful purpose. It just serves to confuse the issue, and it will be counterproductive.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, talk about a sham. A waiting period has turned out to be in this country nothing more than a sham. Let me just give my colleagues a little bit of the record on how it actually has worked.

No. 1, it will divert law enforcement people and resources from being on the street fighting crime to being paper shufflers in the office. It diverts our attention from criminals to guns. It is not working in the States that we have it.

Mr. President, 80 percent of all illegally used firearms are acquired illegally right now. The bill would do nothing to curb the incidence of crime and violence on America's streets. The waiting period simply does not work.

For example, States like Connecticut, California, and Washington have an increase in violent crimes since they have had a waiting period. Indiana, California, Minnesota, New York, and Connecticut all have waiting periods. During the 20-year period they have had waiting periods, the Indiana homicide rates went up 70 percent; the California rate, 82 percent; Minnesota, 56 percent; Connecticut, 146 percent; and New York, where they have all kinds of gun control, 131 percent.

And look at some of the States that do not have a waiting period: In Alaska, homicides were down 16 percent; Nevada, 24 percent; Delaware dropped 35 percent; Vermont plummeted 39 percent. In my own State of Idaho, it dropped 40 percent.

Violent crimes statistics tell the same story, Mr. President. This is a diversion of law enforcement resources. It is a sham to pull on the American people. We should get back to the business of punishing criminals and not try to say somehow a waiting period is going to have any impact on guns.

I urge my colleagues to support the Stevens amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The junior Senator from Idaho is recognized for 10 minutes.

Mr. STEVENS. Mr. President, would the Senator agree to agree to reduce that to 5 minutes?

Mr. CRAIG. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, amendment No. 429 that my colleague from Alaska has put forth is in fact probably the most realistic way to arrive at keeping handguns out of the hands of felons.

There is no question that my colleague from Ohio talks eloquently about what the Brady bill or a version of the Brady bill might or might not do. But in reality, Mr. President, what it is is simply clear politics. It is truly a sham that builds a sense of insecurity in the average American who believes that Brady might ultimately keep a firearm out of the hand of a felon. Reality says it will not happen.

Let me define what a felon is. A felon is a criminal. By that definition, a criminal violates the law. So are we going to put a new law in place and say criminals will follow the law, and in that process, Mr. President, we will detect them and we will disallow them the right to acquire a gun through these "legal methods?"

To be able to provide an instantaneous, accurate background check, as this amendment would provide in the firearm statutes of this country, is by far the most realistic way to deal with this problem. We do not target the law-abiding gunowner. We target the criminal. I think it would be exciting if this body could pass a criminal law that leaves the law-abiding citizen alone and goes after that individual who, in fact, by definition violates the law. And that is what we are about to attempt to do.

We would recognize that within 24 months after enactment—and the Attorney General says with the right resources we can have this kind of record check in place 24 months after enactment—States must conduct background checks from improved State and Federal criminal history records or risk the loss of justice assistance grants.

What is wrong with tightening the string on the States? We already jerk them around too much. Now we are saying we ought to use some of these Federal dollars to assure that a proper checking mechanism moves through the States to the Federal mechanism as it ought to be allowed to do.

Tonight you have an opportunity to vote for something that will work—or do you want to play politics with your constituents back home and say, guess what we have given you? We have given you a nice, comfortable 7-day game that by this very law will not work, but in this sense of great comfort and security, that one out of six firearms that is used in the commission of a crime, Mr. President, that is acquired through this mechanism, might be detected.

Now that is the reality of the politics we are playing with tonight. Nobody would dare suggest that we are playing with second amendment rights, but we

are. We are in fact saying to that average American citizen we are going to for just a moment squeeze those rights that for over 200 years we have deemed as sacred. And the reason we are going to do that is because we have failed in crafting effective criminal law in this country that recognizes and penalizes the individual who does not abide by the law. That is what is being done this evening, and it is in fact a travesty that we should even suggest that we would want to do something like this.

The best law in the country that you can implement is a law that implements itself, a law that the average American recognizes and works; they believe in it, and in so believing in it, they abide by it.

My colleague from Ohio is suggesting that that kind of thing will happen by just putting 7-day waiting periods in place and everybody will truck off down to their local gunship and they will acquire a firearm and they will wait for the process to work.

That will not happen with the criminal element of this country. When they know that for some reason they will be screened and checked, they will go into the blackmarket on the corner of the street, the trunks of the cars of that market will come up, and there will be not one criminal who chooses to violate the laws of this country and use a handgun for the purpose of that violation that will be without one.

That is the reality of what we are doing here tonight. I suggest this is a clear opportunity. To vote for Stevens is to vote for a mechanism that in the process the law enforcement community of this country will work, Mr. President, and that is the kind of law that the citizens of this country deserve.

The PRESIDING OFFICER (Mr. WIRTH). The time of the Senator from Illinois has expired. Who yields time? The Senator from Texas has 5 minutes.

Mr. GRAMM. Mr. President, let me be sure everybody knows exactly what we are are talking about here. We are talking about, in the so-called Brady bill, a 7-day waiting period where the States are not forced to even do a check. We are comparing that to a comprehensive proposal that has been presented to us by Senator STEVENS that sets up, with the assistance of $100 million of Federal money, an instant check system. So when somebody goes in to buy a firearm there will be an instantaneous check to see if, under the law, they are prohibited from having that firearm. And, also, we institute not gun control but criminal control: stiff, minimum, mandatory sentences without parole; 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony. That is in addition to the penalty imposed for the underlying crime you committed. Twenty years without parole for discharging the firearm and a mandatory life imprisonment without parole if you kill somebody; also, you are subject under provisions already adopted in this bill to be put to death for killing somebody.

That is what I call deterrence.

Let me remind my colleagues that many of the studies that have tried to actually look at data as to how many criminals are actually getting guns out of stores are reaching pretty startling conclusions. For those who specialize in handgun crimes, only about 7 percent of them got their guns from stores. For criminals as a whole, of the guns that have been obtained for use in crime, only about 12 percent of those came from stores.

So, Mr. President, what we need is an effective crime control measure. And what Senator STEVENS has given us is an instantaneous check to verify whether people are prohibited from buying a gun and denying them legal purchase. We also provide stiff, minimum, mandatory sentences for those who use guns to violate the law.

What we have here is a clear choice. If you are for gun control, if you want to limit the ability of law-abiding citizens to buy guns, then you want to vote against the Stevens amendment. If you want to follow a path that many of our States have followed to gun control, you want to vote "no" on the amendment of Senator STEVENS. On the other hand, if you want to deal with criminals, the people who are dangerous when they have guns, then you want to vote for the Stevens amendment.

The Stevens amendment is a mandatory check which States are required to conduct, or risk losing Federal funds.

So, we present an effective system to determine who is and who is not eligible to buy a firearm and we have effective criminal control.

In conclusion, let me say that criminals are going to get guns. We see that every day in the District of Columbia, where we have the tightest gun control laws in the country.

The only way we are going to keep criminals from using those guns is to have stiff penalties, to have effective law enforcement, and to grab these gun thugs by the throat. And that is what the Stevens amendment does.

I urge my colleagues, if you oppose gun control, if you are for criminal control, then vote for the Stevens amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire is recognized for 3 minutes.

Mr. SMITH. Mr. President, I want to first of all compliment Senator STEVENS for his leadership on this issue, standing up for the Constitution of the United States. There has been much made in this debate—I believe the Senator from Ohio said it most recently—that we are standing up for the NRA. Somehow we have gotten things twisted around. We are standing up for the Constitution of the United States of America.

The second amendment says very clearly: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

I am not a lawyer, but how are you going to get it any clearer than that? How can you interpret it any different than that? Where do you get a 3-, 5-, 7- or a 15-day waiting period out of that amendment? Where do you get handguns, rifles, collector pieces banned, from that amendment?

Mr. SIMON. Will my colleague yield?

Mr. SMITH. Not at this time.

Would it not be nice to find out just what might happen? Are you afraid to learn what would happen if you put criminals in jail 10 years for the first offense with a gun, 20 years if they fire it, 30 years if they use a machinegun with a silencer? Would it not be nice to find that out? I guess we do not want to find that out. That is the truth of that matter.

Early historical comments on this subject are very clear.

Aristotle: "Basic to tryants is a mistrust of the people. They deprive them of the arms."

Madison, in Federalist 46, assured Americans they need never fear the Federal Government because of the advantage of being armed which they possess over the people in almost every other nation.

Mr. President, the langauge is very clear. The Stevens amendment does what we want it to do because we support the Constitution of the United States, not the NRA. That is not the issue.

In closing Mr. President, this bill does four things that are very important. It strikes out the magazine ban and registration, it strikes out the Mitchell-Brady waiting period, it strikes out multiple sales registration, and its strikes out pretrail detention for gun crimes.

It stands up for the gun owners and its stands up for the Constitution of the United States of America.

I yield back my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. MURKOWSKI. Mr. President, I rise today to voice my total opposition to the gun control provisions contained in S. 1241. The so-called assault weapon ban and the Brady bill will do nothing to reduce crime and will only penalize legitimate gun owners.

Title VII of S. 1241 the Antidrug, Assault Weapons Limitation Act of 1991 would ban the transfer, import, or possession of any assault weapon not lawfully possessed before the effective date

of this act. Proponents of this provision would have us believe that it is aimed at controlling crime. They would have us believe that these weapons are the weapon of choice for criminals particularly drug criminals. They would have us believe that by banning the possession of these weapons we would somehow reduce crime. They are wrong.

The people affected by this gun control measure would be the law-abiding citizens of the United States—the collectors, the target shooters, the hunters. I know that these groups rate lower than pornographers on gun control proponent's list of people worth listening to, but they are upstanding, law-abiding citizens of this great Nation and they deserve our respect. They deserve measures that will truly reduce crime. They do not deserve to be scapegoats when legislators try to impress constituents with tough talk on crime.

You might ask, why will a ban on assault weapons not reduce violent crime in America? I will tell you why not, Mr. President. It is because, by definition, criminals commit crimes. They are not deterred by paltry measures that rely on people obeying the law. Criminals do not obey the law. The guns listed in this bill will simply be added to the illegal substances that these criminals already smuggle into the country. You think we have problems now, just wait until competition in the gunrunners' black market starts to escalate, and more and more sophisticated weapons are offered. Then we will truly see war in our streets.

FBI 1988 statistics show that only 4 percent of homicides were committed with rifles. It has been estimated that only 1 percent of the total homicides committed in this country are with military style semiautomatic rifles of the type banned in this bill. In truth we do not really know how prevalent the use of these types of guns is in crime. S. 1241 would call for a study to be conducted after the implementation of this act to determine its effect on crime. Quite frankly, I do not think a study is a bad idea. But you can bet that if this study shows that this ban is ineffective, which I believe it will, those supporting the ban today will not then be calling for its repeal. No; their purpose is not to reduce crime, it is to reduce gun ownership among the general populace. It is an effort to penalize those who enjoy the responsible use of firearms by those who are irrationally opposed to their use in any circumstance.

This gun control language is only the first step toward eliminating our second amendment rights. The provisions in this act allow for the list to be increased as new guns are found to be assault weapons and are added to the list. Since the act contains no definition of assault weapon it is conceivable that every firearm will ultimately be listed under this act. After all, they can all technically be used to "assault" someone or something. That would be a leap not much greater than the leap to label legitimate semiautomatic weapons as assault rifles, when in fact the term applies only to a military rifle capable of fully automatic fire. This is not a matter of semantics, Mr. President, it is a deliberate effort to mislead and frighten the public.

This attack on honest gun owners is a two-pronged attack. S. 1241 also incudes the famous Brady bill. The Brady bill as presented in this act contains two basic provisions—one to mandate a 7-day waiting period before the purchase of a handgun and one to mandate a background check before the purchase of a handgun. The merits of these two provisions deserve to be addressed separately.

As with the assault weapon ban, there is no evidence that a waiting period will help reduce crime. In fact, evidence overwhelmingly points to waiting periods having no effect on crime. Several States currently have waiting periods. New York, New Jersey, Connecticut, California—all of these States have waiting periods and yet they have experienced no corresponding decrease in crime. And why should there be? Criminals are not going to wait 7 days for a gun. There are far easier ways for them to obtain a handgun than through a legal dealer. Most guns used in crimes are obtained illegally by criminals, not through legal gun dealers.

Again, the only people affected by this legislation will be law-abiding citizens who have every right to own a handgun. These are the people that will go into the gun store and truthfully fill out their application. These are the people that will patiently wait 7 days for what should be theirs the minute they lay their money down. Criminals will not wait. Honest people will.

How about this law's effect on crimes of passion. Will a waiting period make these people cool off and thus not commit the crime they were originally intending? I do not think so. Crimes of passion are crimes of impulse—and a crime of impulse will be committed with whatever weapon is closest at hand—not after a trip to a gun store and completing a Federal form.

I am pleased to support the amendment of my colleague, the senior Senator from Alaska.

Let me discuss, for a moment, the effect of this legislation on the State of Alaska. First, I would like to point out that a high percentage of the people in Alaska live in rural areas. In these areas there may not be a grocery store, let alone a gun store. Thus these people often need to fly, or boat, or drive hundreds of miles to the nearest gun store if they want to view an assortment of merchandise and determine which handgun is the best for their needs. With the Brady bill, these people would be foced to sit around in a hotel for 7 days. That is absolutely ridiculous. And more than that, it is completely unnecessary since these guns will not be used for criminal purposes.

Why do Alaskans need handguns? One reason is for hunting. A growing number of people prefer handguns for the challenge of the close stalk and greater skill requirement. The major reason is for protection. Often it is unwieldy to carry a rifle particularly when you are flying or traveling in the bush. In a small plane weight is a consideration and a handgun can be an essential part of the bush pilot's safety kit. Handguns can often be used to scare bears or other animals away when they are threatening your person or property.

If it is necessary, I intend to introduce an amendment that would exempt rural areas of our Western United States from the Brady bill.

Another point that many of you may not think of is the miles of lonely, uninhabited roads in Alaska. It is easy to break down on these roads and not see anyone for hours. A handgun in your car on long trips just makes good sense because if you break down there may be nobody there to save you from a predator—either four-legged or, sad to say, two-legged.

The second aspect of the Brady bill that deserves attention is the mandatory check to ensure that the purchaser is not a convicted felon. This provision makes more sense. It is already against the law for a felon to own a gun and a background check would simply ensure greater compliance with that law. However, the Brady bill ties this provision with the 7-day waiting period instead of mandating an instant check. Proponents of this linkage argue that an instant check is not feasible until more criminal records are on computer. This is a bogus argument. Seven days is not enough time to do a thorough paper-based background check. It will produce results no greater than an instant check. In fact, it would probably use precisely the same data as would an instant check, and no more.

The national crime information computer system is the only readily available source of data on criminals. It can already do an instant check on 26 million known criminals, including all 12.5 million felons since 1974 and 8.8 million felons before 1974. This system also contains 26 million nonfelony records. Any check done under the Brady bill will have to use the same records as the instant computer check.

In closing, Mr. President, I would like to simply say that the gun control measures included in this act are a smokescreen. They are an attempt to mislead our citizens about the nature of crime and what Congress is doing to combat it. If these mesures are made

law what Congress will have done to reduce crime in America will be nothing. If we are serious about reducing crime I suggest we leave off discussions of these ineffectual measures and concentrate on criminals, not honest gun owners.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 3 minutes to my friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. SIMON. Mr. President, I hope we will reject this amendment. To my friend from New Hampshire who just spoke about the Constitution, the Constitution, every court decision says, has limitations. No one suggests every citizen has a right to nuclear weapons, for example. The courts have recognized common sense has to apply.

Number 2, common sense; what is it? The State of Illinois has a waiting period. In 1988, 2,470 convicted felons were denied the right to buy a gun. Can anyone tell me that the State of Illinois would be better off if those people had been able to walk in and buy guns?

Last year, counting the firearms identification taken away by the courts, it was almost 3,000. I do not see either of my colleagues from Pennsylvania on the floor right now, but the State of Pennsylvania keeps track of those who apply and who actually gets guns. The Attorney General of Pennsylvania testified the other day that a couple of years ago 54,000 people applied for guns and then did not buy them.

What happens is someone from South Dakota has a fight with his wife and she or he runs down to the store to buy a gun. And they say, "Sorry, we have a cooling off period."

Let me tell my colleagues, that cooling off period has saved lives in Pennsylvania and it will save lives in this country.

We have to have some common sense. No one—I do not believe a single Member of the U.S. Senate, wants to take away guns from responsible citizens. I live in hunting territory down in deep southern Illinois. Our home is right next to the Shawnee National Forest. Most days I would really see more deer than people. But I do not think anyone really believes that having a cooling off period is depriving any responsible citizens of a right. I hope we reject this amendment and do what is the right thing.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. BINGAMAN. Mr. President, I want to clarify my understanding of the amendment and the choice before the Senate this evening because I do not think it has been properly characterized. The argument was made that we have a choice between a statute that requires a check, being the Stevens amendment, and a statute that does not. That is not my understanding of the legislation that was reported to the Senate containing the Mitchell amendment. I understand the Mitchell-Kohl-Gore provision, which is in the bill before us, does require a check. It is not simply a waiting period. I think that is a very important distinction for folks to have in mind between the original Brady bill and the legislation we, in fact, have before us today.

The idea that this amendment, the STEVENS amendment, is going to, for the first time, impose mandatory prison sentences I find somewhat hard to understand, also. We adopted an amendment this morning by Senator D'AMATO, for himself and Senator DOLE, which imposed mandatory prison terms, very much the same mandatory prison terms which are reflected in this amendment and, in fact, more stringent. I believe we had a death penalty in the amendment that we had here today. I do not see a death penalty in the Stevens amendment. I think it is an oversight, I am sure, and something we need to see corrected. We have mandatory minimum prison sentences in the legislation as it presently sits before the Senate today.

I also point out that the Stevens amendment, as I read it, really has no effective sanction against a State for failing to go ahead and institute an instant check system. There is a provision on page 11 that says, witholding of funds on the effective date of this section, the Attorney General may refuse to make grants. That is the kind of sanction we are imposing upon a State. Not that he shall refuse to make grants but that he may refuse to make grants if, in his judgment, there is something improper about making grants.

I suggest to the Senate that is not a very strong sanction or a very strong stick to force State action to do the kind of difficult job that is required in order to get this instant check system up and running.

I believe it is important that we have a statute that deals with the problem of sales to convicted felons. I believe the Mitchell-Kohl-Gore provision, which is in the bill that is pending before us at this time, is an effective effort to do that. I hope the Stevens amendment will be defeated. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Wisconsin.

Mr. KOHL. Mr. President, the hour is late and this speech will not be long. I just want to make three points for the RECORD and for any of my colleagues who have not yet decided how to vote.

First, we cannot have a national computerized instant check system in place in the time period provided by this amendment. The Attorney General has told us it will take years to create such a system; the Office of Technology Assessment says it could take a decade; no one can say with certainty we can have such a system in place in 2 years.

Second, an instant check system by itself is insufficient. I do not dispute the value of an instant check system—it is included in the bill language which Senators MITCHELL and GORE and I helped draft. If such a system were in operation, it would help us deal with the one out of five criminals who obtain their handguns through licensed dealers today. But it would not help us deal with people who have no criminal record but who do have an immediate intent to commit a criminal act.

The waiting period not only gives us time to check criminal records, it gives individuals an opportunity to cool off. We all know that murders are often committed in the heat of the moment. We call that "a crime of passion." A waiting period prevents someone from getting a gun while consumed by passion. Even the NRA recognized the validity of the arguments. According to its 1976 publication, "On Firearms Control":

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

Third, let's look at what is really happening in our society. From last August to this March, nearly 300 Americans died in the Persian Gulf. During that same time, more than 1,200 Americans were murdered in New York, more than 1,000 in Los Angeles, over 300 right here in Washington, DC—our Nation's Capital. We all know we have to deal with this problem in a variety of ways: more police, tougher laws, more certain punishment. But for goodness sake, one way to deal with it is also to impose a modest waiting period on the purchase of guns. We are not taking guns away from anyone. We are just saying that you have to wait for 7 days—1 week—before you get the gun. That does not seem like a very large sacrifice to make for a little safety.

I thank the Chair.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

Mr. President, we hear about tough penalties. My friend from Alaska speaks to that, and my friend from Texas speaks to that. Let me point out that virtually every penalty in the Stevens amendment is already in the Biden bill. The Biden bill has the death penalty for gun murders, 30 years for the use of a dangerous weapon—where a gun is used in an offense—and on down the line.

In addition, we have tough penalties for people who kill cops, and why not have something that the police want, to help prevent cops from being killed?

Second, we are not talking about cooling off periods no matter how much others may speak to that. What we are talking about is giving police 7 days to find out if a person buying a gun is a criminal. It seems to me that is the least we owe the police in addition to our talking tough, acting tough, and providing for tough penalties. The police would rather have the prospect of being more likely to be alive than have a tough penalty enforced as a consequence of not having the opportunity to determine whether or not the person buying a gun is a felon who has no right to buy a gun. It is a pretty simple debate, as far as I am concerned. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. Mr. President, let nobody make any mistake about it. If you believe in the second amendment and the right to keep and bear arms, which has been time honored in this country, this is your chance to vote for it. That is what this amendment is all about. This is the single, sole amendment that everybody knows means that you are either for or against the second amendment right to keep and bear arms. That is the amendment that is going to distinguish those who want the right to be able to buy arms and to be able to be a sports person, a firearms collector, to protect oneself, and to avoid harassment by the Federal Government, and those who do not.

There are sincere people who feel otherwise, but that is what this vote is all about.

Second, I want to compliment Jim Baker and his staff at the National Rifle Association for the work that they have done. If they had not stood in here for weeks and months on end, those four provisions that have now been knocked out of the bill, this magazine ban and gun registration amendment, would be in this bill. Multiple State registration would be in this bill. The pretrial detention for gun crimes would be in this bill. And misdemeanor forfeiture of gun ownership rights would be in this bill.

If it had not been for them, we would not have knocked those things out of the bill, and everybody knows those were onerous and burdensome provisions.

I happen to be the Senator who worked with Jim McClure and Congressman VOLKMER writing the McClure-Volkmer bill. The reason we came up with that bill was because we were tired of the way decent, law-abiding sports people were treated. We changed the definition of "engaged in business" from the prior law because people were being prosecuted for selling one firearm to a friend. Decent, law-abiding, honest people were being prosecuted. We eliminated the onerous records that they had to keep just for their ammunition. Ridiculous. We eliminated the word "inadvertent" as the standard for preapring errors in forms because people were being prosecuted because they misspelled a word.

That is how ridiculous it was. That was gun control. And that is what the Brady bill is.

Frankly, here is a chance to vote for instant check with all of the other features that have been described by my colleagues and to do something about this problem. I do not want to go back to the pre-McClure-Volkmer years. We fought hard to get that changed because we were tired of decent, law-abiding sports people getting hurt in court by people in the Government, bureaucrats and others, who just wanted to embarrass them and hurt them, and they did. A lot of good people got hurt.

Let me summarize some of the reasons I oppose the Mitchell-Brady provision. First, criminals and would-be criminals are going to be able to purchase handguns with or without the Brady bill. I have to tell you they will get them illegally. They will steal them. They will do what it takes to get guns already in circulation in order to do what they want to do, in order to avoid the waiting period.

The vast majority of felonies committed with guns are committed with illegal guns. Indeed, most people who buy a handgun already own one and a waiting period is not even of theoretical value here. The high percentage of convicted felons who possessed handguns did not obtain them from licensed dealers.

Studies over the years have shown gun control measures do not reduce crime. I have to tell you this gun control measure called the Brady bill is not going to reduce crime. It is a symbol, I have to admit and it is a total sham.

We now have 20,000 firearms regulations on the books. I have to tell you, none of these laws so far enacted have significantly reduced the rate of criminal violence.

You can go on and on. Mr. President, I just have to say this particular vote is a critical vote and everybody here better understand this is the second amendment vote. I hope most of us will stand up and vote for our right to keep and bear arms and for not having these onerous provisions, and no longer having the burdens of the overbureaucratic system that we have in Government, that we had before McClure-Volkmer. We should not retrench and go back to the past when decent, law-abiding, honest people were getting harassed.

I know my time is up and so I yield the floor.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mrs. KASSEBAUM. Mr. President, I would like to make a couple of points. First, all sides agree that the best solution ultimately is a nationwide check. I do not think there is any disagreement in that.

Second, both sides have agreed to expend the funds necessary to bring that about, to give the States incentives to compile the criminal records necessary to make this possible.

Third, everyone also agrees that at present such a system is unfeasible. I simply fail to understand, Mr. President, why, until a nationwide instant check is feasible, we should not give the Brady bill a try. I certainly would not be one to argue that a waiting period will be the solution to all the crimes in this Nation, but I do not understand why, until an instant check is feasible, we are not willing to give it a try.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 2 minutes to my distinguished friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I do not want to talk about this issue in terms of statistics, polls, and surveys. I want to talk about this legislation, rather, in human terms, and I want to be very clear about what the Brady bill is and what it is not.

The Brady bill, as passed by the House of Representatives and modified by Senators MITCHELL, KOHL, and GORE, is about saving lives. That is the truth about this legislation. Opponents of this bill have called it a sham. That is not true. Opponents have said it will not do anything. That is not true. Opponents of the Brady bill have said it is unnecessary, intrusive, and not needed. That is simply not true.

What is true, Mr. President, is that the Brady bill, nothing more, nothing less, is legislation designed to keep handguns out of the hands of people who are, by law, not entitled to have them. What else is true is that we already have a law in this country that says certain people are not allowed to have handguns. We have had this law since 1968, since the year Bobby Kennedy and Martin Luther King, Jr., were killed.

I come from a State, Minnesota, which passed this bill in 1977. It has a 7-day waiting period. There was concern. It never was considered a panacea, Mr. President. But I will tell you something. From gun shop owners, to the law enforcement community, to people all across the State, this waiting period has worked well. It has kept guns out of the hands of people who should not have those guns.

I will tell you something. This is a piece of legislation that the people in this country are supportive of and want. It is time to pass it, and for that reason we must oppose and we should oppose this Stevens amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has remaining 30 seconds.

Mr. GRAMM. I yield that time to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, is my friend from New Mexico on the floor? I want to tell the Senate that I do not think Senator BINGAMAN was correct. He said that the amendment offered by the Senator from Alaska did not make the instant checks mandatory once the national system was in place.

I read it very clearly that the Stevens amendment is mandatory, and I found on page 244 of the Mitchell-Brady bill that it is not mandatory; it is optional. It says that they are required to make a reasonable effort.

The Stevens legislation says they shall establish and maintain, and it seems to me that that means one makes it mandatory, the other makes it best effort.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. Who yields time?

The Senator from Alaska has 3 minutes remaining, the Senator from Delaware has 8 minutes remaining. Who yields time?

The Chair notes time is deducted equally from both sides. The Senator from Alaska has 2 minutes 50 seconds remaining. The Senator from Delaware has 7 minutes 50 seconds remaining.

Who yields time?

Mr. STEVENS. Mr. President, I believe the Senator from Texas has 1 minute remaining?

The PRESIDING OFFICER. The Senator had 1 minute remaining, which he yielded to the Senator from New Mexico.

Mr. STEVENS. I yield him 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. GRAMM. We had a memo from the distinguished Senator from Idaho that reviewed the impact in States that had instituted the waiting period. We had an earlier reference to Minnesota. Under the waiting period the number of homicides in Minnesota has gone up by 56 percent.

Mr. President, the bottom line is this. Waiting periods have not worked. In the States where they have been implemented, they have not worked. In the District of Columbia, we have the most stringent gun control laws in the country, and yet people are being killed every night.

What we have before us is a clearcut choice. If you are for gun control, you want to vote against the Stevens amendment. If you are for criminal control, you want to vote for the Stevens amendment.

I want to grab these criminals by the throat. I am not menaced by the fact the distinguished Senator from Alaska owns guns.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. GRAMM. I am menaced by the fact that people are killing people and not being put in jail.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. You have 1 minute, 37 seconds.

Mr. STEVENS. Mr. President, during the time I was preparing for this amendment I had discussions with the Department of Justice. One of them was with Judge Sessions, the Director of the FBI, concerning the availability of criminal history records and what could be done to develop a national system for instant check. I ask unanimous consent that his reply to me, dated May 17 of this year, appear in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 17, 1991.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: This letter is in response to your inquiry of April 23, 1991, and subsequent follow-up by your staff, concerning the availability of FBI criminal history records for screening firearms purchasers.

The FBI's current data base of 14.4 million automated criminal history records is available through the Interstate Identification Index to authorized law enforcement agencies for criminal justice purposes, including the screening of potential firearms purchasers. Since all inquiries for criminal justice purposes are processed the same way, there is no way to quantify the number of checks relative to firearm purchases that are being made today. It is the responsibility of the requesting agency to review the criminal history provided to determine the suitability of the purchaser, including contracting other law enforcement agencies for additional information on a particular arrest and/or its disposition.

As we previously discussed, the President's 1992 budget request for the FBI includes 487 positions and $12.5 million to begin a multiyear effort to eliminate the current backlogs of approximately 715,000 fingerprint cards and 2.3 million disposition reports that have accumulated within the Identification Division. These backlogs would be eliminated approximately 1½ years after the full personnel complement is brought on board and trained. In addition, these positions would enable us to begin converting to a completely automated form the 8.8 million criminal history records that are in the automated name index only. Once this is done, the FBI would have a data base including most young, active criminals. However, since the FBI's identification system is based on the voluntary submission of fingerprints by State and local agencies, there will still exist a number of records at the state and local level for which fingerprint cards have not been made available to the FBI. Those records are available and are being exchanged interstate for criminal justice purposes on a daily basis. This exchange is conducted primarily through the National Law Enforcement Telecommunications System.

The FBI's criminal records are used for numerous law enforcement and public safety reasons, such as employment screening for certain Federal agencies, child care providers, law officers, security traders, and others. Consequently, the FBI believes the inclusion of its manual records in its automated data base is critical not only to law enforcement investigations, but also to protecting the rights of applicants whose employment depends upon the accuracy of a criminal record check. Likewise, employers must be able to insure that a person not eligible for a position of trust is not mistakenly hired. The National Crime Information Center Advisory Policy Board, which is comprised of representatives of Federal, state, and local law enforcement and criminal justice agencies, has urged the FBI to proceed with the automation of the 8.8 million manual records to make the Interstate Identification Index more complete, accurate, and timely.

The automated name index of an additional 8.8 million manual criminal history records could be made available to law enforcement agencies through the Interstate Identification Index during the interim period. In order to make these criminal history records available after a remote inquiry, approximately 176 additional positions and $5.5 million would be required to perform the work on a reasonably timely basis. There are some legal considerations to making available the 8.8 million manual record name index and the associated manual records. These records are not updated to record current arrests, dispositions, or expungements until a copy of the arrest record is required for a user. Consequently, it is possible for a name to be in the index that should no longer be there. It is conceivable that a criminal justice agency may take a prejudicial action against an indexed individual before obtaining a full, up-to-date, arrest record. Such an action could expose the FBI to legal action by the wronged individual. These obstacles make the expeditious conversion of the records to an automated format the desired alternative since arrest and disposition information would be brought up to date as the record is placed on-line.

My associates are available at your convenience if you or your staff would like more details about our criminal history record processes and plans for the future.

Sincerely yours,

WILLIAM S. SESSIONS,
Director.

Mr. STEVENS. Mr. President, I again want to point out that I am sort of a flasher here going across the floor without my clothes. We had an amendment that I thought had a very strong position. The majority leader has kindly given me two-thirds of it all right, but two other restrictive provisions remain.

The waiting period is a concept, as the Senator from Utah has indicated, of the honest difference of opinion here on the Senate floor. We believe in the second amendment, and believe that we have the right to handguns, believe that the Brady amendment is just the

beginning of a long trend to try and do away with those rights that we possess and honor.

I urge those who want to make a statement—that what we want to do is ensure the people who are not under current law entitled to purchase guns will be forbidden from purchasing them, and to set up a national system based on State records and national records to have an instant check before a handgun is sold.

Let me just finish. I think my friend will let me go 30 seconds more.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator be yielded 2 minutes of our time.

Mr. STEVENS. I thank the Senator.

Every one of us have used a credit card. I tell you that the system that we envision is very similar to a credit card being checked as you go in to make a major purchase. The store owner just runs it through a direct line, dials in the direct line to the center, and it checks right through automatically.

The system we are talking about which we would finance through my amendment is just such a system. The local gun dealer will call in to the State agency, the State agency will check his card right straight through, punch in the name of the purchaser, and within minutes they will know if that person is entitled to purchase a gun.

What happens under Brady? You wait 7 days, and you use your best efforts to see whether or not the person is qualified. They are not really talking about eliminating those who are not qualified. They are talking about a cooling-off period and cooling-off periods just have not worked. Every State that has a cooling-off period has a higher level of homicides by guns than those who do not. The amendment of mine would put into effect a system that would work.

I thank the distinguished leader for allowing me to finish that statement. I thank those who have worked with me.

Above all, I want to say that as far as I am concerned many obnoxious portions of gun control in this bill have now been eliminated. There are still some others we will talk about later but at least some of the obnoxious are the ones we have eliminated.

Mr. BIDEN. I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have been a cosponsor of this legislation for the past 6 years. It works in my State of Rhode Island. We have a 7-day waiting period. So the question might logically be, if you have it why do you want to impose it on others? The trouble is these laws are a patchwork across the Nation. Our State is very small. If one wants to go elsewhere without a waiting period, it is very easy to do it. So it seems to me important to have a national law.

Right now criminals under the existing laws in most States only need lie. Under the existing Federal law, you can just lie. You fill out a form. You are a criminal? No, I am not. You can purchase a handgun.

The way this works so successfully in my State is it allows a period to do the checks as they have done in the 7-day period. It has worked very successfully.

I hope the Brady bill will be approved. Thank you.

Mr. BINGAMAN. Will the Senator from Delaware yield?

Mr. BIDEN. I am sorry to say I have no more time. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to share the story with my colleagues about the last year I was Governor of my State, I believe it was. We have a veterans' hospital called Fort Root. There are a lot of disturbed veterans there. One afternoon a veteran walked away from Fort Root and stole an automobile, drove about 70 or 80 miles north of Little Rock, and walked into a gun shop, small community, and bought a .357 magnum, no questions asked. About 1 hour later, he was in Harrison, AR, about 50 miles north, and about 5 minutes later he drove up to a motel, and 5 minutes after that there were six people dead.

If you had even a national instant check, and no waiting period, it would have still happened because you will not have had time to get his name into the computer if it were not already in there. If we had any waiting period at all, even 24 hours, at least those 6 people might still be alive.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, the debate about so-called gun control is a red herring when the real issue is crime control. Simply put, gun control does not translate into crime control.

When we enact a law for the protection of society, it must accomplish two things:

First, it must solve the perceived problem or show realistically that it will accomplish something to at least curb the problem;

And second, the people must have respect for the law, knowing it is in their best interest.

The fact is, Mr. President, criminals don't buy guns from legitimate sources. Criminals won't abide by it and won't be affected by any waiting period.

It is wishful thinking to assume that if guns are controlled, crime will be controlled. Restrictive gun laws do not and will never strike fear in the hearts of criminals. There is no deterrent to using a gun in a crime.

However, restrictive gun provisions do send a message to those law-abiding citizens who want to own a gun. It says the Government can't trust you. The Government has to hold you back.

This attitude does not enhance effective law enforcement. Solid law enforcement requires the support of the American citizen. Gun control creates a new category of suspects, and as such, undermines the trust law-abiding citizens have in their governments.

Those who live and work in this area know that Washington, DC, has a very high crime rate and is often referred to as the murder capital of the world. Well, the District of Columbia also has one of the toughest gun control laws in the country. But you can walk a dozen blocks from the Capitol and buy a gun. Unfortunately, gun control doesn't keep guns from the hands of criminals.

The phrase "people, not guns, kill" is much over-used. But it is a fact. We need to address ourselves to the "People," not the guns. That is, we need tough enforcement of existing laws, and we need to strengthen criminal penalties. We have to tighten procedural loopholes and stop giving convicted criminals unending rights of appeal.

These are the answers that will begin to solve our crime problem.

I have another concern, Mr. President, and it is that this 7-day waiting period represents just the beginning for gun control advocates. When the waiting period proves unsatisfactory, the next step may be to limit the right of our citizens to own guns.

I agree that keeping guns out of the hands of felons is important. But the issue is how to successfully do so without infringing on the rights of law-abiding citizens.

It is important to remember that laws are enacted to protect law-abiding citizens, not to punish them because of a criminal's choice of weapon. To do otherwise turns these citizens into innocent victims in our war against crime. That is the wrong approach.

Mr. President, there is no doubt that this is an emotional issue, but we here in Government must avoid reacting on an emotional basis. Yes, we have a serious crime problem. Let's try to solve it by toughening up our enforcement, imposing the right penalties, including the death penalty, and closing procedural loopholes which favor the criminal. Let's not penalize honest citizens by interfering with their right to defend themselves and to enjoy lawful gun ownership.

Mr. DURENBERGER. Mr. President, I have long been a supporter of the right of law-abiding American citizens to purchase and own firearms without needless and intrusive Government interference and regulation. Yet I recognize that in a society as diverse as ours, with violent crime escalating at an unprecedented level in many cities and towns throughout our country, there is a legitimate responsibility that Government has to prevent certain individuals from obtaining firearms.

The debate over the bill named after my dear friend Jim Brady is not about ends, but about the means of reaching

a commonly agreed end—namely how to prevent convicted felons, mental defectives, and other social misfits from obtaining firearms.

Mr. President, over the last several months the door to my office has been open to individuals representing every point of view on the Brady bill. Just last Monday, Jim and Sarah visited me to ask for my support. I've talked with handgun control, the police chief of Maplewood MN, and other law enforcement officials throughout my State, and State and national officials of the National Rifle Association.

I have not been able to walk down a street in St. Paul or Minneapolis without a citizen walking up to me and saying: "Senator, you should support the Brady bill." Even in small towns in rural Minnesota with one- and two-person police forces, I have been surprised at the broad public support for the Brady bill.

Unfortunately, the public sentiment favoring the Brady bill reflects less on the merits of the bill than on the public's frustration over the growing violent crime we face in large cities and small towns and the consequent burden on limited law enforcement resources.

Mr. President, I have heard every side of this debate and have concluded that on only one point does everyone agree. And that agreed-upon point is that this Nation needs a computerized uniform national criminal information network that will enable local law enforcement officials to instantly provide background checks on potential purchasers of handguns. The NRA supports this objective and the authors of the House and Senate versions of the Brady bill support that objective.

I think this point has been lost in all the public rhetoric surrounding this bill. Yet the fact is that under the Brady bill, the 7-day waiting period that has been the center of public controversy will sunset when an instant point-of-sale background check is implemented under the provisions of section 6213(a) of the Anti-Drug Abuse Act of 1988.

Mr. President, some of the people I have talked with favor a 7-day waiting period in addition to an instant criminal identification check system. They tell me we need a 7-day waiting period not only for background check purposes, but in order to provide a cooling-off period to prevent so-called crimes of passion.

Sarah Brady supports the idea of a 7-day cooling-off period, but she told me this week that she does not believe that we need such a permanent law at the national level. That is an issue that ought to be resolved at the State level where different community standards and values require distinctive rules.

In any event, Mr. President, we are not here tonight debating the need for a national cooling-off period. The Brady bill rejects that concept because it automatically sunsets the 7-day waiting period after implementation of the national instant-check system.

The real issue before us is whether during the interim between now and the implementation of an instant-check system, it would be an appropriate diversion of limited law enforcement resources to require a 7-day handgun waiting period that gives local law enforcement officials the opportunity to perform a background check on prospective purchasers of handguns. In order to resolve that issue, each of us should ask certain basic questions.

The first question is why do we need a national 7-day waiting period? This is not an area that necessarily lends itself to Federal preemption. Quite the contrary. This is an issue that States and localities are best equipped to address for there is not a town, city, or State that is immune from handgun violence. Community and State officials know far better than we in Congress how to deal with handgun violence.

If a 7-day waiting period really served to deter criminals from obtaining handguns is it not reasonable to assume that every local law enforcement agency in every State would be able to convince their State legislatures to adopt State handgun waiting periods?

But the fact is that only 26 of the 50 States have adopted waiting periods. Some as short as 2 days, others as long as 15 days. In my own State of Minnesota, the waiting period is 7 days. Yet, no one has proven to me that adoption of waiting periods has reduced the incidence of violent crime or diminished criminals' access to firearms. In a society as tainted with violence as ours, surely if it could be shown that a waiting period really deterred firearms access then I believe that New Hampshire, Texas, Ohio, Vermont, and the 20 other States without waiting periods would have long ago adopted them.

Mr. President, a 7-day waiting period does not prevent criminals from obtaining handguns because the vast majority of criminals do not need and use ordinary and legitimate commercial means to obtain weapons. It is an indisputable fact that five out of six criminals obtain their handguns illegally. They buy in the black market, they break into gun stores, they steal guns from the homes of law-abiding citizens. Or they purchase guns from individuals with no prior criminal records who have legally purchased handguns through licensed gun dealers.

Does anyone really believe that, if we have a 7-day national waiting period, convicted felons are going to walk into gun stores, present legitimate photo ID's, and then return in 7 days to try and pick up a gun? Of course not. What the convicted felon will do when he finds he cannot immediately purchase the handgun, is walk out of the store, obtain a gun on the black market, and never return to the licensed dealer.

Mr. President, proponents of waiting periods have often cited the fact that in California, which has a 15-day waiting period, more than 2,000 illegal gun purchases were prevented because of the waiting period. But what does that statistic tell us? Does it mean the 2,000 felons were denied access to a handgun because of the 15-day waiting period? Of course not.

What this statistic suggests to this Senator is that 2,000 felons walked into gun stores, and for one reason or another, were prevented from buying a particular gun because of the waiting period. And I believe that they were not deterred from obtaining handguns.

They simply diverted their purchase from the licensed gun dealer to the black market.

Or they sent a friend without a criminal record into the licensed dealer to buy the gun.

But there is another aspect of the California statistics worth considering. And that is the fact that 2,000 potential handgun sales represent about 1 percent of all handgun sales in the State of California.

Simply stated, California law enforcement officials spent millions of manhours doing background checks on approximately 198,000 law-abiding citizens who had no criminal records and were legitimately entitled to own a handgun.

Mr. President, that is simply a sheer waste of limited law enforcement resources; an unnecessary diversion of resources that will stretch the manpower needs of our largest cities and our smallest rural police forces.

And it is for this reason that I am compelled to oppose a 7-day waiting period before implementation of a national instant-check system. Last year, more than 2 million guns were sold through licensed gun dealers. If the California experience is a guide, mandating a 7-day waiting period will ensure that the police are going to spend their resources doing background checks on more than 1,980,000 law-abiding citizens. That is precious police manpower that is better used in walking the beat and cruising the streets tracking down criminals.

What I can support is a proposal that would provide additional funds to help States upgrade and computerize their criminal records systems and link in to a national computerized criminal information network.

Mr. President, criminal record-keeping in most States has not caught up with the late 20th century. No State is fully computerized yet, and at least three States have not even started using computers. It is imperative that we integrate and computerize the network of criminal histories so if a criminal is foolish enough to try to purchase a handgun through a licensed dealer,

he will be stopped on the spot. At the same time, the police will not have to waste millions of hours doing fruitless background checks on the overwhelming majority of law-abiding citizens who seek to purchase a handgun.

Finally, Mr. President, I want to issue a warning to the American people about the nature of this debate. Whether we adopt an instant-check system, a 7-day waiting period, or another form of gun control, we are not going to keep guns out of the hands of felons. We are not going to stop crime in the streets nor slow down the incidence of violent crime.

As one survey among convicted felons found: The vast majority of felons currently in prison—more than 80 percent—believe that gun control laws only affect honest citizens. And that same survey found that 88 percent of convicted felons believe that if a criminal wants a handgun, he will find the means to obtain one.

That is a sad commentary on our society. But unfortunately, I believe it is true. The underlying reasons for criminal activity are multifaceted. They have to do with economics, with education, with social standing, with a slowly crumbling family infrastructure.

All of us may feel good tonight because we have adopted a measure that purportedly will reduce handgun violence. But let us not deceive the American people. The measures being discussed, instant check and 7-day waiting period, are not even a bandaid on a society that is hemorrhaging from the aorta.

Mr. DANFORTH. Mr. President, I would like to direct a question to the distinguished chairman of the Judiciary Committee, the Senator from Delaware, concerning the applicability of the Brady 7-day waiting period to purchases of handguns in Missouri. Missouri law requires individuals to obtain a permit from the local county sheriff in order to receive transfer of a handgun or other concealable firearm. Missouri law further prohibits a sheriff from issuing a permit to persons who are under 21 years of age, convicted felons, fugitives from justice, dishonorably discharged from the Armed Forces, habitually intoxicated or drugged, or adjudged mentally incompetent. The Missouri law directs applicants for a permit to state in writing that they meet the requirements of the Missouri permit law and requires the sheriff, before issuing a permit, to make only such inquiries as he deems necessary into the accuracy of the statements made in the application. Finally, the Missouri statute states that a permit, once issued by a sheriff, is invalid after 30 days. Given these provisions of Missouri law, would handgun purchases in Missouri be exempt from the Brady 7-day waiting period?

Mr. BIDEN. Mr. President, if my colleague from Missouri would yield, it is my understanding and intention that Missouri would be exempt from the Brady 7-day waiting period. S. 1241 exempts handgun transfers from the 7-day waiting period if the law of the State in which the transfer occurs provides that a handgun transferee must have a permit to possess a handgun and that the permit is to be issued only after an authorized government official of the State has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law. Because Missouri law states that the sheriff shall issue a permit to acquire a concealable firearm only if the requirements of the Missouri permit law are met, the issuance of such a permit would itself be a verification that the information available to the sheriff does not indicate that possession of a handgun by the transferee would be in violation of law. Therefore, handgun purchases in Missouri would be exempt from the 7-day waiting period.

Mr. DANFORTH. Mr. President, I thank my distinguished colleague from Delaware, and I ask unanimous consent that a memorandum from Handgun Control and a letter from the deputy attorney general of Missouri, both expressing the view that Missouri would be exempt from the Brady 7-day waiting period, be included in the RECORD at this point.

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

To: Gail Hoffman, Legislative Director.
From: Dennis Henigan, General Counsel.
Date: June 25, 1991.
Re: Is Missouri Exempt from the Brady Bill's Waiting Period?

This memorandum addresses the legal issue of whether Missouri would qualify for one of the exemptions in the Brady Bill so that Missouri residents would not have to wait seven days period to each handgun purchase.

The answer is clear: Missouri is exempt.

A. PROVISIONS OF THE BRADY BILL

Title XXVII of S. 1241 contains the Brady Handgun Violence Prevention Act (hereinafter "the Brady Bill"). Although Senators Mitchell, Kohl and Gore wrote amendments which make the language of Title XXVII slightly different from H.R. 7 which passed the House of Representatives, the provisions for exempting states from the waiting period are identical in the two bills.

Section 2701(a)(u) provides a series of ways in which a handgun can be sold or transferred by a licensed firearms dealer. The 7-day waiting period in section (u)(1)(A) only applies where none of the other conditions in (u)(1) (B), (C), (D) or (E) are satisfied.

In the case of Missouri, handgun transfers will always be exempted pursuant to section (u)(1)(C), which provides an exemption from the waiting period when:

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than five years earlier by the State in which the transfer is to take place; and "(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

B. PROVISIONS OF MISSOURI LAW

Missouri Statutes, Section 571.080 requires individuals to have a permit to receive transfer of a handgun, called a "permit to acquire a concealable firearm." Pursuant to Section 571.080(2), the permit "shall only be valid for thirty days after the issuance thereof."

Section 571.090(1) forbids a sheriff from issuing a permit to persons who are underage, convicted felons, fugitives, dishonorably discharged, habitual drunks or drug users, or persons adjudged mentally incompetent. Section 571.090(2) directs applicants to swear that they meet the requirements of section (1) and Section 571.090(3) requires that "before a permit is issued, the sheriff shall make such inquiry as he deems necessary in the accuracy of the statements made in the application."

In short, every prerequisite of the Brady Bill, Section 2701(a)(u)(1)(C), is met by the Missouri statute: handgun purchasers are required to obtain a permit, such permit will always be issued within five years of the transfer (in fact, within 30 days), and state law requires the authorized official (the sheriff) to conduct a check.

C. ADDITIONAL LEGISLATIVE HISTORY

In addition to the plain meaning of the Brady Bill's language, there is legislative history which exempts Missouri from the waiting period.

During debate on the Brady Bill on the floor of the House of Representatives, two colloquies discussed this provision:

"Mr. UPTON. Mr. Chairman, on behalf of myself and the gentleman from Michigan who shares my concern on this issue, would handgun purchases in Michigan be exempt from operation of the Brady 7-day waiting period?"

"Mr. FEIGHAN. "Mr. Chairman, yes. H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase and the permit is issued after an authorized Government official has verified that the information available to that official does not indicate that possession by the transferee would violate the law. Because Michigan law prohibits the issuance by the police of a license to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a license would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in Michigan would be exempt from the 7-day waiting period." Congressional Record, May 8, 1991, H 2836.

"Mr. VALENTINE. I have been advised, Mr. Chairman, by the Subcommittee on Crime and Criminal Justice that North Carolina, which has a comprehensive gun control measure in existence for many years, that the State would be exempt from the provisions of the Brady bill, if the Brady bill passes. I will ask the chairman of that subcommittee if he will respond to that, and yield to the gentleman from New York."

"Mr. SCHUMER. Mr. Chairman, I would say to the gentleman from North Carolina, he is entirely correct. North Carolina would be exempt from the Brady provisions under its

own law." Congressional Record, May 8, 1991, H 2842.

Both Michigan and North Carolina have permit laws similar to Missouri's. If anything, the Missouri law is drafted with such language as to be more surely exempt from the Brady Bill than *either* Michigan or North Carolina.

D. CONCLUSION

If the Brady Bill is enacted, handgun transfers in the State of Missouri will not be affected.

ATTORNEY GENERAL OF MISSOURI,
Jefferson City, June 3, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senator, Russell Building, Washington, DC.

DEAR SENATOR DANFORTH: This letter is in response to your question asking whether Missouri's concealable firearm permit law would be included in an exemption in the proposed "Brady Handgun Violence Prevention Act," a copy of which proposed act you provided to us by letter dated May 29, 1991. We believe that it would be.

The Brady Bill contains certain exemptions to the provision that it is unlawful for any licensed importer, manufacturer or dealer to transfer a handgun to an individual who is not licensed under Section 923. Section 2(a)(1)(C) creates an exemption if the transferee presents a permit which allows him to possess a handgun, the permit was not issued more than five years earlier by the state in which the transfer is to take place, and:

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

In addition, subsection (D) provides an exemption where the law of the state:

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

Missouri's concealable firearm law, a copy of which is attached to this letter, is found in section 571.090, RSMo Supp. 1990. The law was most recently amended in 1989. Section 571.090.2, RSMo Supp. 1990, requires that application for a permit to acquire a concealable firearm shall be made to the sheriff of the county in which the applicant resides. An application must be filed in writing, signed and verified by the applicant, and must state the following information:

"* * * the name, social security number, occupation, age, height, color of eyes and hair, residence and businesss addresses of the applicant, the reason for desiring the permit, and whether the applicant complies with each of the requirements specified in subsection 1 of this section." Section 571.090.2, RSMo Supp. 1990.

Section 571.090.1 sets out the requirements to obtain a permit for a concealable firearm, and these are similar to the requirements set out in Section 2(a)(3) of the Brady Bill. Requirements under Missouri law include that the applicant is a citizen of the United States; has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year; is not a fugitive from justice or currently charged with the commission of a crime punishable by imprisonment for a term exceeding one year; has not been discharged under dishonorable conditions from the United States Armed Forces; is not publicly known to be habitually in an intoxicated or drugged condition; and is not currently adjudged mentally incompetent.

Section 571.090.3 provides for the sheriff to make inquiries before issuing a permit.

"3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri operator's licen[s]e or other suitable identification. The sheriff shall issue the permit within a period not to exceed seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays. The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 of this section have not been met, or if he has reason to believe that the applicant has rendered a false statement regarding any of the provisions in subsection 1 of this section. If the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant."

Because a Missouri concealable firearm permit will not be issued unless the sheriff has verified that possession of the weapon by the applicant would not violate the law, we believe that Missouri law is within the exemptions set out in the Brady Bill.

Very truly yours,

JAMES B. DEUTSCH,
Deputy Attorney General.

Mr. HARKIN. Mr. President, I am pleased to support the Brady bill provision in the crime bill drafted by Senators MITCHELL, KOHL, and GORE. The Mitchell compromise is unusual, as compromises go, because it actually strengthens the Brady bill as passed by the other body, while addressing the concerns of the Brady bill's opponents. I am a cosponsor of S. 257, the Brady Handgun Violence Prevention Act, which was introduced by Senator METZENBAUM.

I am deeply concerned about the increasing violence in the United States. Two-thirds of all homicides and suicides are attributed to firearms, according to recent statistics. Violent deaths in our major cities are increasing at an alarming rate. As shown in the recent Judiciary Committee majority report, rural States like Iowa are experiencing an even faster increase in violence than New York or Los Angeles. Action is needed now to reduce the violence on our Nation's streets, in rural as well as urban America.

Felons, fugitives, drug users or those with a mental illness are currently not permitted to own or be allowed to purchase handguns under Federal law. Yet many States have no system in place to enforce these laws and prevent these people from simply walking into a store and buying a gun in violation of Federal law. Without enforcement, these laws will have no effect on the incidence of violent crime. While my State of Iowa had an effective enforcement program under State laws, most States do not. The Mitchell compromise would help protect the people of my State from felons bringing into Iowa handguns purchased in States without enforcement programs.

For instance, when John Hinckley bought the gun he used in the attack on President Reagan in 1981, he gave a false address on the Federal form required to complete the purchase. If a background check had been carried out, the false address could have been detected, and Hinckley could have been denied the gun on that basis. As it was, Hinckley walked out of a Dallas pawnshop with a .22 caliber pistol, which he used to maim Jim Brady and Officer Thomas Delaney, and injure Secret Service Agent Tim McCarthy and President Reagan. Ronald Reagan and I disagree about many things, but the need for a background check and a waiting period is not one of them.

Major police organizations such as the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers support the Brady bill, because they know that it is a crime control measure that will support and protect police, not the criminal.

The Mitchell compromise would require States which do not have a waiting period to institute one, and provides incentives to institute a background check system, cleanup the criminal and court records, and prepare for the development of a national instant criminal background check system.

In my State and others which already have a background check, the Mitchell amendment will not expand the length of the waiting period. Those States which currently have a waiting period and background check will receive funds under the waiting period provision in the Violent Crime Control Act to help modernize criminal records and conduct the background check. I am proud to support the waiting period provisions in this bill, and urge my colleagues to do likewise.

Mr. SIMPSON. Mr. President, this is a most curious debate. From the very beginning, the proponents of this legislation, and its House companion, have tried to turn the issue of crime into an issue of gun control. That was deftly done, indeed.

We have an outright ban on so-called assault weapons. We lost that vote last year by a single vote. So now the folks who fear guns more than they do criminals went into a feeding frenzy—a waiting period here, magazine ban there, registration requirements, the whole works—as we say out west: "the 'whole shooting' match."

What would a waiting period do?

At best, 17 percent of the criminals using handguns obtained them across the counter. So we are going to make them get their guns on the street

where the other 83 percent of the violent criminals get them.

Now, that is brilliant.

But if you want to get those 17 percent, we are giving you a chance. You can get them and not impose a restriction whatsoever on the vast majority of law-abiding citizens—we are talking about a workable, instant check with strict timeframes for compliance and enough money to do that. The amendment I am pleased to cosponsor does just that.

So I congratulate the majority party for having the good sense to strike the waiting period—and to strike the Brady bill from this legislation—that was indeed wise. The Brady bill was not really effective. You all knew that. It was like putting a waiting period on the sale of automobiles after a drunk driver drives through an intersection and kills someone. It is about time we placed the responsibility for crime on the criminal and not on the tools of his trade.

It is possible to control some of criminals' access to firearms at legitimate gun shops—we can impose an instant check, and that is what this amendment will do.

There are millions of convicted felons out there; and Federal records are already updated to keep track of half of those, according to Justice Statistics—FBI. We can watch those.

This amendment will help the States get up to speed with the Federal system—this amendment will put in place a realistic system that can work.

This amendment will protect the right of every law-abiding citizen to have access to firearms—if they choose. This amendment stays true to the spirit of the second amendment—the right of the citizens to keep and bear arms shall not be infringed. This amendment does not infringe that right.

Look at the provisions this amended language would change. Not only was there a waiting period, but the underlying bill would have required registration of rifles—in a very subtle way: By requiring registration of clips and magazines.

Some of my colleagues may not know this, so I hope you will listen—or that your staff members are paying attention and they tell you. But each and evey clip that must be registered in the underlying bill is a unique piece of equipment—it fits only one kind of gun. You register the gun when you register the clip.

The police, then know who you are, where you live, what kind of gun you have and how much ammunition you have—all that from a tiny bit of legislative slight-of-hand. Look it up. That was in title 12, subtitle "C".

There were many more of those little gems hidden in there.

So I urge my colleagues to vote in favor of this amendment. Think of it as a vote in favor of the second amendment, if you wish. But I strongly urge adoption of this measure.

Mr. MITCHELL. Mr. President, let there be no confusion about what we are about to vote on. The Stevens amendment is the Staggers amendment, with window dressing. It mandates an instant check system by the States within the time period that the States obviously cannot comply with. It has no provision at all to give police the chance to make a background check.

By contrast, the waiting period in the bill is there for the single and compelling reason—that until an instant check system can be put into place, records cannot be checked instantly or even overnight. The amendment provides the penalty against the States if they do not have an instant check system in place and operating 24 months from the date of enactment. Everyone here knows that it is just not feasible to create such a system in 24 months when only 21 States now share their data with the FBI, when State records now average only 60 percent completeness, when several States do not even have their records on computer.

This amendment is obviously just an effort to get around a waiting period. That is the intention. That will be the effect if it is enacted.

The bill's provision which this amendment would strike are aimed purely and simply at finding an effective way to reach a goal that everyone in this debate claims is their goal—the goal of keeping handguns out of the hands of convicted felons.

Nobody in the whole country argues with that goal, and virtually everyone has come to realize that to achieve that goal we must take some action. Yet here we are with this amendment, a proposal for an instant, instant check. This is not a practical proposal designed to help achieve a common goal. It is an effort to defeat the waiting period provision in the bill.

Just as we saw in an earlier vote on this legislation, the other side has taken a large idea from the bill, in this case the proposal for funds for the States to improve their criminal records, repackaged it with an original faulty idea, and now attempt to sell it as a serious package. No Senator should be fooled.

Most of the penalties in this proposal are already in the bill. When you have in the bill the death penalty for someone convicted of killing someone with a firearm, how much more of a deterrent is it to add in this amendment life imprisonment for someone killing someone with a firearm. Are we going to imprison for life someone who has just been executed? Yet we are told we should vote for this amendment because it includes mandatory life imprisonment for an offense for which the bill already contains the death penalty.

Senators who want to strike a blow for safer streets, Senators who agree with more than 80 percent of the American people that felons should not be able to buy handguns, Senators who take the war against violent crime seriously, should not vote for this proposal.

There is only one serious anticrime vote to cast in these circumstances, and that is against this amendment and for the bill.

Mr. President, I yield the remainder of my time. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alaska.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—44

Baucus	Garn	Murkowski
Bond	Gorton	Nickles
Breaux	Gramm	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Rudman
Burns	Heflin	Seymour
Coats	Helms	Shelby
Cochran	Hollings	Simpson
Cohen	Johnston	Smith
Conrad	Kasten	Specter
Craig	Lott	Stevens
D'Amato	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Durenberger	McConnell	

NAYS—54

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Harkin	Packwood
Bradley	Hatfield	Pell
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cranston	Kerrey	Sanford
Danforth	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Simon
Dixon	Leahy	Warner
Dodd	Levin	Wellstone
Exon	Lieberman	Wirth
Ford	Metzenbaum	Wofford

NOT VOTING—2

Bentsen	Pryor

So the amendment (No. 429) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this morning. The managers will remain to accept some amendments on which rollcall votes will not be required. The Senate will return to consideration of this bill at 10 a.m. tomorrow. I thank my colleagues for their patience and cooperation today. I yield the floor.

Mr. STEVENS. Will the Senator yield for just a moment?

Mr. MITCHELL. Yes.

Mr. STEVENS. Mr. President, I do want to thank the leadership for their courtesy in handling this vote. I would like to inquire, though, of the leader what the plan is as far as the remainder of the bill tomorrow.

Mr. MITCHELL. I have learned in the past few weeks, if not the past couple of years, not to be confident of my predictions about what will happen on pending measures. I can only say the managers intend to be here at 10 and will try to proceed as vigorously as possible. And during the day, in fact, early in the morning, I will be meeting with the distinguished Republican leader to consult on an effort to determine the best way to proceed to enable us to complete action at the earliest possible time with the least inconvenience to the Senators.

Mr. STEVENS. Mr. President, this Senator's understanding is that we will attempt now to find a list of those amendments that still are under consideration by Members and perhaps delineate those which might be finished tomorrow and those which we might hold over if we can get an agreement to deal with those. Is that the leader's intention?

Mr. MITCHELL. We are going to attempt to get a list of amendments and see what they entail and when we could complete action on them. That is certainly one possibility.

Mr. STEVENS. I thank the Senator.

Mr. MITCHELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, I rise today to express my thoughts on the pending crime bill. Changes in the Federal Criminal Code are desperately needed to assist Federal law enforcement's war on crime. Certain changes in the Federal Criminal Code are seriously needed and long overdue.

Next to an attack or invasion by a foreign power, no force so threatens the physical security and mental well-being of our Nation's citizens as the criminal element. Criminals today are better armed and more sadistically inclined than ever before in our Nation's history. In many of our cities, the criminal element has laid seige to our citizenry. People are afraid to leave their homes for fear of being assaulted or killed. Indeed, many cower in their own homes, having once been the victim of a violent crime, or knowing of a friend or relative who has been a victim of a violent crime. They can only hope and pray that they won't again be victimized by criminals.

Mr. President, a tougher Federal Criminal Code will help to curb the criminal threat to the Nation's citizenry. I regret we were unable to pass the President's crime bill last week. I thought the President had an excellent crime bill and I was sorry to see it voted down. I thought it was a good bill, and I voted for it. Most Americans would have liked to see that bill the law of the land. It is my hope that the Senate will not lose sight of what the American people want us to do here this week—that is, to pass a tough anticrime bill that speaks a language criminals readily can understand. We should resist efforts to encumber the legislation with provisions that would restrict the constitutional rights of law abiding citizens.

Senate consideration of the bill now before us offers us the opportunity to place on the Federal Criminal Code effective deterrent measures against crime. The bill provides for the death penalty for various Federal capital offenses, longer prison sentences, and an end to procedural technicalities that thwart justice. Criminals would be assured that their anti-social behavior would reap swift and sure punishment. The bill would help to dam the tide of crime which floods too many of our Nation's communities. Regrettably, the Senate refused to pass stronger language expanding the good-faith exceptions to the exclusionary rule. Fortunately, the Senate refused to adopt other measures that would have watered down the ability of the Federal Government to impose the death penalty on drug kingpins and substituted life imprisonment for the death penalty in Federal capital crimes.

Earlier this year, the United States achieved a swift and stunning victory over forces threatening international peace. This success was facilitated by the congressional authorization given the President to act on behalf of the American people to defeat a foreign menace. We would have our Federal law enforcement officers—who are soldiers in the Nation's war on crime—a similar mandate to defeat the criminals terrorizing our neighborhoods and diminishing the quality of life in our Nation.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

LITHUANIA

Mr. PRESSLER. Mr. President, the protection of human rights is an international responsibility. These rights must be guarded vigorously. As the leading upholder of democratic ideals in the world, the United States shoulders a major role in human rights issues. Ironically, the concern for human rights has found expression even in the relations between two balloon associations, in America and in Lithuania. Who could have imagined, several years ago, that Lithuanian and American balloonists would reach across the miles to find common ground?

I was prompted to speak on this issue by a particularly heartrending letter I recently received. It was sent to me by the internationally renowned Soukup and Thomas Balloon Museum in Tyndall, SD. The letter was written by Violetta, a Lithuanian woman who described the terrible events which took place in the Lithuanian city of Vilnius on January 13, 1991. As chairman of the Lithuanian Balloon Association, she met Mr. Jacques Soukup and Mr. Kirk Thomas at a balloon rally in Vilnius in the fall of 1989. When I spoke with Jacques Soukup and Kirk Thomas about their experiences in Lithuania, they stressed the breathtaking beauty of that country, the warmth and generosity of the people there, and the fervent democratic aspirations of the Lithuanian people.

After the rally, the two South Dakotans invited Violetta to visit them at a balloon fiesta which was to be held in South Dakota. Her balloon was the first Soviet balloon ever to enter the United States. Thus, a connection was made between the balloonists and cross-cultural ties were established. Consequently, Violetta turned to these two men to share her grief over the events of January 13. She described the frustration and desperation she and her fellow Lithuanians felt in their struggle for independence and freedom from Soviet repression. Violetta's plea was heard in South Dakota, and I am grateful to Jacques Soukup and Kirk Thomas for sharing her letter with me.

Mr. President, we were all horrified to see the bloody pictures depicting the terrible events of January 13, 1991. Soviet soldiers mercilessly beat and killed innocent civilians. Soviet troops opened fire on innocent civilians in Vilnius, killing at least 14 and wounding over 100. Then on January 20 in Latvia, Soviet Black Beret special forces attacked the headquarters of the Latvian Interior Ministry in Riga, leaving 4 dead and at least 11 injured. Those actions "offend America's deep-

est values," as Dr. Henry Kissinger was quoted in the Washington Post of January 22. We cannot remain silent when Soviet forces treat so brutally human beings who are struggling for freedom and the realization of democratic values in which we believe so strongly. These actions contradict Soviet progress on human rights. I hope they do not signify a reversal of that progress. The Soviet Union must establish its legitimacy to the rest of the world in human rights.

Those who have been watching and encouraging President Gorbachev must be sure not to lose sight of what is occurring in the smaller Soviet republics, such as the Baltic States and Moldova. The use of brute force against people who peaceably seek democracy and independence is unacceptable. At the very least, we must make the Soviets aware that we do not approve of their repressive tactics and that continued use of such tactics creates serious obstacles to further improvement of United States-Soviet relations. The Soviets seek better relations with us. However, that is not possible so long as they abuse basic human rights. The Soviets stand at a threshold. They must make a decision whether to continue their current policies of aggression and repression, or to move toward genuine democratization, which means allowing freely elected governments to follow their chosen paths. A choice must be made.

Mr. President, I sincerely hope that Violetta and her fellow Lithuanians achieve the freedom they desire. All three of the Baltic States deserve governments and a way of life of their own choosing.

I ask unanimous consent that the letter from Violetta appear in the RECORD.

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

DEAR KIRK: I hope you have heard about the events in Lithuania and as you have been here you can understand our determination to be free and independent perfectly well. Almost for the whole month I have not written any letters as I could not take a pen and a sheet of paper to do it. My heart was aching, my mind was empty of any words except of sorrow and sympathy for the dead. Among them there are two students from our university. Examinations have been postponed and our students kept vigil in Vilnius. The nightmare started on the 11 January when Soviet commandoes stormed the Press House and the first Lithuanian was wounded in the face with the hollow nose bullet; on entering the body it tears it to pieces. After that people went to Vilnius to keep vigil there. My mother was there on the 13 of January but thank God she was at the Houses of Parliament at that crucial moment when the Soviet commandoes stormed the TV tower and radio committee in the early morning hours. She and the rest of thousands of people heard the shooting, explosions, and knelt and prayed as nothing could be done. There were lots of children and women at the Parliament, they were asked to leave the place by the MP's but nobody moved. The tanks came, stopped, searched the crowd with powerful, blinding lights but did not attack. They did not expect such determination of the Lithuanians. What concerns me, I almost went mad during that night. I did not sleep and eat for several days. That fatal night I watched TV, I saw the announcer with wide opened and horrified eyes, heard the shooting and swearing in Russian on TV, then they turned secret TV cameras on and we saw the Soviet soldiers kicking and beating people in the corridors of the TV tower. Then everything went dark and silent. At the same time the radio transmission died and I heard the last words "we are still alive" were heard. And then the church bells began to toll and the sirens were turned on and it is difficult to describe what I felt. I went trembling, my hands and feet were icy, I was on the verge of a nervous breakdown. Everybody came to the town municipality to hear the news, there we learnt that the Parliament was functioning. Thank God there was a new TV station opened in Kaunas and it is the only one after almost the whole month. The Soviet soldiers still occupy the buildings they attacked on the 13 of January.

Gorbachev went too far. He decided to teach those "naughty" Lithuanians and now like Pontius Pilate is washing his hands openly. The impudent Russian democrats ask him what these red spots on his Novel dinner jacket mean. Those are the spots of the bloodshed, of 580 people injured/impaired hearing because of the explosive grenades, mass legs under the armed cars, mounds of bullets and shells, and 15 people killed. The last one was shot only several days ago in the head by the soldiers. Though Gorbachev says that the troops have been withdrawn from Lithuania, that is a complete lie as everything else he says. The curfew exists in Vilnius and now the martial law is being imposed though it is illegal from both the Lithuanian and Soviet constitutions' point of view. We live under a great nervous tension that is being imposed by the Soviet Army and the Communists.

What is this and why is this? Who can we rely on? Who will understand? Who will hear our cry? Iceland was the first to hear but its mouth was shut by the Kremlin. Well, who will help us in our uneven struggle with the red dragon? We have been receiving only moral sympathy and help which helps Gorbachev to do whatever he likes in Lithuania and other Baltic states. We are left all alone. But God gives us strong determination and endurance. We have got our land, our language, our history and culture. We have got a strong desire to be free and independent. We have got wisdom and prayers to God. When the tanks were approaching the Houses of Parliament, thousands of people who were there knelt and prayed though they had been asked to leave the place. None moved while the tanks with their strong lights searched the crowds. I hope we shall survive.

I am sorry my letter is very emotional but I cannot do otherwise. I want everybody to know how things are going on here.

Hope to hear from you. Now I shall sign off.

Sincerely yours,

VIOLETTA.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. BYRD].

AMENDMENT NO. 431

(Purpose: To authorize grants to assist the states in participating in the system developed under section 6213(a) of the Anti-Drug Abuse Act of 1988)

Mr. BYRD. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 431.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert:

SEC. . IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

Mr. BYRD. Mr. President, the transient nature of criminals, combined with their use of aliases and false identification, necessitates a national system that can positively identify criminals and match those identifications with accurate criminal history records. Right now a convicted felon could walk into a gun store, present false identification, and walk out with a gun. A gun dealer has no way of knowing whether Joe Smith is indeed Joe Smith. He has no way of knowing whether Joe Smith is an honest, decent man, or whether he is a convicted criminal.

The easiest and most accurate method currently available for positive identification is fingerprinting. Fingerprints are cheap, easy to obtain, and difficult to alter. The only problem with fingerprints is that they are taken on cards—pieces of paper—and in most areas, are not transferred onto computer files.

The Federal Bureau of Investigation is undertaking a great effort, with my support, to revitalize its fingerprint identification division so that a national computerized positive identification system can readily be developed before the end of this decade.

The amendment I have sent to the desk would clarify section 2703 of the bill to make it clear that the development of the State criminal history

records systems should be done in conjunction with the revitalization of the fingerprint identification division of the Federal Bureau of Investigation [FBI]. It is my understanding that this amendment has been cleared by both managers.

Language already in the bill requires that, in order to be eligible for grants to assist in the developing or expansion of State criminal history records, the State must participate in the Interstate Identification Index [III]. This system is already a part of the FBI's identification division. Currently 22 States contribute criminal history and arrest information to the Triple-I. By participating in the Triple-I, States are assured that when the technology becomes available, their computerized criminal record systems will be compatible with the FBI's fingerprint identification system. The FBI will computerize its fingerprint files and then link them to computerized criminal record files. States then can tie into this system. But to ensure that there is no doubt about the intent of the language in the bill, my amendment will clarify that States developing or expanding their computerized criminal history files should do so in a manner that is compatible with the planned fingerprint identification system of the FBI.

Mr. President, I understand the managers have cleared this amendment and I hope it can be adopted.

Mr. BIDEN. Mr. President, that is correct. The managers have cleared it on both sides and we think it is a valuable addition. We are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment.

So the amendment (No. 431) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay that motion on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, the manager of the bill. And I thank the Republican manager, also.

AMENDMENT NO. 432

(Purpose: To give preference in the making of grants for the establishment of computerized criminal history records to those States that do not yet have such systems in place)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 432.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Section 2703, on page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files".

Mr. BYRD. Mr. President, undertaking the development and expansion of a national data system, with all States participating is going to require a major commitment of resources, particularly by the States. S. 1241 recognizes that need by authorizing $40 million in grants to the States to assist in the development of their computerized criminal history files. The bill provides that 50 percent of these funds will be allocated to the States based upon population. The remaining 50 percent will be distributed at the discretion of the Attorney General.

I am somewhat concerned about this method of distribution. Currently, there are three States—Maine, Mississippi, and West Virginia—that have no computerized criminal history systems in place. Nor are these States among the Nation's most populous. Should not those States which have yet to begin computerizing their criminal history files, receive priority for funding, so that they too can be ready by 1995? This amendment would simply require that the 50 percent of the funds to be distributed at the discretion of the Attorney General should be allocated with preference given to those States that have the lowest percent currency of case disposition in computerized criminal history records systems.

Except for these three States, all of the other States currently have some sort of computerized system of criminal history records in place. These systems can be expanded as the States develop automated criminal history files in conjunction with the FBI's system. The startup costs, however, for the three States that currently have no computerized system will be vastly greater than for those States that have some sort of computerized system already in place. These three States not only deserve some assistance in bearing the costs of this new Federal system, they deserve, I believe, and I hope others will agree, the highest priority for Federal funding.

I understand that this amendment has been agreed to by both managers of the bill.

Mr. BIDEN. Mr. President, that is correct. The manager on this side, as well as the Republican manager, have agreed to the amendment and also think it is valuable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 432) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill, Mr. BIDEN, and the ranking member for their courtesy, cooperation, and support.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 208; Calendar No. 209; and the following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary: Desiree Tucker-Sorini; Warren Roger King; Wendell P. Gardner, Jr.; Harvey E. Schlesinger; Ralph W. Nimmons, Jr.; Sterling Johnson, Jr.; Jane R. Roth; John H. Robinson; and Robert T. Guiney.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997. (Reappointment).

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

The following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary:

Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury;

Warren Roger King, to be an Associate Judge;

Wendell P. Gardner, Jr., to be an Associate Judge;

Harvey E. Schlesinger, to be U.S. District Judge;

Ralph W. Nimmons, Jr., to be a U.S. District Judge;

Sterling Johnson, Jr., to be U.S. District Judge;

Jane R. Roth, to be U.S. Circuit Judge;

John H. Robinson, to be U.S. Marshal; and

Robert T. Guiney, to be U.S. Marshal.

STATEMENT ON THE NOMINATION OF RALPH W. NIMMONS, JR. AND HARVEY E. SCHLESINGER

Mr. MACK. Mr. President, it is with great pleasure that I introduce to the Senate the Honorables Ralph W. Nimmons, Jr., and Harvey Schlesinger, nominees for the U.S. District Court in the Middle District of Florida.

First, I thank the Senate Judiciary Committee for moving expeditiously on these two nominations. Florida presently has 10 district court vacancies, which equates to approximately one-third of the Florida bench. Obviously, this has resulted in a tremendous burden on the judges in our three Federal districts. Acting on these nominations as expeditiously as possible will help to remedy the unique situation Florida is presently facing.

I would now like to take a few moments to express my unqualified support for both of these outstanding jurists. As many of you may be aware, I established a Judicial Advisory Commission to make recommendations to me for district court openings in my State. The Commission highly recommended to me Harvey Schlesinger and Buddy Nimmons for my consideration. Recently, I had the opportunity to sit down with both of these gentlemen and to talk with them about their desires to become Federal judges. I found Judge Nimmons and Magistrate Schlesinger to be extremely qualified and competent individuals.

Furthermore, I have received numerous letters and phone calls from individuals in my State highly praising both of these gentlemen. Phrases such as "a man of high ideals," "a judge who renders fair and just decisions," "an active participant in his community," and a "family man" are common themes which run through these letters and conversations.

Buddy Nimmons presently serves as a judge on the First District Court of Appeals in Florida, where he enjoys an excellent reputation in his community and is highly regarded by the local bar. Prior to this position, Judge Nimmons served as a circuit judge and as a State attorney, where he was chief of the special prosecution division. Judge Nimmons served as chief assistant general counsel for the city of Jacksonville and was in private practice prior to that time.

As a founding member of the Jacksonville Wolfson Children's Hospital and its former of that entity, Nimmons dedicated a great deal of his time off the bench to the community. Judge Nimmons has also been extremely active with the First Baptist Church, where he served as chairman of the board of deacons. In addition, Judge Nimmons has played an important role in the Fellowship of Christian athletes.

Judge Nimmons has previously been the recipient of the Outstanding Member of the Judiciary in Jacksonville as well as the Outstanding Judge in Duval County. It is evident that Judge Nimmons is extremely well-qualified to fill this judgeship.

Harvey Schlesinger serves as a U.S. Magistrate in the U.S. District Court, Middle District of Florida. Previously, Magistrate Schlesinger served as a chief assistant to the U.S. Attorney in the Middle District. Magistrate Schlesinger served on the judge advocate general staff in the United States Army.

Aside from being a jurist, Magistrate Schlesinger is also an educator. From the time he passed the bar, Magistrate Schlesinger has taught administrative law, trial advocacy, criminal law, legal philosophy, jurisprudence, and constitutional law. In addition to serving as a professor of law, Magistrate Schlesinger has also served many years as a member of the Supreme Court's 10-member advisory committee on Federal Rules of Criminal Procedure, being nominated by Chief Justice Warren Burger and later renominated by Chief Justice William Rehnquist.

In addition to being a dedicated public servant, Magistrate Schlesinger has also been extremely active in his community. He served as director of the Pine Castle Center for the Mentally Retarded for over 15 years and held the positions of president and chairman of the board. Magistrate Schlesinger also has been involved in Rotary International of South Jacksonville and has served in an advisory role for Boy Scouts of America. Another of Magistrate Schlesinger's commitments include being active on the National Conference of Christians and Jews, serving both on its board of trustees and as a former chairman of the board of governors.

The American Bar Association recently bestowed Magistrate Schlesinger with the honor of being the Nation's most outstanding judge of courts of limited jurisdiction. Obviously, Magistrate Schlesinger is well-qualified to fill this judgeship.

I trust each of my colleagues will examine the outstanding judicial records of both Harvey Schlesinger and Buddy Nimmons. I believe that both of these jurists are eminently qualified to be district court judges. I urge my colleagues to vote favorably on their nominations.

Thank you, Mr. President.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 1:34 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

The enrolled joint resolution was signed by the President pro tempore (Mr. BYRD).

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 26, 1991, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jane R. Roth, of Delaware, to be United State Circuit Judge for the Third Circuit;

Sterling Johnson, Jr., of New York, to be United States District Judge for the Eastern District of New York;

Harvey E. Schlesinger, of Florida, to be United States District Judge for the Middle District of Florida;

Ralph W. Nimmons, Jr., of Florida, to be United States District Judge for the Middle District of Florida;

Robert T. Guiney, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years; and

John H. Robinson, of Nevada, to be United States Marshal for the District of Nevada.

By Mr. GLENN, from the Committee on Governmental Affairs:

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years; and

Warren Roger King, of the District of Columbia, to be an Associate Judge of the Dis-

trict of Columbia Court of Appeals for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BENTSEN, from the Committee on Finance:

Desiree Tocker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following named persons to be Members of the Peace Corps National Advisory Council for the terms indicated:

John J. McCarthy, of California, for a term expiring October 6, 1992, vice John Bigelow;

Craig R. Stapleton, of Connecticut, for a term expiring October 6, 1991, vice Creighton E. Mershon, Sr;

Myron A. Wick, III, of California, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6 1992;

Tom G. Kessinger, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Niara Sudarkasa, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Lane Kirkland, of the District of Columbia, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1993;

John E. Bennett, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John E. Bennett.

Post: Malabo, Republic of Equatorial Guinea.

Contributions, amount, date, and donee:

1. Self, John E. Bennett, none.

2. Spouse, Barbara W. Bennett, none.

3. Children and Spouses: Ian S. Bennett, Seth H. Bennett, none.

4. Parents, Charles H. and Margaret G. Bennett, none.

5. Grandparents, deceased, N/A.

6. Brothers and Spouses, C. Stuart Bennett, none.

7. Sisters and Spouses, Margaret E. and Guy S. Stoner, none; Lee Ann and Mel Martinez, none; and Carol J. and John Zukerman, none.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mary Ann (NMI) Casey.

Post: U.S. Ambassador to Algeria.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, (I am single), n/a.

3. Children and Spouses: n/a.

4. Parents, Frank J. Casey, deceased, Anna V. Casey, none.

5. Grandparents, my last surviving grandparent died in 1962.

6. Brothers and Spouses, Michael J. Casey (single), none. Frank J. Casey (single), none.

7. Sisters and Spouses, no sisters.

William Harrison Courtney, of West Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as U.S. Commissioner for the Bilateral Consultative Commission and the Joint Consultative Commission established by the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William H. Courtney.

Post: Ambassador while serving as U.S. Commissioner for two Nuclear Testing Treaties.

Contributions, amount, date, and donee:

1. Self, $50.00, June 1990, Republic National Committee.

2. Spouse, none.

3. Children and Spouses, William H. Courtney, Jr., and Mary Alison Courtney, none.

4. Parents, Mary Lee Fleming, Father deceased, none.

5. Grandparents, All deceased.

6. Brothers and Spouses, No brothers.

7. Sisters and Spouses, Mary Vincent Courtney Collins, none. David Collins, none.

John Thomas McCarthy, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John T. McCarthy.

Post: Tunisia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, John T. McCarthy III, Elizabeth McCarthy, Julia McCarthy, none.

4. Parents, John T. McCarthy Sr. (deceased); Elizabeth McCarthy, none.

5. Grandparents, (all deceased) Timothy and Mary McCarthy; Mr. and Mrs. Kaffenburger (last one died in 1950).

6. Brothers and spouses, brother Thomas E. McCarthy (wife is named Catherine); Joan (sister) and Edward Byrnes; Margaret (sister) and William Cannon, none.

7. Sisters and spouses, see above, none.

Nicholas Platt, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children Adam, none; Oliver, $100, July 1988, Ruth Messenger, Manhattan Borough Counsellor; Nicholas, Jr., $100, September 1990, Harvey Gantt.

4. Parents, Geoffrey Platt (deceased). Helen Choate Platt (deceased).

5. Grandparents, Joseph H. Choate, Jr. (deceased); Cora O. Choate (deceased); Charles A. Platt (deceased); Eleanor Hardy Platt (deceased).

6. Brothers and spouses, Geoffrey Platt, Jr., $100, September 1988, Rep. Sidney Yates, $100, November 1989, Rep. Sidney Yates, $130, December 1989, Rep. Sidney Yates, $100, June 1990, Sen. Claiborne Pell, $50, September 1990, Harvey Gantt; Hope Forsyth Platt, $35, September 1990, Harvey Gantt.

7. Sisters and spouses, Penelope Platt Littell (deceased); Walter D. Littell, none.

Gordon S. Brown, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Gordon S. Brown.

Post: Ambassador to Mauritania.

Nominated: Dec. 21, 1990.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Helen B. Lombardi, $25, 1990, Diane Feinstein.

5. Grandparents, none.

6. Brothers and spouses, none.

7. Sisters and spouses, Ronny B. Baxter, $50, annually, Republican Party.

Robert H. Pelletreau, Jr., of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Pelletreau, Robert H., Jr.

Post: Ambassador to Egypt.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, $100, September 29, 1989, Groark for Lt. Governor.

3. Children and spouses, none.

4. Parents, Robert Pellectreau, $35, 1/5/87, Republican National Committee; $15, 2/7/87, New York Republican State Committee; $25, 5/15/87, George Bush for President; $35, 1/2/88, Republican National Committee; $30, 1/8/88, New York Republican State Committee; $35, 1/15/88, Republication National Committee; $25, 2/22/88, George Bush for President; $25, 9/27/88, 1988 Presidential Fund; $52, 1/7/89, Republican National Committee; $30, 1/20/89, New York Republican Committee; $52, 7/6/90, Republican National Committee; $25, 7/17/90, National Republican Congressional Commit-

tee; $5, 7/19/90, National Republican Senatorial Committee; $441, total. Mary Pelletreau, none.

5. Grandparents, deceased.

6. Brothers and spouses, Richard Pelletreau, none.

7. Sisters and spouses, Susan Pelletreau, none. Anne P. and Robert Woodbury, $50, 2/28/87, Mitchell for U.S. Senate; $100, 3/15/87, Democratic State Committee; $25, 12/12/87, Brennan for Congress; $125, 12/12/87, Maine Democratic Party; $25, 2/20/88, Dukakis for President; $52, 12/18/88, Maine Democratic Party; $175, 7/15/89, Maine Democratic Party; $552, total.

J. Stapleton Roy, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: J. Stapleton Roy.

Post: Ambassador to People's Republic of China.

Contributions, amount, date, donee.

1. Self, J. Stapleton Roy, none.

2. Spouse, Elissandra Roy, none.

3. Children and spouses, Andrew, none, David, none, Anthony, none.

4. Parents Andrew T. Roy $15, 12/23/87, Lautenberg Committee; $15, 12/23/87, Democratic National Committee; $15, 12/31/87, Democratic Congressional Campaign Committee; $20, 04/24/88, Democratic Senate Campaign Committee; $10, 04/26/88, Lautenberg Committee; $15, 10/16/88, Moynihan Committee; $15, 12/19/88, Democratic Congressional Campaign Committee; $15, 12/31/89, Democratic National Committee; $20, 12/31/89, Democratic Senate Campaign Committee; $15, 12/31/89, Democratic Congressional Campaign Committee. Margaret C. Roy, none.

5. Grandparents (deceased), none.

6. Brothers and spouses: David T. Roy, Barbara Roy, $90, 7/1/90–11/2/90 (by installments), Simon for Senate Committee.

7. Sisters and spouses, N/A.

Johnnie Carson, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Johnnie Carson.

Post: American Embassy Kampala, Uganda.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Anne Diemer Carson, none.

3. Children and spouses, Elizabeth, Michael, Katherine, none.

4. Parents, Dupree and Aretha Carson, none.

5. Grandparents, (Deceased).

6. Brothers and spouses, Ronald Carson, none; Arthur Carson, divorced, none.

7. Sisters and spouses, Barbara and Earl Dorsey, none.

Lynn Marvin Hansen, of Colorado, for the rank of Ambassador during his tenure of service as U.S. Representative on the Conventional Armed Forces in Europe (CFE) Joint Consultative Group and to the Negotiations on Conventional Armed Forces in Europe (CFE).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Lynn Marvin Hansen.

Post: Negotiations on Conventional Armed Forces in Europe (CFE), Vienna.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Faith D. Hansen, none.

3. Children and spouses, Kurt Hansen (Rebecca), none; Heidi Jex (Frank), none; Erik Hansen (Susan), none; Kevin Hansen, none; Kirsten Allen (Brad), none; Mark Hansen, none; and Wade Hansen, none.

4. Parents, LeRoy M. Hansen (deceased), none; and Amy Hansen, none.

5. Brothers and spouses, Maurice Hansen (Hilde) none; and Wayne Hansen (Alain), none.

6. Sisters and spouses, Eula Baldwin (Larry), none.

Jane E. Becker, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee *Jane E. Becker.*

Post *U.S. Mission, Vienna, Austria.*

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, N/A.

3. Children and spouses N/A.

4. Parents, Donald J. and Lucille M. (Fessnech) Becker, none.

5. Grandparents, all deceased prior to January 1, 1985.

6. Brothers and spouses, Robert O. and Irene M. (Tsoris) Becker, none.

7. Sisters and spouses, N/A.

Richard W. Carlson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(Contributions are to be reported for the period begining on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard W. Carlson.

Post: Ambassador to the Seychelles.

Contributions, amount, date, and donee:

1–2. Self, Richard W. Carlson, and spouse, Patricia S. Carlson.

R.W. Carlson, $1,000, 10/8/87, George Bush for Pres.

P.S. Carlson, $1,000, 10/8/87, George Bush for Pres.

R.W. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

P.S. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $300, 4/1/88, D. Rohrabacher for Cong.

R.W. Carlson, $100, 3/10/88, Chris Cox for Cong.

R.W. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

P.S. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

R.W. Carlson, $200, 9/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $1,000, 4/7/88, George Bush for Pres.

P.S. Carlson, $1,000, 4/7/88, George Bush for Pres.

R.W. Carlson, $100, 5/1/88, Chris Cox for Cong.

R.W. Carlson, $500, 4/12/89, Pete Wilson/Governor.

P.S. Carlson, $500, 4/12/89, Pete Wilson for Governor.

R.W. Carlson, $500, 4/12/89, Lowery for Cong.

P.S. Carlson, $500, 4/12/89, Lowery for Cong.

R.W. Carlson, $100, 7/27/90, Hunter for Cong.

R.W. Carlson, $250, 9/9/90, D. Rohrabacher for Cong.

R.W. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

P.S. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

R.W. Carlson, $200, 10/1/90, D. Cunningham for Cong.

R.W. Carlson, $200, 5/28/90, Lowery for Cong.

R.W. Carlson, $500, 6/21/90, P. Wilson for Gov.

P.S. Carlson, $500, 6/21/90, P. Wilson for Gov.

3. Children and spouses, Tucker Carlson/Buckley Carlson—no donations.

4. Parents, W.E. Carlson (deceased 1953); Ruth M. Carlson (deceased 1967).

5. Grandparents, deceased (all deceased before 1950).

6. Brothers and spouses, none.

7. Sisters and spouses, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of June 24, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, Mr. SARBANES, and Mr. CRANSTON):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES, and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a Special Inspector General, and for other purposes; to the Committee on the Budget and the Com-

mittee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days to report or be discharged.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes;to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD):

S. 1406. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes; to the Committee on the Judiciary.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of international employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and Tibet; to the Committee on Foreign Relations.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself, and Mr. SPECTER):

S.J. Res. 170. Joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing the display of the National League of families POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. Joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE):

S. Res. 147. Resolution to express Senate opposition to the use of force to resolve political differences in Yugoslavia; considered and agreed to.

By Mr. PRESSLER (for himself and Mr. HELMS):

S. Res. 148. Resolution to express the sense of the Senate that the United States should support the right to self-determination of the people of the Republic of Moldavia and northern Bucovina; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, and Mr. SARBANES):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

UNITED STATES LAW AND BUSINESS TRAINING PROGRAMS FOR SOVIET GRADUATE STUDENTS ACT

Mr. MITCHELL. Mr. President, last week, at the invitation of Senator DOLE and myself, the newly elected President of the Russian Republic, Boris Yeltsin, visited the Capitol. In introducing President-elect Yeltsin for remarks he delivered to a luncheon meeting of Senators, I told him that in my view whether the Soviet Union succeeds or fails in its current efforts to democratize and to move toward a free market economy rests largely in the hands of the people of the Soviet Union.

The United States can and will provide encouragement. The United States can and should provide limited assistance. But ultimately success or failure will be determined by the people of the Soviet Union themselves and their leaders.

I will today introduce legislation that provides modest, but I believe important assistance to the Soviet Union, of the type that I think most useful, and I would like to address that legislation at this time.

In the midst of heated debate about the wisdom of undertaking a so-called

grand bargain to help the Soviet Union undertake its economic and political reforms, it is easy to overlook the small but meaningful steps the United States can take now to advance the cause of democratization in the Soviet Union.

The Soviet Union is opening its doors and its minds to Western political and economic thought, offering a unique opportunity to affect the shape and pace of change in the country.

Sadly, many Soviet reformers lack a meaningful understanding of democracy or free market economic practice, for Soviets have long lacked access to Western educational institutions in which they might have gained such an understanding.

For over 40 years, the United States has criticized communism and urged the Soviet Union to reform itself and to establish democratic institutions. Now, we have a chance to do this through positive, peaceful means by helping the Soviets understand and implement the concepts and practices of a free market economy and a democratic political system.

America should be sharing its great resources of democracy and economic freedom with the people of the Soviet Union. It is in our interest to provide such access to the rising class of Soviet professionals, giving them the opportunity to study Western systems and practice, particularly in the fields of law and economics.

If we help Soviet lawyers and economists understand the basic concepts and mechanisms of a free market economy and the legal basis of a democratic political system, they can use this knowledge to shape the reform process not just this year but for decades to come. This will be what ultimately makes possible a fundamental transformation of the Soviet Union.

The United States has taken some steps in this direction. From agricultural cooperation, to teaching about housing privatization, to providing a crash course on market economics, the administration has proposed or implemented several exchange and cooperation programs. Unfortunately, many of these are limited in time, scope, or depth.

The United States also supports youth exchange programs for Americans and Soviets through the Samantha Smith Program.

While these are useful programs, we must bridge the gap between these two approaches. There is clearly a need for a sustained and comprehensive program for Soviet graduate students in disciplines that are crucial to the meaningful reform.

That is the reason for the legislation I am introducing today with my distinguished colleagues Senators SASSER, BOREN, PELL, BIDEN, and SARBANES. I particularly want to commend Senator SASSER for his essential role in transforming this valuable concept into a realistic program.

The United States Law and Business Training Program or Soviet Graduate Students Act is an innovative and specific approach toward helping the Soviet people help themselves. The bill proposes to help provide Soviet graduate students with an American educational and vocational experience that will fundamentally shape their contribution to the future of the Soviet Union.

Specifically, the legislation authorizes scholarships for up to 500 Soviet graduate students in the fields of business administration, economics, law, and public administration. These students would study for at least 1 year at an American institution for higher education, and would participate in an internship or other training program in their professional field.

In short, the legislation would provide a combination of academic and hands-on knowledge in economics and law that would enable graduates to apply their experience in behalf of the reform process upon their return to the Soviet Union.

The program can grow to meet the demand and utility of bringing additional graduate students from the Soviet Union to the United States. American educational institutions, as well as Soviet students, will benefit as the program expands.

This is a necessary and worthwhile investment in human capital. Concepts of market dynamics and the legal protection of individual rights cannot be fully implemented by people who do not understand and have never experienced them.

If we want the Soviet Union to undertake a fundamental transformation that I believe all Americans do, it is in our interest to help equip their future leaders to guide their country along the path toward democracy and individual freedom.

This legislation can begin to fill the gaping hole between desire and the ability to continue economic and political reform in the Soviet Union.

It is a modest beginning in the important process of sharing the theory and practice of our economic and political system with the next generation of leaders in the Soviet Union.

Mr. President, I send the bill to the desk and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1399

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

SEC. 1. STATEMENT OF PURPOSE.

The purpose of this Act is to establish a scholarship program designed to bring students from the Soviet Union to the United States for study in the United States.

SEC. 2. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) It is in the national interest for the United States Government to provide continuing financial support to individuals from the Soviet Union to study in the United States, and to gain experience and training in free market economics, Western business and legal systems, and public administration, in order to assist the process of economic and political reform in the Soviet Union, increase mutual understanding, and build lasting links between the Soviet people and the people of the United States;

(2) providing scholarships to Soviet students to study in the United States will over time effectively create strong bonds between the United States and the future leadership of the Soviet Union and its republics, while assisting the Soviet people in their political and economic reform efforts:

(3) study in United States institutions by Soviet students will enhance trade and economic relationships by providing professional and business contacts;

(4) students from the Soviet Union have in the past been unable to study in the United States for political and financial reasons;

(5) it is essential that the United States citizenry increase its knowledge and understanding of the Soviet Union, its language, cultures, and socioeconomic composition as the Soviet Union assumes a role in the world economic community; and

(6) a scholarship program for students from the Soviet Union to study in the United States would complement international efforts to assist the Soviet Union in its economic, political and social reforms.

SEC. 3. SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher eduction coupled with private and public sector internships by nationals of the Soviet Union who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(b) FORM OF SCHOLARSHIP; FORGIVENESS OF LOAN REPAYMENT.—To encourage students to use their training in the Soviet Union, each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to the Soviet Union for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, one-half of the repayment shall be forgiven.

SEC. 4. GUIDELINES.

The scholarship program under this Act shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency shall develop and strictly implement specific financial need criteria. Scholarships under

this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant from the Soviet Union shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration, Scholarship opportunities shall be limited to fields that are critical to economic and political reforms in the Soviet Union, particularly business administration, economic, law, or public administration.

(6) The program shall be flexible to include not only training and eductional opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for schlarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the Soviet republics.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this Act that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

SEC. 5. FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.

There are authorized to be appropriated to the United States Information Agency $17,500,000 for fiscal year 1992, and $35,000,000 for fiscal year 1993, to be used to carry out this Act.

SEC. 6. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

Any authority provided by this Act shall be effective only to the extent or in such amount as are provided in advance in appropriation Acts.

Mr. DOMENICI. Mr. President, before the distinguished majority leader leaves the floor, might I comment on the discussion that he just had with the Senate on the bill that he just sent to the desk for printing and referral.

I am not totally familiar with it, but I did hear the distinguished majority leader discuss it. I have a summary sheet. While I might have objection to some specifics, I want to say to the Senator the overall idea is, in the opinion of the Senator from New Mexico, an excellent idea.

I think we both heard Boris Yeltsin open his discussions with us by saying, "I do not want dollars and money," and then he said what he wanted. I think it sounded something like this summary. Not exactly, because he spoke differently than we in terms of institutions. I congratulate the Senator on his efforts.

Mr. MITCHELL. I thank the Senator very much. This bill had been in the planning stages prior to his visit, but the visit confirmed in my mind the relevance of this to the ongoing transformation in the Soviet Union.

I thank the Senator for his comments.

Mr. SASSER. Mr. President, I am pleased to be a principal cosponsor of the United States Law and Business Training Program for Soviet Graduate Students Act. This act will establish a scholarship program to bring students from the Soviet Union to the United States to study law and business administration.

With this measure, for this first time a substantial number of young Soviets will be able to come to the United States to enter educational programs. And they will come to the United States to study business administration, economics, law, and public administration. These are the fields which will contribute the most to promoting economic and political reforms in the Soviet Union.

And what could be more useful at this moment of history? The Soviet Union faces a time of fundamental change. The old guard of communism is being replaced by free-market forces and democratic ideas.

But, these changes will take time. And no matter what our desires are for speeding these changes along—the fact is that it will be the next generation of Soviet citizens which will see these changes through and indeed, reap the rewards of this effort.

But to make this happen, we must help plant the seeds of change. And what better way than through education?

One way to do this is to allow young Soviet citizens to come to the United States to learn how our system works. To see democracy in action; to study law and business; to make the most valuable kinds of connections—those between our two peoples.

And what better way to plant the seeds of change than to give Soviet graduate students the ability to come to the United States and get hands-on experience in the business world and to take that knowledge back to the Soviet Union.

This program will do just that. It will combine formal education at universities in the United States with real world experience provided through internships and training in professional settings.

Furthermore, it will ensure that these students will return to the Soviet Union to speed economic and political reform, by making each scholarship in the form of a loan with repayment only to be forgiven after the student returns to the Soviet Union.

And it will be fair, providing equal opportunities for students from each of the Soviet republics and making financial need a criteria for receiving a scholarship. It will not be a giveaway program for those who can afford other alternatives.

This is a well-crafted piece of legislation. I commend Senator MITCHELL for his leadership on this matter. I hope to see this act signed into law as one key mechanism for promoting economic and political reform in the Soviet Union. We must seize this moment of history.

Mr. PELL. Mr. President, I am pleased to cosponsor legislation establishing a Soviet graduate scholarship program that is being introduced today by the distinguished majority leader.

As a long-time advocate of international exchanges, I strongly support the creation of a program that would bring Soviet students to the United States to gain experience in areas such as business, law, and public administration. As we have seen with other successful exchange programs, a regimen of U.S. study and hands-on training in these fields can help create a cadre of individuals capable of introducing and implementing economic and political reform at home. Indeed, the administration has already initiated some cooperative programs with the Soviet Union, but these exchanges have not gone far enough.

During his visit to the United States, Boris Yeltsin, the newly elected president of the Russian republic, reminded us that Russia, and indeed the entire Soviet Union, desperately lacks managers skilled in the ways of a market economy. He also suggested that for reform to succeed, the individuals charged with implementing any democratization initiatives or market-oriented measures, will need technical training and a greater understanding of the workings of a free market and of a democratic political system. Mr. President, I believe that this legislation takes an important step toward meeting what President Yeltsin and others have identified as a genuine need.

The United States has a stake in the success of Soviet reform. In an age of increased international economic competition, I believe that the United States should have the foresight to realize that study in United States institutions by Soviet students can enhance trade relationships by providing professional and business contacts between Soviets and Americans. It is in our interest to offer our experience with democracy and the free market to Soviet students. In so doing, we will build links that will bear fruit as the students who are trained in the United States assume leadership positions in government and business.

Mr. BIDEN. Mr. President, I am pleased to join with my colleagues

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today in sponsoring the majority leader's legislation to provide United States scholarships to Soviet graduate students. I am particularly delighted to cosponsor this bill, Mr. President, because it creates a means for the United States to have an impact on the Soviet reform process relatively soon, even while we continue to consider what sort of more financially substantial assistance we might want to offer in the future.

This body, Mr. President, has already spent many hours debating whether or not the United States should provide aid to the Soviet Union, what programs aid might be used for, whether aid should be conditioned on specific reforms, and a host of other questions. We, and indeed people throughout the Nation, will spend many hours arguing over the merits of the United States giving money to the Soviet Union.

Those arguments will continue for some time, as well they should. The possibility of the United States providing aid to the Soviet Union is truly one of the most significant, not to say contentious, foreign policy problems to confront the Nation in recent years.

But today, Mr. President, without need for extended and rancorous argument, the majority leader has suggested a way for the United States to help reform in the Soviet Union in a straightforward, practical, and eminently useful manner.

There are probably few more logical methods of helping to change a nation than by helping to change what its citizens are taught. Progress in the Soviet Union can be encouraged by encouraging young Soviets, from all republics, to learn about the institutions and processes that underlie a free-market economy and a true democracy.

The inculcation of budding young professionals with the basic principles of public administration, commercial law, and a legal system that respects individual rights will, ideally, guide these professionals through their careers. This, for the moment, is the best way to provide aid, and useful aid, to urge reform in the Soviet Union.

The scholarship program created by this legislation will help hundreds of young, energetic Soviet leaders to understand the workings of democracy and capitalism, and, just as importantly, to learn something about the character of the United States itself. And make no mistake about it, Mr. President, this program seeks to send these young people home to the Soviet Union to have them lead their nation on the path of democracy and open markets. We ARE looking for converts.

Mr. President, the legislation is particularly wise in emphasizing the need for practical training. In meeting after meeting with Soviet and East European officials, I have heard pleas for fundamental technical assistance and training. Their nations suffer a stunning, virtually complete lack of familiarity with principles without which our society could not function: basic accounting, the use of computer systems, the application of commercial law, banking procedures, and on and on. The Soviets have essentially no experience with the operations that are absolutely essential to the functioning of our own economy and the training of our own professionals.

The program envisioned in this legislation will target those students already interested in the fields of economics, law, and public administration and will offer them practical internships, in addition to academic training, while they are in the United States.

In fact, I would hope and expect that many of these young people will return home not only to help lead their country down a new path, but also to teach some of their fellow citizens what they learned in the United States. There is, Mr. President, a lot of bang for the buck in this program.

The legislation further specifies that the scholarships should be awarded to graduate students—young people poised to begin their careers and to usher in a new era in the Soviet Union. Moreover, Mr. President, the legislation has as an integral part of its structure an incentive for the students to return to the Soviet Union—the promise that their educational loans will be forgiven if they promptly return to the Soviet Union and remain there for one year longer than the time spent in the United States under the auspices of the program.

Further, the bill before us makes clear that the students studying in the United States must be representative of all republics of the Soviet Union and should be reasonably balanced between male and female students. These stipulations in themselves will make clear to the students that the United States puts high value on their individual identities and aspirations as citizens of different republics, and on the need for equitable treatment and opportunity for men and women alike.

In the meantime, these young people will enrich the United States. Thousands of U.S. students and faculty will get to know these Soviet students during their stay. Our knowledge of the Soviet Union, our appreciation of its diversity, will grow considerably.

No doubt these scholarships will inspire some American students to pursue Soviet studies after getting to know their new Soviet colleagues. Like their Soviet counterparts, these Americans will contribute to this Nation's ability to function well internationally.

Mr. President, I would like to add that I would be pleased to offer an internship in my office to one of these students as part of his or her practical training in the United States once the program begins, ideally early in the next fiscal year. Working with a person with a background entirely different from our own would enrich my staff and our common efforts. Moreover, I hope such an experience would provide unique insight for a Soviet student into the Senate and the process of U.S. lawmaking.

Most importantly, Mr. President, I believe this program will create a reservoir of good will toward the United States among those people who study here. We each know foreign leaders who studied here as young people and whose fondness for our Nation, and appreciation for its values and institutions, was permanently instilled by that youthful experience. We would do well to instill some of that affection and understanding in the future leaders of the Soviet Union.

Mr. President, this proposal by the majority leader meets the most fundamental criterion I can imagine: It is a highly cost-effective means of promoting United States national security.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a special inspector general, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

GENERAL ACCOUNTING OFFICE REFORM ACT

Mr. DOMENICI. Mr. President, I rise today to introduce legislation that would put in place a major review and reform of the General Accounting Office. I am joined on this legislation by both the Republican leader, Senator DOLE, the assistant Republican leader, Senator SIMPSON, and others, who share with me a genuine concern for the General Accounting Office.

Mr. President, it should be clear to every one in this Chamber that recently there has been an uneasiness, I would characterize it as an uncertainty, about the role and operation of the General Accounting Office. And that uncertainty bothers all of us who have over the years looked to the General Accounting Office as a professional organization providing the Congress with objective financial reviews and audits.

I have tried to identify in my own mind, what it is that has generated this uncertainty, this uneasiness, and I have come to the conclusion, that at least for this Senator, there are three broad reasons.

These are:

First, a sense of loss of professionalism at the GAO; second, a sense of loss of an organization's integrity; and,

third, a generic concern over the efficiency of, not just the GAO, but other audit review organizations around this town.

The legislation which I am introducing today attempts to address each of these broad concerns with some specific recommendations. A cornerstone of the legislation is the creation of a special inspector general with broad authorities to audit and review the GAO, including the drawing of samples of GAO studies and subjecting them to review—one might say peer review—by outside organizations for their accuracy, authenticity, and professionalism.

Frankly, Mr. President, I do not take the floor today to introduce this legislation casually. The General Accounting Office is an excellent instrument. But these days, an operation with over 5,000 employees and costing almost 0.5 billion, with no one looking at them to make sure that they are doing their job properly just does not fit well in these United States.

Let me say at the outset, the legislation is not meant to punish or embarrass the GAO for, in truth, since their creation with the Budget and Accounting Act of 1921, GAO has done generally what we, the Congress, have authorized it to do. We, the Congress, as the creators of this organization designed specifically to serve us, must from time to time have appropriate oversight of this entity. If we do not do it in detail and in depth on a regular basis, then the time will come for the introduction of legislation like this. There is no peer review provided for anything within the GAO. I understand that even some in the GAO, and maybe even Mr. Bowsher, are of a mind that perhaps peer review of their reports and their audits is in order.

This legislation will see to it that it is done. The time has come. We cannot continue to have an organization of this size, with the kind of powers they have, turned loose on agencies and Departments of the Federal Government and people of this country with absolutely no oversight and then have their work product given a credibility beyond that which it deserves because, frequently, it is motivated by direction from someone trying to prove something. It is frequently less than objective, but nobody finds out until many, many weeks have passed, or perhaps a contrary report of some significance comes out, and then it is too late.

Having said all of that, let me tell my colleagues what we are going to try to do to solve these problems.

Loss of professionalism. I have a sense that the GAO's professionalism has suffered over the last few years. It is not easy to quantify such an amorphous thing as professionalism. But clearly there are a few clues which speak to an organization's professionalism which I am going to highlight.

One, there is a sense among Members of Congress that GAO has not been performing the functions they have been established to perform, while in fact doing things that are not their responsibility.

There is a sense among experts and those outside the Government familiar with the GAO studies that the quality of the work product varies dramatically. Some are excellent, some are moderate, and some are absolutely of poor quality. Yet all are given the same kind of credibility because they are GAO products.

Many Members of Congress feel that the level of resources required to produce these products of varying quality is excessive and has grown disproportionately when compared with other support agencies on the Hill.

Many feel the GAO expends excessive resources for outside consultants, training and retreats for staff, overhead expenses for glossy reports, and other unnecessary expenses.

Finally, there is a sense that some at the GAO are more interested in getting headlines than in supporting the Congress with the information required.

So, from its beginning as an office whose function centered on bookkeeping and accounting, GAO's powers have been expanded. Some of these powers are explicit, as when Congress specified, in title X of the Budget Act, the Comptroller General's power to bring suits against the administration for inappropriate impounding of budget authority. Others are less clear. In 1970, the Congress gave the Comptroller General the authority to evaluate the results of Government programs on his own initiative.

GAO's resources are immense. GAO is the largest support agency here on the Hill. GAO's budget represents one-quarter of the total legislative branch appropriations. Its budget is 8 times the size of the Congressional Research Service, 21 times the size of the Congressional Budget Office. Over the last 10 years the GAO budget has grown at nearly 8 percent per year, nearly twice the rate of growth for all nondefense discretionary programs over the same time period.

GAO has nearly 5,100 staff. About 100 of these staff are on detail to congressional committees, primarily House committees and primarily to majority staffs.

Interestingly, while staffs and budgets of GAO have increased dramatically over the last 12 years, the number of congressional GAO reports has changed very little. In 1978, GAO produced 6,399 congressional reports and legal decisions, in 1990 this number had declined to 4,421.

These facts simply support the perception that more is being expended by GAO, while less is being produced, and this does not say anything about the quality of the products.

Probably the most blatant example of lack of professionalism was a recent incident relayed to the Senate Armed Services Committee by General Schwarzkopf who told of GAO's visit not once but twice to the front lines of Operation Desert Storm to review the Apache helicopter. The GAO investigators apparently did not find anything wrong the first time, thought they were being misled and went back a second time—again finding nothing.

What GAO is doing in a war zone, occupying limited military resources that clearly had other more pressing requirements, boggles my mind. But nevertheless this is an example of questionable professional judgment on the part of GAO.

LOSS OF ORGANIZATIONAL INTEGRITY

Organizational integrity and professionalism are inextricably linked. But here again Mr. President, the perception and actual fact has led a number of my colleagues to conclude that internal GAO controls and the confidence Members can have that a product produced at GAO will be objective and unbiased has clearly been lost.

This problem manifests itself in a number of areas:

The November 1988 "Transition Reports" issued by GAO read like the policy platform of the defeated Governor Dukakis. The reports, not requested by any Member of Congress or the administration, were expensive, wasteful, and highly partisan.

The GAO Journal, a high-gloss quarterly publication disseminated at taxpayer expense, regularly includes non-GAO staff articles, some expressing a clear political preference on legislative agendas.

There has also been a clear pattern in recent GAO testimonies that promote a policy, rather than provide information. Examples include most recently a GAO testimony on the Canadian health care system, the Comptroller's recommendation on June 13 before the House Ways and Means Committee to effectively break the budget caps for discretionary spending by not counting certain Medicare administrative costs against the caps, flip flops in 1989 over whether the United States Postal Service should be on or off-budget. These are just a few examples of both quality control failures and policy pronouncements that most feel are not within GAO's purview.

There is a perception and many times confirmed practice, that individual requesters of GAO studies or reviews get the answer he or she is looking for. It is also an acknowledged GAO procedure that a requester of a study can demand that no outside review of the study be allowed. The most recent GAO paper on the superconducting super collider, did not even allow the affected agency—

the Department of Energy—to comment on this critical report.

Members have also observed that sometimes requested studies or audits have made it into the press prior to the requester having seen the study or audit. A large organization such as GAO needs to have well established and carefully followed internal control procedures for its product.

Finally, and the most obvious manifestation of lost GAO objectivity has been the pattern of detailing GAO staff to congressional committees. Out of the 100 GAO details to congressional committees, there is only 1 detail to a minority staff of a Senate committee. Need I say more.

EFFICIENCY IN GOVERNMENT

Finally, there is a perception that GAO along with all the other organizations established over the last decade to review and audit and analyze Government programs, may be duplicating one another and thus making it even more difficult to program managers to carry out their basic program responsibilities.

Last year, Mr. President, we passed the Chief Financial Officers Act that places additional responsibilities for audits in the executive branch. We also have 27 inspector generals with budgets totaling nearly $750 million and with over 9,340 staff. Add to all this the GAO's auditing and review process and our own committees' oversight responsibilities, and it is no wonder that program managers in this town are drowning in reviews.

There is a need for financial audits and reviews, but my perception and that of a number of people I talk to is that things are getting out of hand. The system seems to be choking on analysis, and I'm not totally convinced that the legislation—for which these reviews are conducted—is necessarily any better.

OVERVIEW OF LEGISLATION

Mr. President, these three broad concerns—GAO professionalism, GAO integrity, and efficiency in Government audits and review—from the basis of the legislation I am submitting today.

Simply stated this legislation sets up a procedure whereby a special inspector general would be appointed by the President to independently review the GAO. The issues I have raised here—the perceptions of lost professionalism, fairness, and efficiency of the GAO—would be subjected to a careful and timely review.

Within 15 months this special inspector general would make detailed legislative recommendations for reforming the GAO to address these concerns.

The special inspector general would be charged with conducting a thorough study and financial audit of the operations of the GAO. That examination would determine, among other things, if the GAO has exceeded its authority under the law, whether its product is produced in an impartial and fair manner, whether its work duplicates the work of other legislative, executive, or inspector generals' work.

Both the use and cost of consultants and contract services would be carefully reviewed by the special inspector general, as would the purpose, cost, and effectiveness of its regional and overseas offices. The special inspector general would be required to draw a sample of recent GAO reports and studies and subject them to an independent analysis for accuracy and professional standards of research by outside organizations with expertise in the area in which the GAO study concentrated.

While this review is ongoing the legislation would set in place procedures for considering and reviewing GAO study requests as well as making congressional details, so that at least until the special inspector general has made his recommendations, the perception of fairness in the treatment of both the majority and minority will be established.

Mr. President, I conclude by observing once more that the purpose of this legislation is not to be destructive, in fact it is to be constructive. It is designed to help reestablish this important and vital congressional resource as one of the preeminent organizations serving all Members of the Congress.

The Senator from New Mexico wants to make it clear, I truly am concerned, and this is not a partisan concern. I want to submit a letter that the Secretary of Energy sent, not only to me, but members of the Energy Committee, when he asked that a report on the super collider be reviewed by his Department before it was issued—and he was denied that opportunity. In the letter to each member of the committee here in the Senate, and perhaps in the House, he indicates that it was in error in many respects, yet he had no opportunity to call that to anyone's attention. That is not right.

Frankly, in this legislation we say to the GAO, if you are going to have reports like that, you are going to state it right on the front. If there are qualities about it that are unusual, you are going to state it right up front so the media of America and the people will know what kind of report it is.

Mr. President, I ask unanimous consent, the bill I have alluded to be sent to the desk, and ask it be referred. I state, in addition to Senators DOLE and SIMPSON, and other Senators, cosponsoring this reform measure are Senators COATS, BROWN, BURNS, GARN, GRAMM, SYMMS, WALLOP, KASTEN, and NICKLES.

Mr. President, I ask unanimous consent a letter to me from Secretary of Energy James D. Watkins, together with enclosures, be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, May 8, 1991.

Hon. PETE DOMENICI,
Ranking Minority Member, Committee on the Budget, Senate, Washington, DC.

DEAR SENATOR DOMENICI: I want to take this opportunity to comment on the report issued April 15, 1991, by the General Accounting Office (GAO) on the Superconducting Super Collider (SSC) project. This report is an example of how the GAO does not always serve the best interests of the Congress or the taxpaying public. The GAO reports should provide the Congress with a complete and unbiased picture of the issues and a full set of facts that are pertinent to the concerns of the Congress and the decisions it faces. This report misses that fundamental purpose by a wide mark. It was released by the GAO with no opportunity for the Department to comment on the information presented or the veracity of the conclusions.

Addressing the key points of the GAO report, I want to first comment about the management. The SSC has received my priority attention since arriving at the Department over 2 years ago. Deputy Secretary Henson Moore is involved with the program on almost a daily basis. We have a strong management team in place, a team that has successfully built large projects and one that possesses world-renowned technical capabilities. I personally look to Mr. Joseph Cipriano and Mr. Edward Siskin to manage this project on a daily basis and to report to me on the health and well being of the SSC. At Headquarters, Mr. Garry Gibbs, Deputy Director of the SSC office, has been the Acting Director since last July and continues to provide the strong leadership and guidance needed for activities for this program.

Second, regarding the footprint and site geology, the Texas site in Ellis County has proven to be an excellent choice, the best of seven candidate sites from around the country. The configuration of the ring and its exact location (the footprint) underwent extensive evaluation before the State of Texas was requested to begin acquiring land. A sound and comprehensive geotechnical program is in place and construction in the Eagle Ford shale is being held to a minimum. Construction in this rock formation is well within the state-of-the-art for tunneling and its cost is included in the baseline cost estimate.

Third, the superconducting magnet program is moving forward in a measured and thoughtful manner. This program is carefully structured to effect the transfer of the magnet technology from the laboratory to industry, who will in turn develop the design and tooling to manufacture and produce large quantities of these magnets. The challenge of the magnets is not in the design of the magnets but in their manufacture with a uniformity of performance and control of unit cost. Results of tests done with 1.8-meter models of the new 50-mm diameter design have been quite successful and give us confidence that we are on the right track. Production tunneling will not begin until we are sure that we have achieved the desired performance of the magnets and we have demonstrated their reliable manufacture.

Lastly, the State of Texas has been very supportive of the SSC project and they have provided leadership and resources in meeting their commitment of the land and $1 billion for the SSC. The Memorandum of Understanding signed between the Texas National Research Laboratory Commission and the Department reflects the spirit and the reality of this commitment. As our first major

partner, Texas is providing $149 million for the project in FY 1991 and another $130 million is expected for FY 1992.

I've provided additional information and details on these items in the enclosure for your reference and use.

We are a critical stage in moving ahead with successfully building the SSC. We have provided a responsible and credible baseline and are committed to building the SSC on schedule and within budget. This is the critical year to ramp up the funding for construction; we need your help. Other prospective partners are closely watching the actions of Congress to determine the national will and commitment to this project.

Sincerely,

JAMES D. WATKINS,
Admiral (U.S. Navy, Retired).

SUPERCONDUCTING SUPER COLLIDER—STATUS AND PROGRESS

SSC MANAGEMENT

Dr. Roy Schwitters was named with Superconducting Super Collider (SSC) Laboratory Director the same day that the Department announced the selection of Universities Research Association (URA) as the Management and Operating contractor to build the SSC. As the Laboratory Director, Dr. Schwitters has provided the critical leadership and overall direction for the project during the early, formative stages of establishing and staffing the Laboratory organization. Although some of the key management positions at the Laboratory were initially filled on an acting basis, the key people responsible for the accelerator design and magnet development have been there from the outset.

In April 1990, the Department recruited Mr. Joseph Cipriano to become the Department of Energy (DOE) Project Director at the SSC On-Site Project Office to be responsible for the day-to-day DOE oversight and management of the URA contract and SSC Laboratory activities. To further strengthen the management of a large project the scale of the SSC, the Laboratory brought in Mr. Edward Siskin to become the General Manager for the SSC Laboratory in October 1990. At this same time, Mr. Paul Reardon was named the Project Manager at the SSC Laboratory.

This team brings together a strong combination of both technical and large project management experience. It has been in place for some time now and is making its impact felt. At this time, we can attest to the fact that the SSC project is on schedule and below the baseline budget outlined in the "Report of Superconducting Super Collider Cost and Schedule Baseline."

The General Accounting Office's (GAO) attempt to compare the management of this project with experience at the Social Security Administration seems to stretch the bounds of believability for an undertaking of the scope and complexity of the SSC. This project has received the highest level of attention and priority by both the Deputy Secretary and myself since we arrived at the Department. In the Office of Energy Research, there have been only two "Acting" Directors of the SSC office, one for 15 months and the present Deputy Director, Mr. Garry Gibbs. Mr. Gibbs has been the Deputy since August 1989, and has been the Acting Director since July 1990. He continues to provide the needed strong leadership and guidance for the headquarters' program activities.

FOOTPRINT AND SITE GEOLOGY

This description of the SSC site geology is misleading and does not capture the extent of the considerations that led to defining the final footprint. Neither does it properly describe the present SSC Laboratory plan to characterize the site. The Ellis County, Texas, site was the best choice from seven of the best geological locations in the United States. The "SSC Footprint Characterization Document" (SSC-SR-1041) describes in detail the considerations which resulted in setting the configuration and final footprint. An extensive investigation of underground conditions was conducted by the SSC Laboratory in addition to that conducted by the Texas National Research Laboratory Commission (TNRLC).

The final ring configuration represents the optimal location and was based on considerations of: machine constraints, tunnel length in each material type, service area shaft depths, experimental hall depth, experimental hall foundation requirements, and cost. Construction in the Eagle Ford shale has been held to a minimum, its effect is included in the baseline cost estimate, and techniques for underground tunneling are well within the state-of-the-art.

The decision to sink an exploratory shaft was put "on hold" while decisions on a prototype tunnel, as an alternative, were made. During the development of the baseline cost and schedule estimate, an exploratory shaft was added back into the geotechnical program. This exploratory shaft and associated instrumentation are now in the program, they are in the baseline budget and schedule, and a contract will be let this summer for their construction.

MAGNETS

The GAO report repeatedly refers to the magnet development as being "compressed", quoting as an example the issuance of the request for proposals (RFP) for the collider dipole magnets in July 1990, "* * * even before Fermi National Accelerator Laboratory began building the first model 50-mm magnet in October 1990." This portrayal of the magnet development program and this RFP is misleading and needs clarification.

It is important to note that these are cost-plus contracts for engineering development work to finalize the magnet design, they are not fixed-price contracts for production. Thus, the exact details of the design of these magnets were not specified because, in fact, the objective of these contracts is to complete their engineering development and the final design before they begin production. The fixed-price contract(s) for production will not be let until late 1994, after the design has been fixed and tests confirming their performance completed. A solid technology base is available to proceed with the final stage of the magnet development program. Tests of the 40-mm dipole magnets over the last several years have been successful, with more than a dozen each of short and long magnets. In fact, contrary to the tone of the report, the change from 40-mm to 50-mm in aperture diameter represents a relatively small modification of the design; with the 50-mm magnets being easier to design and to fabricate.

The GAO report expresses concern that "* * * each subsequent phase of development overlaps the preceding phase." This schedule is consciously structured to accomplish this very effect. Concurrent engineering, with overlap between product development and manufacturing, is now widely practiced in industry because it saves money and is effective in reducing time to produce. It is this very practice which allows Japanese auto makers to produce a new car model in record time.

The problem with magnets related to the ISABELLE project occurred well over a decade ago, before there was any experience with accelerators using superconducting magnets. By now, there is 8 years of experience with the 6-kilometer circumference Tevatron collider and industry has demonstrated the capability to successfully produce superconducting magnets for Hadron-Elektron-Ring-Anlage (HERA), also 6 kilometers in circumference. The Soviet Union is building a 3-TeV superconducting accelerator, the UNK.

Design work on the SSC magnets began almost 7 years ago. The coil type was chosen 5 years ago. There were difficulties with the first seven full-length SSC dipole magnets, but these problems were overcome 3 years ago when the "fully constrained" design was introduced. Fifteen long dipoles have been built and tested since that time, with good results—all of the magnets performed to the limit of their superconducting material. The design and production of the 50-mm dipole magnets is not terribly different from that experience gained in producing the 40-mm magnets and the 75-mm magnets for HERA. This assessment is further supported by the excellent performance achieved with the very first 50-mm, short (1.8-meter) models.

The successful completion of the magnet string test is not a prerequisite for start of tunnel construction. While earlier results are expected, the milestone for successful completion of the string test is the fourth quarter of FY 1992. Tunnel construction is on the critical path for completion of the project and the present schedule calls for beginning to construct a short tunnel sector only shortly before the magnet string test is completed. It takes more than 2 years to construct a tunnel section and to outfit it for magnet installation. Beginning tunnel construction late in FY 1992 is critical to meeting the scheduled ramp-up in high-rate dipole magnet production scheduled for late in 1994.

TEXAS MEMORANDUM OF UNDERSTANDING

The State of Texas has been fully supportive of the SSC project and, in the Department's opinion, the Memorandum of Understanding (MOU) between DOE and Texas meets the full spirit of the Texas proposal. The Texas proposal was voluntary, opened by the Department only after the Texas site in Ellis County was selected. This selection was on technical merits only, with the Texas site being the best choice out of seven candidates.

The MOU reflects the full scope and intent of the agreement and understanding with Texas on their support for the SSC. In addition to the $1 billion that Texas has committed, they are also providing the land for the SSC at no cost to the Federal government. Of the $1 billion, the Texas proposal included $125 million for SSC related research and development, fellowships and educational activities not related directly to building the SSC. The balance of the $1 billion, $875 million, is directly supporting the construction of the SSC and, by formal definition of project costs, will offset the total project cost.

Mr. SIMPSON. Mr. President, this morning Senator DOMENICI spoke and introduced a bill which would provide for a special inspector general for the General Accounting Office. I think that that legislation is all too necessary and I commend the Senator from New Mexico for taking the lead in this matter.

Let me note, I have received many fine reports from the GAO in my time here, so this is not some universal indictment of the quality of the GAO's work. Rather, what is needed is a general oversight function over an agency of the Government. That is what we are talking about. And I think Senator PETE DOMENICI is right on track.

What is needed is a check-and-balance authority over GAO, that every single other agency, indeed every other branch of this Government, operates under.

When James Madison established the constitutional framework for our Government, he had the foresight to realize that no organ of Government would be completely impartial or reliable, unless another branch of Government had some authority to question and review its work.

I point out that all this legislation does is submit GAO to the same review that every other agency and branch of Government experiences, and to the same review that the Framers of our Constitution intended for any organ of the Federal Government.

Today it is apparent that the GAO itself is in need of the same oversight and objective monitoring, which we look to the GAO to provide to us. The growth in resources which the GAO has used in recent years is well documented and undeniable. But I think that most citizens would be astounded to know that the GAO budget is eight times the size of that of the Congressional Research Service. It has grown exponentially. It is extraordinary, as to the size of the budget and the number of personnel. Moreover, the GAO is employing its budget to engage in activities which, I must say, routinely surprise me.

I did not know that the GAO was set up to make recommendations regarding the relative virtues of the American and Canadian health systems, for instance. Perhaps some feel that that is what they should be doing. However, I do not recall that the intent of creating the GAO was to provide a source of policy recommendations on issues of that sort. We have enough policymakers around Washington as it is, without GAO getting into the business.

Let me share with my colleagues a personal example of the sort of GAO activity which I believe demonstrates clearly the need for an inspector general. As you all know, I have been deeply involved in immigration and refugee issues in my time here. Any one of the things that Senator KENNEDY and I placed in the last legislation was to have a review, by GAO, to determine whether employer sanctions had been solely responsible for any discrimination.

So the GAO went to work. They released a report finding widespread discrimination resulting solely—that is the key word—from the implementation of employer sanctions. This report was issued in spite of the fact—and this is startling—in spite of the fact that GAO's chief of methodology, in their methodology section—their resident expert in methodology—filed a very detailed six-page memorandum clearly stating that the GAO investigators had not found evidence in their 3-year study to support that conclusion.

In addition, GAO hired a panel of immigration experts to review its report on discrimination caused by employer sanctions—solely caused—before the report was released. And that panel found unanimously that GAO had not linked the discrimination that it had measured—which was very small—to anything that had anything to do with employer sanctions. Nonetheless, GAO went blithely forward with its finding linking discrimination to employer sanctions.

Mr. President, I am pretty sure I know why GAO made such a finding. Various special interest groups put the heat on them. They placed extreme pressure on GAO to find that employer sanctions had created new employment discrimination. I personally witnessed the pressure throughout the years in congressional hearings and in public conferences held specifically on employer sanctions. The GAO knuckled under the pressure because it perceived such a finding of discrimination to be politically correct; the old specter of PC also haunts these hallowed Halls, as it does the halls of campuses around the United States of America.

Mr. President, I think it is up to the politicians to respond to the political pressure. That is our job. But it is the responsibility of GAO to give us a neutral, unbiased report on the topic that Congress has requested. The obvious influence, now, of special interest groups on the GAO, their internal staff and their susceptibility to the pressure of those groups, should be of great concern to those of us in Congress. We look to the GAO to provide us with facts, not interpretations, suppositions—facts. Facts, and not things which various political interest groups seek to advance. It is exactly this sort of situation which Senator DOMENICI'S bill would address and remedy.

The problem, in my mind, is not a failing of the GAO. It is its lack of accountability, its burden of staff—and we have failed to ensure oversight accountability.

No human being and no agency is above bias or prejudice, which is why oversight of even the most conscientious public servants is necessary.

We can debate all the proper functions of the GAO at length but I think that, at the very least, we need to do a better job of defining what the GAO is and what it is supposed to do. That is what the special inspector general would do. And that special inspector general office, created by this legislation, would review the procedures engaged in by the GAO, determine whether they are truly nonpartisan, whether they use an excessive amount of Federal resources, and where GAO may be exceeding its mandate.

That is an important goal to accomplish and I believe we all can join in ensuring that GAO is a neutral, impartial, efficient, and trusted agency.

Those goals are in our interest in Congress, no matter which party controls the White House or the Congress. Therefore, I urge my colleagues to support this measure, and I yield the floor.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

RURAL HEALTH CARE PROVIDERS INCENTIVE ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation, along with Senator SYMMS, COCHRAN, GRASSLEY, and KASTEN, that would encourage health care providers to establish medical practice in rural areas. As debate heats up on the issue of health care reform, I believe that it is important to recognize the particular needs of rural areas, where health care manpower and services are inadequate. Shortages of health care providers, together with low reimbursement rates under Medicare and Medicaid, drastically reduce the number of individuals served by the health care system.

In my State of South Dakota, there is an extreme shortage of health care providers. Officials of the office of rural health in South Dakota have informed me that they could easily place 50 general practitioners to meet health care needs in the communities of South Dakota. The National Association of Community Health Centers recently ranked South Dakota 49th in the percentage of population served per primary care physician.

On the nine Indian reservations in South Dakota, these shortages are particularly critical and health conditions are far below optimal levels. The Aberdeen Indian Health Service, located in Aberdeen, SD, serves the States of North and South Dakota and also portions of Iowa and Nebraska. This office recently informed me that as many as 26 physicians are desperately needed to maintain adequate health care services for the native American population in these four States. They have also emphasized the need for physician assistants, nurse practitioners, and registered nurses, who are qualified to fill in for physicians in providing many essential medical services. It is urgent that these shortages be addressed.

The legislation we are introducing today would supplement existing programs, such as the National Health Service Corps, by creating a modest tax incentive for health care providers to locate in underserved, rural areas, and Indian reservations that are sorely in need of health care providers.

Earlier in this Congress, I introduced similar legislation that encourages physicians to practice in communities with 5,000 or fewer individuals and a per capita income of $15,000 or less. Senator SYMMS and I have worked together to develop a more comprehensive bill that has been expanded to include registered nurses, nurse practitioners, and physician assistants. Senators COCHRAN, KASTEN, and GRASSLEY also have joined in this effort. This legislation would allow a deduction from a taxpayer's gross income of up to $5,000 for interest paid on qualified educational loans. This deduction would be available for a minimum of two years, and an optional third year, in exchange for a commitment to establish a medical practice or work in health service in a rural community.

The cost of medical education is very expensive. The American Association of Medical Colleges has estimated the average indebtedness of medical school graduates in 1990 was approximately $45,000. The three major loans now available to medical students carry interest rates ranging between 10 and 12 percent and can be repaid over a period of 10 to 25 years. We believe that the legislation we are submitting today provides a reasonable incentive for health care professionals who wish to practice in underserved rural areas and Indian reservations.

I urge our colleagues to join in cosponsoring this legislation. The basic health care needs of rural areas must be addressed. The proposal we are offering today makes a minor change in the tax code that could result in a major expansion of access to health care services. Congress should eliminate disincentives for rural health care professionals. We simply must be more effective in meeting the health care needs of rural America.

Mr. President, I request unanimous consent that the bill be printed in the RECORD.

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

S. 1401

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

SECTION 1. DEDUCTION FOR STUDENT LOAN PAYMENTS BY MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.

(a) INTEREST ON STUDENT LOANS NOT TREATED AS PERSONAL INTEREST.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k))."

(b) QUALIFIED MEDICAL EDUCATION INTEREST DEFINED.—Section 163 of the Internal Revenue Code of 1986 (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED MEDICAL EDUCATION INTEREST OF MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.—

"(1) IN GENERAL.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed $5,000.

"(3) QUALIFIED RURAL MEDICAL PRACTICE AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) SPECIAL RULE FOR COMPUTING PERIODS.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—The term 'applicable rural community' means—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and

"(II) has a per capita income of $15,000 or less, or

"(ii) an Indian reservation which has a per capita income of $15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expenses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—

"(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) Definitions.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner', and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) INTEREST ON STUDENT LOANS OF RURAL HEALTH PROFESSIONALS.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicing in rural areas)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Mr. SYMMS. Mr. President, I am proud to join Senator PRESSLER today in introducing legislation to encourage medical professionals to start their practices in rural areas. While we have made some progress in recent years addressing rural health care issues, we still have a long way to go.

Finding adequate health care is an especially difficult problem in rural areas of this Nation. In my own State, where the doctor-to-resident ratio is less than a third of the national average, and the lowest in the Nation, the scarcity of local health care has subjected people to regular trips of over 150 miles to get basic medical attention.

Part of the problem is that reductions in Medicare reimbursements have placed a tremendous burden on rural hospitals and health care practitioners. Medical personnel in rural areas do not have a large number of patients over whom they can spread increased costs to make up for lost Medicare funds. In fact, in many cases the majority of patients seen by rural hospitals and doctors are covered by Medicare. When Medicare reimbursements are reduced, rural health care providers can, quite simply, be driven out of business.

Another part of the problem is that medical professionals, whether doctors, physician's assistants, or nurses, often leave school with an enormous mountain of debt in the form of student loans. Rural areas often don't generate enough income for the doctor or nurse

right out of school to survive financially in the face of thousands of dollars of payments of interest and principal each year.

Consequently, they are forced by financial considerations to begin their practice in an urban area. Of course, once their practice is going it's that much harder to move to a rural area even after these student loans are paid off. So even those doctors and nurses who would otherwise choose to practice in rural areas wind up staying in the cities. A cycle develops in which rural areas remain underserved.

Mr. President, the bill Senator PRESSLER and I are introducing today attempts to break this cycle. Our bill encourages medical professionals right out of school to set up their practice in rural areas by reducing some of the financial pressures. We accomplish this by allowing these individuals to deduct up to $5,000 in student loan interest costs each year for 2 years. Moreover, they get to take this deduction whether or not they itemize their other deductions because the student loan deduction is taken against their gross income, not against their adjusted gross income.

Under our bill, this deduction would be available to physicians, physician's assistants, registered nurses, and nurse practitioners if they agree to practice for 2 consecutive years in a rural area as evidenced by a qualified medical practice agreement between the individual and the applicable rural community. And the deduction is available for a third year if they continue their practice for a third year.

Our bill describes a rural area as a political subdivision of a State or an Indian reservation which has a population of 5,000 or less, and which has a per capita income of $15,000 or less.

I would also like to point out to my colleagues that this bill is entirely consistent with good tax policy. As a general rule, interest expense on student loans should be deductible. Somehow, in its attempt to discourage consumption by disallowing the interest deduction on consumer debt, the interest deduction on student loans got swept in, too. It's not hard to see that consumer debt and student loans are very different matters. Student loans are much more like business loans, the interest on which is clearly deductible. And I don't think it is hard to see, therefore, that the interest expense on medical professionals' student loans should be deductible.

This is not a major tax bill. It's a small bill. But its effects could be truly astounding because it breaks the cycle in which financial pressures drive medical professionals away from practicing in rural areas.

This bill creates a new cycle. It creates a cycle of encouraging medical professionals to begin their practice in a rural area. And once a medical professional has set up practice in a rural area, it will be relatively easy to continue to practice there.

Mr. President, access to health care is getting more difficult every year for residents of rural areas. It is time for the Congress to recognize the needs of America's rural population and reduce the inequity in health care availability between rural and urban areas. It is time to break the cycle of discouragement and start the cycle of encouraging bright young medical people to start their practices in the underserved rural communities of America.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

DEFENSE FEDERAL NUCLEAR FACILITIES WASTE MANAGEMENT ACT

• Mr. ADAMS. Mr. President, I am here today to introduce the Federal nuclear environmental response fund, a bill I have authored to improve the accountability of the Department of Energy as it tries to clean up decades worth of contamination at nuclear weapons facilities across the country. Senators REID, BRYAN, METZENBAUM, DASCHLE, CRANSTON, WIRTH, SANFORD, LIEBERMAN, HATFIELD, HARKIN, and KENNEDY join me as original cosponsors of this bill today.

For a few years now, the Department of Energy has been entering into agreements with individual States and branches of the Environmental Protection Agency to clean up and prevent further contamination at their nuclear facilities. These agreements include specific milestones for the accomplishment of environmental goals.

In Washington State we have the Tri-Party Agreement, in Colorado there are a number of agreements, including a Federal Facilities Compliance Agreement and an agreement in principle, and so on with other States.

The problem is we don't know how much these cleanup agreements will cost or if DOE is living up to the agreements at all. We don't even know which agreement deadlines DOE may be ignoring.

At Hanford alone, an analysis by Heart of America Northwest suggests that the DOE budget falls short of funding Tri-Party commitments by almost $400 million.

My bill seeks to make the Department of Energy accountable for its environmental spending. We want to know how the money is being spent and what results the taxpayer is getting.

We want DOE's 5-year planning process to be permanently connected to the costs of meeting site-specific milestones and we want its budget to be based on these cleanup agreements. The bill would also require DOE host States to report to Congress annually on the adequacy of site activities and budgets. Altogether, this bill should give the Congress a much better handle on site-specific problems and needs.

This bill will set up a separate fund for DOE's environmental restoration and waste management spending. This account would be set up in the Treasury and is meant to make it difficult for the Department of Energy or its contractors to shift environmental funds to nonenvironmental missions.

There are some other provisions in the bill that are also worthy of mention. The bill would permanently elevate the Office of Environmental Restoration and Waste Management, currently headed by Mr. Leo Duffy, to the assistant secretary level. It would require DOE, host States, and EPA to agree on comprehensive land use plans for each site; these plans are essential to reviewing DOE's environmental priorities. Finally, the bill seeks to codify the Department of Energy's practice of making grants to States to facilitate environmental monitoring of DOE nuclear installations. These sites often tax State environmental agencies with their size and complexity, and I would like to see this system codified while Secretary Watkins is at DOE.

With this bill Congress will be better able to oversee how the Department of Energy is spending its environmental dollars and what results are—or aren't—coming of these dollars. This accountability is much needed in a budget that has grown from about $900 million in 1988 to a requested $2.2 billion in 1992.

The bill will also serve to strengthen the States' input into the Department of Energy's cleanup priorities. States need to have this input—States with DOE nuclear facilities have a great stake in seeing that these installations are as pollution free as possible. This bill helps to translate the States' interests into DOE and congressional budget priorities.

Mr. President, I am happy to be introducing this bill today. I hope for its early consideration and expect that if it is enacted it will significantly improve oversight of DOE's environmental activities.•

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

RELIEF OF RON BUXBAUM

Mr. BURNS. Mr. President, I rise today to offer legislative relief for the Ronnie Buxbaum family of Fairview, MT. Ron is a beet grower who farms along the Yellowstone River in the

eastern part of our State. Each year Ron, as do other beet growers, hires migrant labor to assist in the beet crop.

However, when Ron was unable to hire a migrant worker who showed up unannounced at his farm, he later found that he was being sued in a court in Texas for breach of contract. Those suing Ron probably thought that he would make an easy mark. To have a suit brought in far away Texas and by a legal group known for its advocacy of migrant rights.

But Ron knew that he had done nothing wrong. And he decided to fight. Well, Ron eventually won—the case was thrown out of court—but at a considerable cost. The cost wasn't in just dollars spent, although some $35,000 were spent, but also in an emotional cost and in a cost to the Buxbaum families health.

Ron suffered a near heart attack that put him in the hospital. The grades of the two children suffered badly and counseling was required. The banks that had provided Ron with operating capital became uncertain about his ability to repay.

All of this happened to Ron simply because a federally funded advocacy group in Texas saw an opportunity to take a Montana farmer for some easy money. It shouldn't be allowed to happen. And in at least this one case it didn't happen. The Federal Government owes Ron Buxbaum the money he spent to defend himself. In truth, it owes him a whole lot more.

Mr. President, I ask that the full text of my bill be printed in the RECORD.

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

S. 1403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $35,000 to Ron Buxbaum of Fairview, Montana. Such sum shall be full and complete satisfaction of all costs arising out of the legal defense and mental pain and suffering incurred as a result of legal action initiated by the Texas Rural Legal Aid group, a federally-funded advocacy group.

SEC. 2. Nothing in this Act shall be construed as an admission of liability on the part of the United States.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited Program, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. THURMOND. Mr. President, as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to introduce by request the Job Training Partnership Act Amendments of 1991. I am pleased that the ranking minority member of the Labor and Human Resources Committee, Senator HATCH, is joining in the introduction of this administration proposal. This bill would amend the Job Training Partnership Act [JTPA] by improving the targeting of JTPA funds to those facing serious barriers to employment, strengthening program accountability, enhancing existing job training services, and promoting the coordination of a broad range of programs and resources.

In 1989, the administration submitted a similar proposal which was later modified. That modified proposal came before the Senate during the last days of the 101st Congress, but unfortunately a final bill was not agreed to by the House and Senate for final action. The bill introduced today includes some of the concepts from that legislation as well as other proposals.

Mr. President, in its 9 years of existence, the Job Training Partnership Act has helped many Americans develop the skills they need to enter the work force as productive citizens. We must continue to build upon and enhance the public-private sector partnership provided for in the act. This legislation introduced today would do just that.

I ask unanimous consent that the letter of transmittal, a statement in explanation of the bill, a section-by-section analysis, and the text of the bill appear in the RECORD immediately following my remarks.

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

S. 1404

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

SECTION 1. SHORT TITLE.

This Act may be cited at the "Job Training Partnership Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

Sec. 101. Statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.
Sec. 104. Composition of private industry council.
Sec. 105. Job training plan.
Sec. 106. Performance standards.
Sec. 107. Selection of service providers.
Sec. 108. Limitation on certain costs.
Sec. 109. Governor's coordination and special services plan.
Sec. 110. State council.
Sec. 111. State education coordination and grants.
Sec. 112. Repealer.
Sec. 113. General program requirements.
Sec. 114. Benefits.
Sec. 115. Fiscal controls; sanctions.
Sec. 116. Reports, recordkeeping, and investigations.
Sec. 117. Establishment of Adult Opportunity Program.
Sec. 118. Establishment of Youth Opportunity Program.
Sec. 119. Employment and training assistance for dislocated workers.
Sec. 120. Job Corps.
Sec. 121. Establishment of Youth Opportunities Unlimited Program.
Sec. 122. Technical and conforming amendments.
Sec. 123. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

Sec. 201. Establishment of State Human Resource Investment Council.
Sec. 202. Duties of State council with respect to applicable programs.
Sec. 203. Effective date.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

SEC. 101. STATEMENT OF PURPOSE.

Section 2 of the Job Training Partnership Act (hereafter in this title referred to as "the Act") is amended to read as follows:

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 3(a)(1) of the Act is amended by—

(1) striking "part B" and inserting "parts B and H", and

(2) striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(b) Section (3)(b) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(c) Section (3)(c)(2) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(d) Section (3)(d) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as redesignated in paragraph (1) of this subsection), by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated $25,000,000 for each of fiscal years 1992 through 1994 to carry out part H of title IV.".

(e) Section (3)(e)(2) of the Act is amended by striking "part A" and inserting "parts A and B".

SEC. 103. DEFINITIONS.

Section 4 of the Act is amended—

(1) by amending paragraph (3) to read as follows:

"(3) The term "basic skills deficient" means reading or computing skills at or below the 8th grade level on a generally accepted standard test or equivalent score on a criterion referenced test.";

(2) in paragraph (5), by—

(A) inserting "organizations serving older workers," after "Jobs for Youth,", and

(B) striking "(including the National Urban Indian Council)" after "Indians";

(3)(A) in paragraph (8)(B)(i), by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "income guidelines promulgated each year by the Secretary of Health and Human Services",

(B) in paragraph (8)(D), by inserting "subsections (a) and (c) of" after "under", and

(C) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with disabilities";

(4) in paragraph (10), by striking "handicapped individual" and inserting "individual with disabilities";

(5) in paragraph (22), by striking "Trust Territory of the Pacific Islands" and inserting "Freely Associated States and the Republic of Palau";

(6) in paragraph (24), by inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(8) by adding the following new paragraphs after paragraph (29):

"(30) The term 'educational agency' means (1) a public local school authority having administrative control of middle schools or secondary schools; (2) an accredited public or private institution legally authorized to provide alternative middle or high school education; (3) any public educational institution or agency having administrative control of secondary and postsecondary vocational education programs; (4) any institution legally authorized to provide postsecondary education; or (5) any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(31) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(32) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(33) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act.".

SEC. 104. COMPOSITION OF PRIVATE INDUSTRY COUNCIL.

Section 102(a)(2) of the Act is amended by inserting "local welfare agencies," before "organized".

SEC. 105. JOB TRAINING PLAN.

(a) Section 104(a) of the Act is amended by inserting "under title II" after "appropriated".

(b) Section 104(b) of the Act is amended to read as follows:

"(b) Each job training plan for the programs conducted for adults under part A of title II and for youth under part B of the title II shall contain—

"(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessment of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's Coordination and Special Services Plan;

"(4) a description of linkages with appropriate agencies designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with appropriate educational agencies;

"(B) arrangements with other education, training and employment programs authorized by federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies and other local agencies, community organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including performance goals established in accordance with standards prescribed under section 106;

"(6) adult and youth program budgets for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined to be necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

"(7) procedures for identifying and selecting participants, including, where appropriate, outreach efforts to recruit locally determined target groups, and for eligibility determination and verification;

"(8) a description of—

"(A) the assessment process that will identify participant skill levels and service needs;

"(B) the services to be provided, including the estimated duration of service and the estimated training cost per participant;

"(C) the competency levels to be achieved by participants as a result of program participation; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(9) a description of the procedures and methods of carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(10) procedures for selecting service providers, consistent with section 107, which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(11) fiscal control (including procurement, monitoring and management information system requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards were met.".

SEC. 106. PERFORMANCE STANDARDS.

Section 106 of the Act is amended to read as follows:

"SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by increased employment and earnings, reductions in welfare dependency, and increased educational attainment and occupational skills.

"(b)(1) In order to determine whether the basic measures described in subsection (a) are achieved for programs under parts A and B of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(2) The standards for adult programs under part A of title II shall be based on appropriate factors which may include—

"(A) placement in unsubsidized employment;

"(B) retention in unsubsidized employment;

"(C) the increase in earnings, including hourly wages,

"(D) the reduction in welfare dependency; and

"(E) the acquisition of skills, including basic skills, required to promote continued employability in the local labor market, provided that the acquisition of such skills is in addition to obtaining one or more of the outcomes described in subparagraphs (A) through (D).

"(3)(A) In addition to appropriate utilization of the factors described in paragraph (2), the standards for youth programs under part B of title II shall include—

"(i) attainment of employment competencies;

"(ii) secondary and postsecondary school completion or the equivalent thereof; and

"(iii) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

"(B) The Secretary may prescribe variations in the standards under subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(4) The private industry council, in consultation with educational agencies and the private sector, shall determine levels for competency standards based on such factors as entry skill levels and other hiring requirements.

"(5) The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of post-program employment and earnings; and

"(C) cost-effective methods for obtaining such data as are necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(6) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures. Such standards shall not be taken into consideration in the award of incentive grants pursuant to paragraph (7).

"(7) From funds available pursuant to sections 202(d)(1)(C) and 252(d)(1)C), each Governor shall award incentive grants to service delivery areas conducting programs under parts A and B of title II based on such service delivery areas—

"(A) exceeding the performance standards established by the Secretary pursuant to this subsection (except for the standards established pursuant to paragraph (6));

"(B) exceeding the performance standards established by the Governor for programs under title II pursuant to subsection (e); and

"(C) meeting other criteria designated by the Governor, such as—

"(i) successful serving target groups,

"(ii) establishing effective linkages with other programs to avoid duplication and enhance the delivery of services; and

"(iii) providing high quality services.

"(c) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(d)(1) Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State,

"(B) the characteristics of the population to be served,

"(C) the demonstrated difficulties in serving the population, and

"(D) the type of services to be provided.

"(2) The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency; and

"(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients.

"(e) The Governor may prescribe performance standards for programs under title II and title III in addition to those standards established by the Secretary under subsections (b) and (c).

"(f) The Secretary shall prescribe performance standards for programs under parts A and B of title IV and for programs under title V.

"(g) The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders, taking into account their special circumstances.

"(h)(10) The Secretary may modify the performance standards under this section not more than once every two program years. Such modification shall not be retroactive.

"(2) Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part of title IV each program year.

"(i) The National Commission for Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameter for variations of such standards referred to in subsection (d),

"(2) evaluate the usefulness of such standards as measures of desired performance, and

"(3) evaluate the impact of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(j)(1) The Governor shall provide technical assistance to service delivery areas and substate areas within the State which do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area or substate area.

"(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the Chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

"(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 107. SELECTION OF SERVICE PROVIDERS.

Section 107 of the Act is amended by adding at the end thereof the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 108. LIMITATION ON CERTAIN COSTS.

(a) Section 108(a) of the Act is amended to read as follows:

"(a) Except as provided in section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) Section 108(b) of the Act is amended to read as follows:

"(b)(1) Funds expended under parts A and B of title II shall be charged to one of the following categories:

"(A) administration,

"(B) training-related and supportive services, or

"(C) direct training services.

"(2) The Secretary shall by regulation define the cost categories specified in paragraph (1).

"(3) Of the funds available to a service delivery area for any program year under parts A or B of Title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.".

(c) Section 108 of the Act is further amended by—

(1) striking subsection (c);

(2) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) inserting the following new subsection at the end thereof:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 109. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) Section 121(b) of the Act is amended by—

(1) amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide for the review of the JOBS plan by the State human resource investment council.";

(2) redesignating paragraphs (3), (4) and (5) as paragraphs (5), (6) and (7), respectively; and

(3) inserting the following new paragraphs after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, administration and financial management; capacity building; priorities and criteria for State incentive grants; and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for technical assistance to service delivery areas, interstate technical assistance and training arrangements, other coordinated technical assistance arrangements pursuant to the direction of the Secretary, and, where applicable, research and demonstration projects."; and

"(4) The plan shall include, in accordance with the requirements of section 123(c), a description of the programs conducted with funds provided under section 123.".

(b) Section 121(c)(7) of the Act is amended by inserting "coordination of activities relating to part A of title II with" after the paragraph designation.

SEC. 110. STATE COUNCIL.

(a) Section 122 of the Act is amended in the section heading by striking "STATE JOB TRAINING COORDINATING COUNCIL" and inserting in lieu thereof "STATE HUMAN RESOURCE INVESTMENT COUNCIL".

(b) Section 122(a) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any State which desires to receive financial assistance under this Act shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State job training coordinating council. Funding for the duties of the council under this Act shall be provided pursuant to sections 202(d)(1)(A) and 252(d)(1)(A)."

(2) by striking paragraphs (2), (3), and (4) and redesignating paragraphs (5), (6) and (7) as paragraphs (2), (3), and (4), respectively;

(3) in paragraph (2) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council";

(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council, in carrying out its duties under this Act,"; and

(5) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council relative to carrying out its duties under this Act".

SEC. 111. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 of the Act is amended to read as follows:

"STATE EDUCATION COORDINATION AND GRANTS

"SEC. 123. (a) The sums available for this section pursuant to sections 202(b) and 252(b) shall be used by the Governor to provide financial assistance to any State education agency to carry out projects that—

"(1) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high degree or equivalent;

"(2) provide adult literacy and lifelong learning opportunities and services of demonstrated effectiveness that enhance the knowledge and skills of educationally and economically disadvantaged individuals and result in increasing the employment and earnings of such individuals; and

"(3) facilitate coordination of education and training services for eligible participants in programs described under paragraphs (1) and (2).

"(b)(1) The activities described in subsection (a) shall be conducted pursuant to agreements between the State education agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local education agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) The agreements described in paragraph (1) shall provide for the contribution by the State from funds other than those available under this Act of a total amount equal to the amount provided under this section. Such matching amount may include the direct cost of employment or training services provided by other Federal, State, or local programs or agencies.

"(c) Governors receiving assistance under this section shall include in the Governor's Coordination and Special Services Plan, pursuant to section 121, a description of the following:

"(1) the goals to be achieved and services to be provided by the school-to-work transition program receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent,

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work,

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education,

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local education agencies and alternative service providers, such as community-based and non-profit organizations, and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II–B and IV–B of this Act,

"(ii) the Elementary and Secondary Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Individuals with Disabilities Education Act,

"(v) the Adult Education Act,

"(vi) part F of title IV of the Social Security Act (JOBS); and

"(vii) the Stewart B. McKinney Homeless Assistance Act;

"(2) the goals to be achieved and services to be provided by adult literacy and lifelong learning programs receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the four-year State plan (and related needs assessment carried out for that plan) developed pursuant to section 342 of the Adult Education Act,

"(C) the variety of settings, including workplace settings in which literacy training and learning opportunities will be provided;

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II–A and III of this Act,

"(ii) the Adult Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Stewart B. McKinney Homeless Assistance Act,

"(v) part F of the Social Security Act (JOBS),

"(vi) the Rehabilitation Act of 1973, and

"(vii) the Emergency Immigrant Education Act; and

"(3) the proportion of funds received under this section that shall be used to carry out the program described in paragraph (1) and the proportion that shall be used to carry out the program described in paragraph (2).

"(d)(1) Services funded under this section to carry out the programs described in subsection (a) may include education and training, vocational education services, and related services to participants under title II. Such services may include services for offenders, veterans, and other individuals whom the Governor determines require special assistance.

"(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities at the State and local levels described in paragraph (3) of subsection (a).

"(B) At least 80 percent of the funds available under this section shall be used to carry out the Federal share of activities conducted pursuant to paragraphs (1) and (2) of subsection (a). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the agreements in subsection (b).

"(3) Not less than 75 percent of the funds available to activities under paragraphs (1) and (2) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

"(e) If no agreement is reached pursuant to subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(7).

"(f)(1) The Governor shall report to the Secretary at such intervals as shall be determined by the Secretary on the activities funded under this section. The report shall include such information as the Secretary may require to determine the extent to which the activities supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c).

"(2) Each recipient under this part shall keep records that are sufficient to permit the preparation of reports. Such reports shall be submitted to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 112. REPEALER.

(a) Section 124 of the Act is repealed.

(b) Sections 125, 126 and 127 of the Act are redesignated as sections 124, 125 and 126, respectively.

SEC. 113. GENERAL PROGRAM REQUIREMENTS.

(a) Section 141(d)(3) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postseconary institution which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) Section 141(g) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraphs (2) and (3):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed six months. In making this determination, consideration shall be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the participant's training, the participant's prior work experience, and the participant's service strategy.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training and the other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer but instead is contracted through an intermediary brokering contractor shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) Whenever a brokering contractor enters into a contract with a subcontractor to provide basic skills training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) Section 141(m) of the Act is amended to read as follows:

"(m)(1) Income received under this Act by a public or private non-profit entity may be retained by such entity only if used to continue to carry out the program, and may be used for such purposes notwithstanding the expiration of financial assistance for that program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services produced or provided as a result of activity funded under this Act;

"(B) funds provided to a service provider under this Act which are in excess of the costs associated with the services provided; and

"(C) except as provided by the Cash Management Improvement Act of 1990, interest income earned on funds received under this Act.

"(3) For purposes of this subsection, each entity shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

(d) Section 141(p) of the Act is amended by deleting the "part B of the title or part A of Title II" and inserting in lieu thereof "this Act".

(e) Section 141 of the Act is further amended by adding the following subsection at the end thereof:

"(q) The Federal requirements governing the title, use and disposition of real property, equipment and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

SEC. 114. BENEFITS.

Section 142(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) References in paragraphs (2) and (3) to section 6(a)(1) of the Fair Labor Standards Act;

"(A) shall be deemed to be references to section 6(c) of that Act for individuals in Puerto Rico,

"(B) shall be deemed to be references to 6(a)(3) of that Act for individuals in American Samoa, and

"(C) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act does not apply.".

SEC. 115. FISCAL CONTROLS; SANCTIONS.

(a) Section 164(a) of the Act is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with Generally Accepted Accounting Principles applicable in each State.

"(2) The Governor shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this act. Such standards shall, at a minimum, include provisions to ensure that, for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed,

"(ii) the risk borne by the contractor, and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary for approval the procurement standards established pursuant to paragraph (2), and shall biennially certify to the Secretary that—

"(A) the State's procurement standards fully satisfy the requirements contained in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall biennially review the procurement standards established pursuant to paragraph (2) and notify the appropriate Committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required corrective action.".

(b) Section 164(b) of the Act is amended to read as follows:

"(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor shall—

"(A) issue a notice of intent to revoke approval of all or part of the plan affected, or

"(B) impose a reorganization plan, which may include—

"(i) restructuring the private industry council,

"(ii) prohibiting the use of designated service providers,

"(iii) selecting an alternate entity to administer the program for the service delivery area, or

"(iv) other such changes as the Governor deems necessary to secure compliance.

"(2)(A) The actions taken by the Governor pursuant to paragraph (1)(A) may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until—

"(i) the time for appeal has expired, or

"(ii) the Secretary has issued a decision.

"(B) The actions taken by the Governor pursuant to paragraph (1)(B) may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 116. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) Section 165(a) of the Act is amended by adding the following new paragraph:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsection (C), recipients shall maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample.".

(b) Section 165(c) of the Act is amended by—

(1) striking "and" at the end of subparagraph (1);

(2) striking the period and inserting "and" at the end of subparagraph (2); and

(3) inserting the following new paragraph:

"(3) monitor the performance of service providers in complying with the terms of agreements made pursuant to this Act.".

(c) Section 165 of the Act is further amended by adding the following new subsection:

"(d) The Governor shall ensure that requirements are established for retention of all records pertinent to all grants, contracts and agreements, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records shall be retained for two years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.".

SEC. 117. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

Part A of title II of the Act is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

"ALLOTMENT

"SEC. 202. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(a)(1) for each fiscal year

and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allocated under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted to service delivery areas for this part for each fiscal year—

"(A) 45 percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 30 percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States; and

"(C) 25 percent shall be allotted on the basis of the relative concentration of economically disadvantaged adults within each service delivery area as compared to the total concentration of economically disadvantaged adults in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 shall be the percentage of funds allotted under part A of title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged adult" means an individual who is age 22 or older and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (A) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (B) 70 percent of the lower living standard income level.

"(B) the term 'concentration' means the number which represents the number of economically disadvantaged adults in excess of 10 percent of the adult population in the service delivery area.

"(d)(1) Of the remainder available for allottment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this title; and

"(ii) may include the development of exemplary program activities and the conduct of evaluations and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within each State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allocated to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 252(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 203.(a) Except as provided in subsection (c), an individual shall be eligible to participate in the program under this part only if such individual is—

"(1) 22 years of age or older; and

"(2) economically disadvantaged.

"(b)(1) Not less than 65 percent of the participants in the program under this part in each service delivery area shall be individuals who, in addition to meeting requirements of subsection (a), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropouts;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(1)(2)(B) of the Social Security Act or have been provided an employability plan in accordance with section 482(b) of the Social Security Act;

"(D) unemployed for the previous 6 months or longer;

"(E) individuals with disabilities;

"(F) homeless; or

"(G) a category established pursuant to paragraph (2).

"(2)(A) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of individuals who face serious barriers to employment to the categories of eligible individuals specified in paragraph (1) if—

"(i) the service delivery area submits a request to the Governor which identifies the additional category and justifies the inclusion of such category, and

"(ii) the Governor approves the request submitted pursuant to clause (i)

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(c) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who are not economically disadvantaged if such individuals are age 22 or older and are either included in one of the categories listed in subsection (b) or experience other barriers to employment. Such individuals may include, but are not limited to, those who have limited English language proficiency, or are displaced homemakers, older workers, veterans, offenders, alcoholics or drug addicts.

"(d)(1)(A) Each service delivery area shall make special efforts to identify and serve eligible individuals 55 years of age or older. Not less than 5 percent of the funds available to each service delivery area under this part shall be expended to provide services to such individuals.

"(B) If the Governor determines that in any program year a service delivery area expended less than 5 percent of the funds available under this part to provide services to eligible individuals 55 years of age or older, the governor shall—

"(i) recapture, from the funds available to the service delivery area under this part during the subsequent program year, an amount equal to the difference between the amount expended for such purposes and 5 percent of the amount available to the service delivery area under this part in such program year, and

"(ii) reallocate, for purposes of providing services to eligible individuals 55 years of age or older, the amount recaptured pursuant to clause (i) to other service delivery areas within the State in such manner as the Governor deems appropriate, taking into consideration such factors as demonstrated need and the quality of services provided to such individuals by the service delivery areas.

"(2) In providing the services required by paragraph (1), the State human resource investment council and the service delivery area shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965.

"(3) In the selection of service providers to serve older individuals, the service delivery area shall give priority to those national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"PROGRAM DESIGN

"SEC. 204.(a) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify the employment goal (including, where appropriate, nontraditional employment), appropriate achievement objectives and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1),

except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) basic skills training; and

"(B) occupational skills training.

"(b) Services which may be made available to participants under this title may include, but need not be limited to—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) work experience;

"(E) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment;

"(F) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(G) skill upgrading and retraining;

"(H) bilingual training;

"(I) entrepreneurial training;

"(J) vocational exploration;

"(K) training programs to develop work habits to help individuals obtain and retain employment;

"(L) attainment of certificates of high school equivalency;

"(M) preapprenticeship programs;

"(N) on-site, industry-specific training programs supportive of industrial and economic development;

"(O) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training;

"(P) use of advanced learning technology for education, job preparation and skills training; and

"(2) training-related and supportive services, including—

"(A) assessment of participants' skill levels and service needs;

"(B) job search assistance;

"(C) job counseling;

"(D) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for the limited English proficient and individuals with disabilities;

"(E) specialized surveys not available through other labor market information sources;

"(F) disseminating information on program activities to employers;

"(G) development of job openings;

"(H) employment generating activities;

"(I) coordinated programs with other Federal employment-related activities;

"(J) supportive services, as defined in section 4(24) of this Act, necessary to enable individuals to participate in the program, and to assist them, for a period not to exceed 12 months following completion of training, to retain employment;

"(K) needs-based payments necessary to participate in accordance with a locally developed formula or procedure; and

"(L) follow-up services with participants placed in unsubsidized employment.

"(c)(1) Basic skills training authorized under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2)(A) Except as provided in subparagraph (B), job search assistance, job search skills training, job clubs, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(B) The program under this part may provide job search assistance, job search skills training and job club activities to a participant without the additional services described in subparagraph (A) only if—

"(i) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the Employment Service or other public agencies.

"(3) In each service delivery area the ratio of participants in on-the-job training assisted under this part in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

"(4) Needs-based payments authorized under this part shall be limited to payments necessary to participation in the program under this part in accordance with a locally developed formula or procedure.

"(5) Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after termination from the program.

"(6) Employment generating activities authorized under this part shall be limited to activities which directly result in the creation of jobs into which participants in the service delivery area are placed.

"(7) The service strategy developed pursuant to section 204 (a)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 205(a) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Rehabilitation Act of 1973;

"(4) the Wagner-Peyser Act;

"(5) part F of title IV of Social Security Act (JOBS);

"(6) the Food Stamp Act;

"(7) the National Apprenticeship Act;

"(8) the Stewart B. McKinney Homeless Assistance Act;

"(9) the United States Housing Act;

"(10) the Head Start Act (for purposes of child care services); and

"(11) part A of title IV of this Act.

"(b) In addition to the linkages required under subsection (a), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local educational agencies, local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development and social service programs.

"TRANSFER OF FUNDS

"SEC. 206(a) A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part B of this title if such transfer is—

"(1) based on economic or labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 118. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

Part B of title II of the Act is amended to read as follows:

"PART B—YOUTH OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 251. The purpose of the programs assisted under this part is to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems which impair their ability to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"ALLOTMENT

"SEC. 252. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(b) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amounts of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allotted under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted by the Secretary for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative concentration of economically disadvantaged youth within each service delivery area as compared to the total concentration of economically disadvantaged youth in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For the purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 is the percent of the funds allocated for youth programs (as determined by the Secretary) under title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged youth" means an individual who is aged 16 through 21 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level;

"(B) the term "concentration" means the number which represents the number of economically disadvantaged youth in excess of 10 percent of the youth population in the service delivery area; and

"(C) the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the armed forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"(d)(1) Of the remainder available for allotment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this Act; and

"(ii) may include the development of exemplary program activities and the conduct of evaluation and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allotted to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 202(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 253. (a) An individual who is in school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21 or, if provided in the job training plan, aged 14 through 21; and

"(2) economically disadvantaged, receives a free lunch under the National School Lunch Act, or participates in a compensatory education program under chapter 1 of the Elementary and Secondary Education Act of 1965.

"(b) Not less than 65 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) educational attainment that is one or more grade levels below the grade level appropriate to that individual's age;

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(c) An individual who is out of school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21; and

"(2) economically disadvantaged.

"(d) Not less than 65 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) school dropout (subject to the conditions described in section 254(d)(2));

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(e) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who do not meet the requirements of subsection (a)(2) or (c)(2) if such individuals experience one or more barriers to employment. Such barriers may include, but need not be limited to, the categories described in subsections (b) and (d), or categories such as limited English language proficiency, offenders, alcoholics, or drug addicts.

"(f)(1) Except as provided in paragraph (2), not less than 60 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(2)(A) The minimum percentage of participants in a service delivery area required to be out-of-school individuals pursuant to paragraph (1) may be reduced to a percentage that is not less than 40 percent if, in accordance with guidelines established by the Secretary—

"(i) a service delivery area conducting a program under this part submits a request to the Governor specifying an alternative percentage requirement and justifying the alternative requirement based on the characteristics of the youth population residing in the service delivery area, and

"(ii) the Governor approves the request submitted pursuant to clause (i).

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(g)(1) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals specified in subsection (d) if—

"(A) the service delivery area submits a request to the Governor identifying the additional categories of individuals and justifying the inclusion of such categories; and

"(B) the Governor approves the request submitted pursuant to subparagraph (A).

"(2) The Governor shall include a description of the requests approved pursuant to paragraph (1) in the Governor's Coordination and Special Services Plan.

"PROGRAM DESIGN

"SEC. 254. (a) The program under this part shall be conducted on a year-round basis.

"(b) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required where the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment), and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required where the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) Services which may be made available to youth with funds provided under this part may include, but need not be limited to—

"(1) the services described in section 204;

"(2) tutoring and study skills training;

"(3) alternative high schools jointly established or supported with educational agencies;

"(4) mentoring;

"(5) individual and group counseling;

"(6) drug and alcohol abuse counseling and referral;

"(7) services encouraging parental, spousal and other significant adult involvement in the participant's program;

"(8) limited internships in the private sector;

"(9) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(10) entry employment experience programs;

"(11) school-to-work transition services;

"(12) school-to-post secondary education transition services; and

"(13) school-to-apprenticeship transition services.

"(d)(1) In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) As a condition of participation in the program under this part, an individual who is under the age of 18 and a school dropout shall:

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) Pre-employment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase a participant's basic or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(5) Needs-based payments authorized under this part shall be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure.

"(6) Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after termination from the program.

"(7) The service strategy developed pursuant to section 254(b)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 255. (a) In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include but are not limited to—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth;

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV of this Act (the Job Corps);

"(2) parts A through D of chapter 1 of the Elementary and Secondary Education Act of 1965;

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(4) the Individuals with Disabilities Education Act;

"(5) the Wagner-Peyser Act;

"(6) part F of title IV of the Social Security Act (JOBS);

"(7) the Food Stamp Act;

"(8) the National Apprenticeship Act;

"(9) the Stewart B. McKinney Homeless Assistance Act; and

"(10) part A of title IV of this Act.

"(c) In addition to the linkages required under subsections (a) and (b), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"TRANSFER OF FUNDS

"SEC. 256. (a) A service delivery area may transfer up to 10 percent of the funds provided under the part to the program under A of this title if such transfer is—

"(1) based on economic and labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 119. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraph after paragraph (1):

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. 120. JOB CORPS.

Section 427(a)(2) of the Act is amended by—

(1) striking "10 percent" and inserting in lieu thereof "20 percent"; and

(2) adding at the end of paragraph (2) the following new sentence: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.".

SEC. 121. ESTABLISHMENT OF YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. It is the purpose of the Youth Opportunities Unlimited program to—

"(1) enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitate the coordination of comprehensive services to serve youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas.

"(b)(1) the Secretary may only award grants under this part to—

"(A) the service delivery area in which the target area is located, or

"(B) grantees designated under sections 401 and 402, or a consortium of such grantees and the State, when the target area is located in an Indian reservation, Native Alaskan village, or migrant worker community.

"(2) The Secretary may award not more than 25 grants during the first fiscal year the program is authorized.

"(c) Grants awarded under this part shall be for a 1-year period and are renewable for each of the two succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(d) In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target area.

"DEFINITIONS

"SEC. 493. For the purposes of this part—

"(1) The term 'participating community' means a city when referring to urban areas, a State when referring to rural areas, and to the section 401 or 402 grantee, or consortia of the State and section 401 or 402 grantee, when referring to Native American and migrant worker areas.

"(2) The term 'high poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan native village, with a poverty rate of 30 percent

or more as determined by the Bureau of the Census, or a migrant farmworker community.

"(3) Term 'target area' means a high poverty area or set of contiguous high poverty areas that will be the focus of the program in each participating community.

"APPLICATION

"SEC. 494. (a) Participating communities which have the highest concentrations of poverty, as determined by the Secretary based on the latest Census estimates, shall be eligible to apply for a Youth Opportunities Unlimited grant.

"(b) Each participating community desiring a grant under this part shall, through the individuals set forth in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Youth Opportunities Unlimited initiative designed to achieve identifiable goals for youth in the target area;

"(2) set forth measurable program goals, which may include increasing—

"(A) the proportion of youths completing high school,

"(B) the proportion of youths entering into community colleges or other advanced training programs, or

"(C) the proportion of youths placed in jobs;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 495 will be met;

"(5) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(6) include an estimate of the expected number of youth in the target area to be served;

"(7) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program; and

"(8) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school system,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"(c) The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the Governor of the State in which the participating community is located; or

"(2) the grantee designated under sections 401 or 402, or jointly by the grantee and the Governor of the State in which such grantee is located, in applications for Native American or migrant worker communities.

"GRANT AGREEMENT

"SEC. 495. Each grant recipient under this part shall enter into an agreement with the Secretary. Each such agreement shall—

"(1) designate a target area that will be the focus of the demonstration project and which shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/post-secondary education programs;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in post-secondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that funds received under this section will be used for services to youth ages 14 through 21;

"(4) contain assurances that the local educational agency and any other educational agency which operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area during the previous year.

"PAYMENTS; FEDERAL SHARE

"SEC. 496. (a) In any fiscal year, grants awarded under this part shall be for equal amounts, except that grants to grantees designated under sections 401 and 402 may vary in amount depending on the size of the target area. The Secretary shall pay to each grant recipient the Federal share of costs of the activities described in the application.

"(b) The Federal share for each fiscal year a grant recipient receives assistance under this Act shall be 50 percent.

"(c) Each grant recipient may provide not more than 25 percent of its share from Federal sources other than funds received pursuant to this part.

"REPORTING

"SEC. 497. The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

"FEDERAL RESPONSIBILITIES

"SEC. 498. (a) The Secretary shall provide assistance in the implementation of this project in participating communities.

"(b) The Secretary shall provide for a formal, rigorous, and independent evaluation of the Youth Opportunities Unlimited program to assess the outcomes for youth participating in such program. Evaluation measures may include—

(1) enrollment, retention, and completion rates;

"(2) high school graduation rates;

"(3) reductions in juvenile delinquency;

"(4) subsequent employment;

"(5) continued pursuit of advanced education and training;

"(6) admission into four-year colleges and universities; or

"(7) admission into the armed forces.

"(c) The Secretary shall prepare a report describing the results of the independent evaluation conducted pursuant to subsection (b).

"(d) The Secretary may reserve not more than 10 percent of the amount appropriated under this part in each fiscal year to carry out the provisions of this section.".

SEC. 122. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 101(a)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(b) Section 122(b)(2) of the Act is amended by striking "section 202(a)" and inserting "sections 203(c) and 253(c)".

(c) Section 123(a) of the Act (as redesignated by section 111 of this title) is amended by striking "section 202(b)(4)" and inserting "sections 202(d)(2)(A) and 252(d)(2)(A)".

(d) Section 141(k) of the Act is amended by striking "section 205(d)(3)(B)" and inserting "part B of title II".

(e) Section 161(b)(2) of the Act is amended by striking "through 455" and inserting "and 453".

(f) Section 161(c) of the Act is repealed.

(g) Section 172 of the Act is redesignated the second place it appears as section 173.

(h) Section 181 of the Act is repealed.

(i) Section 302(b)(2) of the Act is amended by striking "part B and this part" and inserting "part A".

(j) Section 311(b)(9) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(k) Section 312(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(l) Section 313(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(m) Section 314(b)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(n) section 317 of the Act is amended—

(1) by amending the section heading to read as follows: "FUNCTIONS OF THE STATE HUMAN RESOURCE INVESTMENT COUNCIL"; and

(2) by striking "State job training coordinating council" and inserting "State human resource investment council".

(o) Section 401(j) of the Act is amended by striking "3.3 percent of the amount available for part A of" and inserting "2.95 percent of the amount available for".

(p) Section 402(f) of the Act is amended by striking "3.2 percent of the amount available for part A of" and inserting "2.35 percent of the amount available for".

(q) Section 433(c)(1) of the Act is amended by striking "455" and inserting "453".

(r) Section 463(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(s) Section 464(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(t) Section 481(a) of the Act is amended by striking "(a)(1)" after "203".

(u) The table of contents of the Act is amended by—

(1) amending the item relating to section 122 to read as follows:

"Sec. 122. State human resource investment council.".

(2) striking the items relating to section 124 and redesignating the items relating to sections 125, 126, and 127 as sections 124, 125, and 126 respectively.

(3) striking the item relating to section 172 and inserting the following:

"Sec. 172. Presidential awards for outstanding private sector involvement in job training programs.
"Sec. 173. Construction.".

(4) striking the item relating to section 181;

(5) amending the items relating to title II to read as follows:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT OPPORTUNITY PROGRAM

"Sec. 201. Statement of Purpose.
"Sec. 202. Allotment.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.

"PART B—YOUTH OPPORTUNITY PROGRAM

"Sec. 251. Statement of purpose.
"Sec. 252. Allotment.
"Sec. 253. Eligibility of services.
"Sec. 254. Program design.
"Sec. 255. Linkages.
"Sec. 256. Transfer of funds.

(6) inserting after item relating to section 481 the following:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Definitions.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

SEC. 123. EFFECTIVE DATE: TRANSITION PROVISIONS.

(a) The amendments made by this title shall take effect on July 1, 1992.

(b) Performance standards shall be issued pursuant to the amendments contained in section 106 as soon as the Secretary determines sufficient data are available, but no later than July 1, 1994.

(c)(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act, as amended by this title.

(2) The guidance provided pursuant to paragraph (1), while continuing to maintain the integrity of the program, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

(B) ensure, to the extent practicable, that the documentation burden shall not discourage the participation of eligible individuals.

(3) The guidance described in paragraph (1) shall be provided not later than February 1, 1992.

(d) The Secretary shall evaluate the impact of programs under title II of the Job Training Partnership Act as amended by this Act on participant employment, earnings and welfare dependency in multiple sites using the random assignment of individuals to groups receiving services under title II and to groups not receiving such services.

(e) The Secretary may establish such rules and procedures as may be necessary to provide for an orderly transition to and implementation of the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

SEC 201. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCIL.

(a) Each State that receives assistance under an applicable program shall establish a single State human resource investment council (hereafter in this title referred to as the "State Council") to—

(1) review the provisions of services and the use of funds and resources under applicable programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the provisions of the applicable programs; and

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures.

(b) Each State council established as required by subsection (a) shall consist of the following members appointed by the Governor;

(1) 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State established under section 102 of the Job Training Partnership Act;

(2) 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State;

(3) 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program; and

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the State housing agency, the State rehabilitation agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veteran's affairs agency (or its equivalent), State career guidance and counseling organizations, the State unit which administers the State vocational rehabilitation program, and any other agencies the Governor determines to have a direct interest in the utilization of human resources within the State; and

(4) 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia:

(B) representatives of local educational agencies and postsecondary institutions, which appointments shall be equitably distributed between such agencies and such institutions and shall be made from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare and public housing agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) In order to carry out its functions under this Act and under any applicable program, the State council shall prepare a budget for itself and submit the budget to the Governor for approval.

(d) Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out it functions under this Act and under any applicable program.

(e) Each State shall certify to the Secretary of Labor the establishment and membership of the State council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) For the purposes of this title, the term "applicable program" means any program under any of the following provisions of law:

(1) The Adult Education Act;

(2) The Carl D. Perkins Vocational and Applied Technology Education Act;

(3) The Job Training Partnership Act;

(4) The Rehabilitation Act of 1973;

(5) The Wagner-Peyser Act;

(6) Part F of title IV of the Social Security Act (JOBS); and

(7) Section 6(d)(4) of the Food Stamp Act of 1977.

SEC. 202. DUTIES OF STATE COUNCIL WITH RESPECT TO APPLICABLE PROGRAMS.

(a) DUTIES UNDER THE ADULT EDUCATION ACT.—(1) Section 332 of the Adult Education Act (20 U.S.C. 1205a) is amended—

(A) by amending the section heading to read as follows:

"Sec. 332. Duties of the state human resource investment council with respect to adult education.";

(B) by amending subsection (a) to read as follows:

"(a)(1) Any State desiring to participate in the programs authorized by this title shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State advisory council on adult education.

"(2) A State that complies with the requirements of paragraph (1) may use funds under this subpart for the purposes of costs of the council attributable to this section.";

(C) by striking subsection (b);

(D) by redesignating subsection (c) as subsection (b);

(E) in subsection (b) (as redesignated by subparagraph (D) of this paragraph)—

(i) by striking "and membership"; and

(ii) by striking "State advisory council" and inserting "State human resource investment council";

(F) by striking subsections (d) and (e);

(G) by redesignating subsection (f) as subsection (c); and

(H) in subsection (c) (as redesignated by subparagraph (G) of this paragraph), by striking "State advisory council" and inserting "State human resource investment council".

(2)(A) Paragraph (2) of section 331(a) of the Adult Education Act (20 U.S.C. 1205(a)) is amended by striking "the State advisory council established pursuant to section 332"

and inserting "the State human resource investment council".

(B) Subsection (a) of section 342 of the Adult Education Act (20 U.S. 1206a) is amended—

(i) in paragraph (1), by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(ii) in subparagraph (B) of paragraph (3),—

(I) in the first sentence, by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(II) in the second and third sentences, by striking "the State advisory council" each place it appears and inserting "the State human resource investment council".

(C) Section 312 of the Adult Education Act (20 U.S.C. 1201a) is amended by adding at the end the following new paragraph:

"(16) The term 'State human resource investment council' means the State human resource investment council described in section 332(a).".

(b) DUTIES UNDER THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Section 112 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2322) is amended—

(A) by amending the section heading to read as follows:

"Sec. 112. Duties of the state human resource investment council with respect to vocational education."

(B) by striking "SEC. 112.";

(C) by amending subsection (a) to read as follows:

"(a) Each state which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as the State council on vocational education.";

(D) in subsection (b)—

(i) by striking "and membership", and

(ii) by striking "State council" and inserting "State human resource investment council";

(E) by striking subsection (c);

(F) by redesignating subsections (d), (e) and (f), as subsections (c), (d), and (e), respectively;

(G) in subsection (c) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council,"; and

(ii) in subparagraph (B) of paragraph (9), by striking "the State job training coordinating council,";

(H) in subsection (d) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council"; and

(ii) by striking "Council" and inserting "council"; and

(I) in subsection (e) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1), by striking State councils" each place it appears and inserting "State human resource investment councils"; and

(ii) in paragraphs (1) and (2), by striking "State council" each place it appears and inserting "State human resource investment council".

(2) Section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act is amended—

(A) in paragraph (1) of subsection (a)—

(i) in subparagraph (B) by striking "State council on vocational education" and inserting "State human resource investment council"; and

(ii) in subparagraph (C), by striking "State council established pursuant to section 112" and inserting "State human resource investment council";

(iii) in subparagraph (D), striking "; and" and inserting a semicolon;

(iv) in subparagraph (E)—

(I) by striking "the State job training coordinating council" and inserting "the State human resource investment council"; and

(II) by striking "their respective programs" and inserting "programs under this Act and programs under the Job Training Partnership Act"; and

(B) in the first sentence of subsection (d), by striking "State council" and inserting "State human resource investment council"; and

(3) The table of contents contained in section 1 of the Act is amended by striking the item relating to section 112 and inserting the following:

"Sec. 112. Duties of the State human resource investment council with respect to vocational education.

(c) DUTIES UNDER THE REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended by inserting after section 18 the following new section:

"STATE HUMAN RESOURCE INVESTMENT COUNCIL

"SEC. 19. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Wagner-Peyser Act;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977."

(d) DUTIES UNDER THE WAGNER-PEYSER ACT.—The Wagner-Peyser Act (29 U.S.C. 49) is amended—

(1) by redesignating section 15 as section 16; and

(2) by inserting after section 14 the following new section:

"SEC. 15. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(3) in subsection (b) of section 8 by striking "State job training coordinating council" and inserting "State human resource investment council";

(4) in subsection (a) of section 11 by striking "State job training coordinating council" and inserting "State human resource investment council".

(e) DUTIES UNDER PART F OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 483 of the Social Security Act (42 U.S.C. 683) is amended by:

(1) inserting after subsection (c) the following new subsection:

"(d) In order to assist the Governor in carrying out subsection (a) of this section, the State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this part and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(2) in paragraphs (2) and (3) of subsection (a) by striking "State job training coordinating council" each place it appears and inserting "State human resource investment council".

(f) DUTIES UNDER SECTION 6(d)(4) OF THE FOOD STAMP ACT OF 1977.—Section 6(d)(4) of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subparagraph:

"(O) The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this paragraph and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Part F of title IV of the Social Security Act (JOBS).".

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall take effect July 1, 1992.

U.S. DEPARTMENT OF LABOR,
Washington, DC, May 22, 1991.

Hon. DAN QUAYLE,
President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I enclose for the consideration of the Congress a draft bill entitled the "Job Training Partnership Act Amendments of 1991." These amendments would revise the Job Training Partnership Act (JTPA) to improve the targeting of JTPA programs to those facing serious barriers to employment, enhance the quality of services provided, promote coordination of human resource programs serving the disadvantaged, and strengthen fiscal and program accountability.

Our nation faces important new challenges. An intensely competitive international economy requires that our labor force have improved skills that are adaptable to an increasingly technical workplace.

At the same time, demographic changes are altering the composition of our labor force. The convergence of these trends requires that we reach out to ensure that all our citizens, including the disadvantaged who have often been left behind, have the skills and opportunities to contribute to our nation's economic growth and prosperity.

I believe JTPA can continue to play an important role in enhancing the skills of our labor force. JTPA has been an extremely successful program. Its record in placing participants in jobs is unparalleled. These amendments are intended to improve the program by better focusing its resources on those in substantial need and enhancing the quality of services to promote job placement, retention, and long-term employability.

In 1989 the Administration submitted a similar proposal to amend JTPA. Versions of this proposal passed the House and Senate by overwhelming margins in the closing days of the 101st Congress. The Congress, however, adjourned without completing action on this important legislation.

This proposal incorporates several basic principles. First, the proposal maintains the successful cornerstones of JTPA. The highly successful private-public partnership continues, with the Private Industry Councils responsible for the planning and oversight of programs. The system of performance standards also remains an integral part of the revised program.

Second, the proposal improves the targeting of the program on those in substantial need. Targeting is improved by revising the eligibility criteria to help ensure that JTPA serves those with particularly significant barriers to employment. Such barriers include, in addition to economic disadvantage, a lack of basic skills, welfare dependency, and dropping out of school. Targeting is also promoted by revision of the funding formulas to redirect funds to areas with greater numbers and concentrations of the disadvantaged population.

In addition, targeting is enhanced by the new Youth Opportunities Unlimited (YOU) program. This program would target areas with high concentrations of poverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. YOU would provide incentives for localities to coordinate programs and would provide as set of activities that would promote long-term employability of youth. The proposal would authorize $25 million for this new program in each of fiscal years 1992 through 1994.

Third, the amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant would have an assessment to determine their skill levels, interests, and needs. Service strategies would be developed on the basis of the assessments. These strategies would include achievement objectives for participants to clarify expectations and promote accountability. The programs would make available appropriate sets of services with an emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, performance standards for the programs would be revised to include basic skills and employment competencies standards to complement the current employment standards and promote long-term employability, job placement and retention.

Fourth, the amendments would promote the coordination of human resource policy and programs. Coordination is encouraged within the revised adult and youth programs by establishing specific requirements for linkages with other programs and entities that would avoid duplication and enhance the delivery of services. In addition, the Act would revise the State Education Coordination Grant program to focus on two areas of critical need: school-to-work transition and adult literacy and lifelong learning. The amendments also provide for establishing a human resource investment council in each State to advise the Governor on methods of coordinating certain federally-assisted human resource programs.

Finally, the amendments incorporate significant changes to strengthen program accountability. These include provisions requiring the Governors to establish and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse. The provisions would also ensure that compliance with the standards is closely monitored and that where problems arise, corrective action is promptly taken or appropriate sanctions are applied. Other provisions, such as those requiring the charging of expenditures to appropriate cost categories and restricting the use of program income, also promote fiscal integrity.

In sum, these amendments provide an important opportunity to make an effective program responsive to demographic trends and the needs of the labor market of the 1990s. Enactment of these amendments would make a significant contribution to enhancing the opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

I urge the Congress to give the draft bill prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LYNN MARTIN.

STATEMENT IN EXPLANATION OF THE JOB TRAINING PARTNERSHIP ACT AMENDMENT OF 1991

The Job Training Partnership Act Amendments of 1991 would amend the Job Training Partnership Act (JTPA) to improve the targeting of programs to those facing serious barriers to employment, enhance the quality of services provided, strengthen fiscal and program accountability, and promote the coordination of programs and resources to more effectively provide job training and placement to the disadvantaged.

While JTPA has been an extremely successful employment and training program, these amendments are intended to enhance the program by better focusing its resources to those in substantial need and serving them in a manner that will promote job placement, retention, and long-term employability.

The amendments would improve targeting by revising eligibility requirements to help ensure that those with particularly significant barriers to employment are served. These barriers include a lack of basic skills, welfare dependency, homelessness, disabilities, and lack of a high school (or equivalent) diploma.

Targeting also is enhanced by revision of the funding allocation formula. Separate formulas for the youth and adult programs would be established and the formulas would direct more funds to areas with greater numbers and concentrations of the disadvantaged population.

Finally, the amendments would promote targeting by the establishment of the new Youth Opportunities Unlimited Program. This program would target areas with high concentrations of proverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. The program would provide incentives for localities to coordinate service programs and would provide a set of activities that would promote long-term employability of youth.

The amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant in the new programs would have an assessment to determine their skill levels and service needs. Service strategies would be developed on the basis of the assessments to address participant needs. These strategies would include achievement objectives for participants to clarify expectations and improve accountability. The programs would make available appropriate sets of services with an increased emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, the authority for performance standards for the programs would be revised to include basic skills and employment competency standards to complement the current employment standards and promote long-term employability, job placement, and retention.

The amendments would also promote the coordination of human resource policies and programs. Coordination is promoted within the revised adult and youth programs by the establishment of specific requirements for linkages with other programs and enhancing the employment opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides that this Act is entitled the "Job Training Partnership Act Amendments of 1991."

Section 2 contains the table of contents.

Title I of the bill contains the amendments to JTPA.

Section 101 amends section 2 of JTPA to revise the statement of purpose of the Act. The revision is intended to clarify the intended objectives of the programs provided under JTPA. The revision states that the purpose of JTPA is to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, improved educational and occupational skills, and decreased welfare dependency.

Section 102 amends section 3(a) of JTPA to authorize appropriations for JTPA programs through FY 1997. Currently, JTPA has a permanent authorization. The limited authorization is intended to ensure that the legislation will receive periodic review by the Congress and the Administration.

Section 102 also amends section 3(a) of JTPA to authorize appropriations for the new Youth Opportunities Unlimited program that is added to title IV of JTPA by this bill. The authorization is for $25 million for each of fiscal years 1992 through 1994.

Section 103 amends section 4 of JTPA with respect to definitions. This section of the bill adds the term "basic skills deficient" to the definitions section. The term is defined as reading or computing skills at or below the 8th grade level on a generally accepted standardized test or equivalent score on a

criterion referenced test. This definition is consistent with the definition of the term used in programs under the Adult Education Act and provides a benchmark of a skill level at or below which individuals are likely to experience difficulties in obtaining long-term employment. The term is defined because basic skills deficient is a criterion for eligibility in the new title II programs established by this bill.

The definition of community-based organization is amended to include organizations serving older workers.

The definition of supportive services is amended to include drug and alcohol abuse counseling and referral, and individual and family counseling. These additional services provide important support to many participants to enable them to successfully complete JTPA programs.

The definition of a displaced homemaker is revised to conform to the definition of the term in the recently-enacted Displaced Homemakers Self-Sufficiency Act (P.L. 101-554).

The term "educational agency" is added to the definitions section. The term includes, in addition to the institutions covered by the current definitions of State and local educational agencies, alternative schools and post-secondary institutions. This broader term is needed to include the expanded range of educational institutions that are expected to play an important role in some of the new title II programs.

The terms "participant" and "termination" are included in this section to clarify and establish a uniform definition of these terms for purposes of JTPA.

Finally, the term "school dropout" is added to this section since it would be a criterion for eligibility in the new programs. The definition is based on the definition of this term that is currently contained in section 203(b)(3) of JTPA.

Section 104 amends section 102(a) of JTPA by including representatives of local welfare agencies on the Private Industry Councils (PICs). PICs have a central role in providing policy guidance and exercising oversight of the activities conducted under JTPA. Since a significant proportion of JTPA participants are welfare recipients, it is important that local welfare agencies be added to the PICs. Greater involvement of local welfare agencies would promote closer coordination between JTPA and the Job Opportunities and Basic Skills Training (JOBS) program.

Section 105 amends section 104 of JTPA with respect to the elements included in each service delivery area's job training plan for title II programs. This section reorders the elements contained in current law to group related requirements together and adds some new elements. The new elements include, in section 104(b)(4), a description of the linkages established by the service delivery area with other appropriate agencies and organizations to avoid duplication and enhance the delivery of services under title II programs. Specifically, the plan is to describe such linkages as agreements with educational agencies, arrangements with other federal programs providing education, training and employment services, and efforts to coordinate services with local agencies and organizations. Another new element, contained in section 104(b)(8), includes a description of the assessment process that will identify each participant's skill levels and service needs, the PIC-established competency levels to be achieved by participants as a result of program participation, and the procedures to be used for evaluating the progress of participants in achieving competencies. The items to be described are new elements that would be added to title II programs by this bill.

Section 106 amends section 106 of JTPA to revise the requirements for performance standards. This section would add a provision to current law to provide that the Secretary consult with the Secretaries of HHS and Education in prescribing standards for title II programs.

With respect to the performance standards for the adult program, changes to current law include adding as a basic measure of performance the acquisition of basic and occupational skills. This addition reflects the increased emphasis in the new program on the development of basic skills as a measure of long-term employability. It is intended that this factor would complement the primary adult performance standards of employment and earnings. Therefore, credit for the acquisition of skills is only to be provided where a participant also obtains one of the primary outcomes.

This section adds a new paragraph to the performance standards section providing that the levels for competency standards are to be determined by the PIC, in consultation with educational agencies and private sector employers, and based on such factors as entry skill levels and other hiring requirements.

Another addition is a provision, which replaces section 202(b)(3) of current law, that each Governor is to award incentive funds to service delivery areas (SDAs) for achieving the performance standards for title II programs. Under this amendment, the award is not to take into consideration cost standards and is to include the standards established by the Secretary and the Governor and may also include other factors designated by the Governor, such as the extent to which target groups are served successfully, the quality of services, and the extent of coordination with other programs.

Section 107 would amend section 107 of JTPA by adding a new subsection to provide that the selection of service providers be made on a competitive basis to the extent practicable. The subsection also adds that, in selecting service providers, the entity administering the job training plan is to consider the ability of potential providers in meeting program design requirements and accomplishing the goals contained in the Governor's Coordination and Special Services Plan. Finally, the subsection requires documentation of compliance with procurement standards established by the Governor. These measures are intended to improve accountability in the selection process.

Section 108 amends section 108(a) of JTPA to require, with a limited exception, that all expenditures under the Act be charged to appropriate cost categories. This amendment would promote increased accountability.

Section 108(b) is amended to establish new cost categories and cost limitations for programs under title II. All funds expended under parts A and B of title II would have to be charged to one of three cost categories: administration, training-related and supportive services, or direct training services. The Secretary is directed to define each of these categories by regulation.

Not more than 20 percent of the funds available to a service delivery area for any fiscal year are to be for administrative expenses. The increase in the administrative cost limit from 15 to 20 percent is in consideration of the additional administrative expenses that will be incurred due to the need to coordinate additional services for a more at-risk clientele, and the imposition of more stringent requirements to protect the fiscal integrity of the program.

Not less than 50 percent of the funds available to a service delivery area must be spent on direct training services. This requirement is intended to ensure that the focus of the program is on direct job training that will enhance long-term employability.

Section 109 amends section 121(b) of JTPA to require that some additional elements be included in the Governor's Coordination and Special Services Plan. One new element would be a description of measures taken by the State to facilitate coordination and avoid duplication between JTPA programs and JOBS in the delivery of services. Another new element would be a description of the State's efforts to build the capacity of the job training system, including the Governor's plans for technical assistance arrangements and, where appropriate, research and demonstration projects.

Section 110 would amend section 122 of JTPA to redesignate the State job training coordinating council (SJTCC) as the State human resource investment council. This council, which is established under title II of these amendments, would have the same responsibilities with respect to JTPA as the current SJTCC. The council is intended to facilitate improved statewide coordination of certain federally-assisted human resource programs, and its broader functions are described in the explanation of title II.

Section 111 amends section 123 of JTPA to revise the State Education Coordination Grant program. Under the revised program, funds provided under this section are to be used by the Governor to provide financial assistance to State education agencies to: provide school-to-work transition programs that will increase the rate of graduation from high school, including the rate at which dropouts return to school and graduate; provide adult literacy and lifelong learning opportunities that will enhance the knowledge and skills of educationally and economically disadvantaged individuals and increase their employment and earnings; and facilitate coordination of services to participants in such programs.

As in current law, activities are to be conducted pursuant to agreements between the State education agency and SDAs, and other agencies such as State and local agencies, and alternative service providers. The agreements are to provide for matching funds on a one-to-one basis.

The revised section would provide that the Governor describe, in the GCSSP, the programs to be carried out. The Governor is to describe the goals to be achieved and services to be provided by school-to-work transition programs, including: activities and services that will result in increasing the number of youth graduating from high school; the work-based curriculum that will link classroom learning to worksite experience and address practical and theoretical aspects of work; the opportunities that will be available for participants to obtain career-path employment and postsecondary education; and integration of service delivery that will be achieved between State and local education agencies and alternative service providers (such as CBOs); and the linkages that will be established with other Federal education programs to enhance the delivery of services.

The GCSSP is also to contain a description of the goals to be achieved and services to be provided by the adult literacy and lifelong

learning program, which, at a minimum, is to include: the activities and services that will increase the knowledge and skills of participants and result in increasing their employment and earnings; the integration to be achieved between these programs and the four-year State plan developed under section 342 of the Adult Education Act; the variety of settings in which services will be provided, including the workplace; and the linkages that will be established with other Federal education and training programs.

Services provided under these programs may include education and training, vocational education, and JTPA title II services. Services may also be targeted to groups whom the Governor determines require special assistance, such as offenders and veterans.

Not more than 20 percent of the funds expended may be spent on coordination of services, and not less than 80 percent is to be used to carry out the school-to-work transition and adult learning activities. As in current law, not less than 75 percent of the funds expended for participant services is to be used for economically disadvantaged individuals.

If the State education agency is unable to reach agreement with the SDAs and other agencies to carry out these programs, the Governor is to award the funds to SDAs as part of the incentive grants for exceeding performance standards as described in the new section 106(b)(7).

Finally, the revised section authorizes the Secretary to establish reporting and recordkeeping requirements.

These revisions are intended to increase the impact of the State Education Coordination Grant program by focusing on two areas of critical need: school-to-work transition and adult literacy and learning. The revisions would enhance the quality of programs conducted under this section and promote coordination at the State level through inclusion of the program in the GCSSP.

Section 112 repeals section 124 of JTPA, which provides for training programs for older individuals. The older worker program is eliminated because the needs of such workers would better be addressed through the revised adult program under title II, which includes a new requirement that 5 percent of each service delivery area's funds be spent on persons age 55 and over.

Section 113 amends section 141 of JTPA relating to general program requirements. The bill amends section 141(d)(3) to add a new subparagraph which states that a breakdown of cost does not have to be performed for tuition charges for training and education provided by postsecondary education institutions and colleges if such charges do not exceed the charges made available to the general public. This provision, and the current law provision that no breakdown is required where commercially available training packages are available for off-the-shelf prices, are the only situations under title II where expenditures would not have to be charged among the categories provided in section 108.

This section also amends section 141(g) of JTPA to provide that on-the-job training authorized under the Act be limited in duration to a period generally required to develop the particular occupational skill, but in no event is to exceed 6 months. In determining the appropriate period, consideration is to be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the training, the participant's prior work experience, and the participant's service strategy. In addition, the section specifies the procedures which must be used when a brokering contractor is used for on-the-job training placements.

This section amends section 141(m) to clarify that net income earned by a public or private nonprofit entity from a JTPA program may only be retained if it is used to continue to carry out the program, and adds that, as under current law, such use is permitted even if financial assistance for the program has expired. This amendment also provides a definition of income and requires that each entity maintain records sufficient to determine the amount of income received and how such income is expended.

Finally, this section also makes applicable to JTPA programs the general Federal guidelines relating to the title, use and disposition of real property, equipment and supplies.

Section 114 amends section 142 of JTPA to provide that the minimum compensation payable to JTPA trainees in Puerto Rico and American Samoa shall be the minimum wage rates under the Fair Labor Standards Act generally applicable to these jurisdictions, rather than the higher "mainland rate". This would address the anomalous situation created by current law where JTPA trainees must be paid a higher wage than the minimum wage protection generally afforded to workers in these jurisdictions.

Section 115 amends section 164(a) to require the Governor to establish such fiscal control and fund accounting procedures as are necessary to assure the disbursal of, and accounting for, Federal JTPA funds. Such procedures must be consistent with the Generally Accepted Accounting Principles applicable in each State.

The section revises the procurement standards under JTPA. This amendment would require the Governor to establish certain minimum standards for JTPA programs to improve fiscal accountability. The standards prescribed by the Governor are to ensure that procurements are competitive to the extent practicable, and are in accordance with written procedures for procurement transactions. In addition, the standards are to ensure that all procurements include an analysis of the reasonableness of costs and prices, that all deliverables and the basis for payment are specified in the contract, and that there is no conflict of interest in the selection, award or administration of a contract or grant. The standards also must ensure that procurements do not provide excess program income for nonprofit or governmental entities, or excess profit for private for-profit entities. Recipients are to conduct oversight to ensure compliance with procurement standards.

The section requires that Governors annually conduct on-site monitoring of each service delivery area and substate area to ensure compliance with the procurement standards. If the Governor determines that an area is not in compliance with the procurement standards, the Governor must require corrective action or impose specified sanctions if corrective action is not taken.

The procurement standards established by the Governor must be submitted to the Secretary, and the Governor must biennially certify to the Secretary that the standards meet the Act's requirements that the State has monitored service delivery areas and substate areas to ensure compliance with the procurement standards, and that the State has taken appropriate action in instances of noncompliance with the standards. If the Governor does not fulfill the specified requirements, the Secretary must require corrective action or impose sanctions.

Finally, this section revises the current law provision that provides that the Governor may revoke approval of part or all of the job training plan where there is substantial violation of a specific provision of the Act or regulations and no corrective action has been taken. The revision would provide that, unless corrective action is taken, the Governor must either revoke approval of part or all of the plan or impose a reorganization plan, which may include restructuring the PIC, prohibiting the use of a designated service provider, selecting an alternate administrative entity, or other appropriate changes. This revision would improve the effectiveness of the sanctions available to ensure compliance with the requirements of JTPA programs.

Section 116 amends section 165(a) of JTPA to require that JTPA fund recipients maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample. This requirement is necessary for the preparation of national programmatic and financial data. This section amends section 165(c) of JTPA to further enhance accountability by adding a requirement that States, administrative entities conducting the program, and recipients (other than sub-recipients) monitor the performance of service providers in complying with the terms of agreements made pursuant to JTPA. This section also requires the retention of records at each administrative level of a minimum of three years following the expiration of the grant.

Section 117 amends part A of title II of JTPA to establish the new Adult Opportunity Program.

Section 201 of JTPA is amended to state that the purpose of the adult program is to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

Section 202 of JTPA is amended to provide a new formula for the allotment of funds under the adult program. The current formula under title II-A does not sufficiently target resources to the eligible economically disadvantaged adult population. Under the current formula, two-thirds of the funds are allotted based on the share of unemployment in an area rather than on the extent or concentration of the economically disadvantaged population in that area. The result has been that local SDAs may not receive funds in proportion to their share of the eligible population. In addition, because unemployment rates can fluctuate, the allotments have been subject to large annual variations which have hampered the local PICs' ability to engage in long-term planning or to build strong service delivery capacity. This bill revises the formula to improve targeting of the eligible population, promote equitable funding of SDAs which have the same number of the disadvantaged, and stabilize funding to enhance local planning.

Subsection (a) of the amended section 202 of JTPA retains a small percentage of funds for certain areas, including the U.S. territories.

Section 202(b) is amended to require the Secretary to reserve 5 percent of the remaining funds for the State Education Coordination Grant program.

Section 202(c) provides that after determining the amounts allotted under subsections (a) and (b), 89 percent of the remain-

der is to be allotted by the Secretary to the States for allocation to SDAs. The amount of each SDA allocation would be determined by the Secretary in accordance with the following formula: 45 percent would be allotted on the basis of the relative number of unemployed individuals in each SDA as compared to the number of such individuals in *all* SDAs; 30 percent would be allotted on the basis of the relative number of economically disadvantaged adults in each SDA; and 25 percent is to be allotted on the basis of the relative concentration of economically disadvantaged adults in each SDA.

A significant feature of this formula is that it is based on relative numbers of eligible individuals among all SDAs in the country rather than among SDAs within States or among States. This approach ensures that SDAs with the same number of eligible adults received equal allotments and that funding does not vary simply because the SDAs are located in different States.

This section also includes provisions that no SDA will receive less than 90 percent or more than 130 percent of its previous fiscal year's allotment percentage. These provisions promote funding stability and enable improved planning of programs. This section also includes a provision, to protect small States, that no State will receive less than one quarter of one percent of the total allotment.

Section 202(d) is amended to provide for the allotment to the States of the remaining 11 percent of the funds available for distribution by the Secretary to carry out certain purposes. Five-elevenths of the remainder is to be allotted to the States to carry out administrative activities, the Governor's coordination plan, and for the State council (this is consistent with the 5 percent set-aside for such activities under the current II-A formula); three-elevenths is to be allotted for developing the overall job training system capabilities within the State, including training to service delivery area staff; and three-elevenths is to be allotted for incentive grants authorized under the performance standards section. Under the current title II-A formula, there is a State set-aside for performance incentive grants to SDAs and unused grant funds may be used by the Governor for technical assistance to SDAs. These amendments would provide separate set-asides for these two functions. The Secretary is to allot these funds based on the relative amount of funds available to SDAs within the State as compared to the total amount of funds available to all SDAs in all States. There is a proviso that the allotment to the States for administration is to be adjusted to ensure that no State receives less than $450,000 under this title to carry out administrative activities.

Section 203 is amended to provide the new eligibility requirements for the adult program. Section 203(a) provides as general eligibility requirements that an individual must be 22 years of age or older and economically disadvantaged. Section 203(b) provides that at least 65 percent of the participants in each SDA, in addition to meeting the general eligibility requirements, must also be included in one or more of the following categories: basic skills deficient; school dropouts; AFDC recipients in a target group under the JOBS program or who have received an employability plan under JOBS; unemployed for the previous 6 months or longer; individuals with disabilities; homeless; or a category established by the service delivery area in accordance with guidelines promulgated by the Secretary. The additional category must be approved by the Governor and described in the Governor's Coordination and Special Services Plan. The categories specified in this subsection are intended to identify individuals who are likely to need assistance to enhance their employability and who would realize long-term benefits from JTPA services.

Section 203(c) retains the current "window" that allows 10 percent of the participants to be individuals who are not economically disadvantaged if such individuals experience other barriers to employment.

Section 203(d) requires that service delivery areas make special efforts to serve eligible individuals who are 55 years of age or older and spend not less than 5 percent of their funds on such individuals. If an SDA does not spend 5 percent of its funds on eligible individuals who are 55 years or older in any program year, funds are to be recaptured by the Governor for reallotment to other SDAs to provide services to such individuals. The subsection also requires that the State human resource investment council and SDA make special efforts to coordinate the delivery of JTPA services to those age 55 and over with services under title V of the Older Americans Act (the Senior Community Service Employment Program). Finally, the subsection requires SDAs, in selecting service providers to serve older individuals, to give priority to those national, State, and local agencies and organizations that have demonstrated effectiveness in providing training and employment services to older individuals.

Section 204 is amended to establish the program design for the new adult program.

Section 204(a) provides certain features that are to be included in all adult programs under part A. First, the program is to include an assessment of each participant's skills, interests, and service needs. A new assessment is not required if the program determines it is appropriate to use a recent assessment conducted by another program. Second, the program is to develop service strategies that identify the employment goal, achievement objectives and the services to be provided to participants, taking into account the assessment. Third, the program is to review each participant's progress in meeting the objectives of the service strategy. Fourth, where the assessment of a participant and service strategy indicates it is appropriate, the program is to make available basic and occupational skills training. These elements are essential to ensure that the services provided address problems that would hamper the long-term employability of participants. It should, however, be noted that the service strategy is not intended to be a contract and these provisions do not create an entitlement for participants.

Section 204(b) provides a list of services which may be provided under the adult program. The list is divided into the categories of direct training services and training-related and supportive services to clarify how expenditures for such services would be charged under the cost limitation requirements contained in section 108 of JTPA. The 28 services listed are not intended to be exhaustive, but suggest the kinds of services that may enhance the development of skills and employability of adult participants. Most of these services are included under current law. The list includes various training activities, such as on-the-job training, programs combining workplace training and classroom instruction, and such training-related services as job search skills training and placement assistance, and counseling, and supportive services.

Section 204(c) imposes limitations on some of the services authorized under this part. Basic skills training is, where appropriate, to have a workplace context and be integrated with occupational skills training. The provision of job search, job search skills training, job clubs, and work experience are to be accompanied by other services designed to increase a participant's basic education or occupational skills. There is an exception to this limitation whereby job search assistance, job search skills training and job club activities may be provided as "stand-alone" services if the assessment and service strategy indicates that no additional services are appropriate *and* the activities are not available through the Employment Service or other public agencies. Needs-based payments, as under current law, are to be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure. Counseling and supportive services are authorized to be provided for a period of up to one year after program completion. This allows provision of these important follow-up services that are often needed to ensure a participant's effective transition to employment. However, it is expected that employers would quickly assume the responsibility for employment-related counseling. This subsection would also limit the use of funds for employment generating activities to activities that directly result in the creation of jobs for participants in the program. Finally, service delivery areas are to make volunteer opportunities available to successful JTPA alumni to provide mentoring and other such services to participants.

Section 205 is amended to provide the linkages that are to be established in conducting the adult program. Linkages with other programs and entities will enhance the range, quality, and effectiveness of services provided under the program and is therefore an essential component. This section identifies some of the most important programs and activities. Section 205(a) is amended to provide that linkages are to be established, where feasible, with other Federal programs. The listed programs include programs under the Adult Education Act, the Perkins Vocational Education and Applied Technology Act, and JOBS.

Section 205(b) is amended to provide that additional linkages are to be established that would enhance the provision of services with such entities as State and local educational agencies; community, business and labor organizations; and volunteer groups.

Section 206 would allow a service delivery area to transfer up to 10 percent of the funds available for adult programs to the youth program under part B if certain conditions are met. Those conditions are that the transfer is based on economic and labor market conditions specified by the Secretary in regulations to be sufficient to warrant a transfer, that the transfer is described in the job training plan, and that the transfer is approved by the Governor. Such transfers are also to be described in the GCSSP. It is not intended that such transfers occur except in unusual economic circumstances.

Section 118 amends part B of title II of JTPA to establish the new Youth Opportunity Program.

Section 251 of JTPA is amended to revise the purposes of the youth program. The purposes include improving the long-term employability of youth, enhancing their educational and occupational skills, encouraging school completion or enrollment in alternative school programs, increasing the em-

ployment and earnings of youth, reducing welfare dependency, and assisting youth in addressing problems which impair their ability to make successful transitions from school to employment or advanced education or training programs.

Section 252 is amended to revise the allotment formula to improve the targeting of resources to eligible economically disadvantaged youth. Since the current II-B formula is the same as the current II-A formula, it shares the problems described in the explanation of the amended section 202. Those problems include lack of sufficient weight to the number of disadvantaged youth residing in an SDA and instability in funding due to reliance on unemployment rates.

The revised funding formula for the youth program is similar to the revised adult formula. There is a set-aside for certain areas, including U.S. territories, and a five percent set-aside for the State Education Coordination Grant program. Of the remainder, 89 percent is allotted to SDAs, with 33⅓ percent allotted on the basis of the relative number of unemployed individuals in each SDA, 33⅓ percent allotted on the basis of the relative number of economically disadvantaged youth within each SDA as compared to the total number of such youth in all SDAs, and 33⅓ percent allotted on the basis of the relative concentration of economically disadvantaged youth in each SDA. This formula improves targeting on SDAs with the greatest need.

This section also includes a 90 percent "hold harmless" and, a 130 percent "stop gain" provision to ensure funding stability and improve local planning. It also includes a minimum total allotment which protects small States. For purposes of this section the Secretary is to exclude, where feasible, college students and members of the armed forces from determinations of the number of economically disadvantaged youth and the size of the youth population in each SDA.

The remaining 11 percent of the funds are to be allocated among the States in the same manner and for the same purposes as the adult formula (i.e., five-elevenths for administration, three-elevenths for capacity building, for performance incentives.)

Section 253 is amended to provide new eligibility requirements. Section 253(a) is amended to provide the requirements for in-school youth. An individual who is in school is eligible if first, such individual is aged 16 through 21 or, if provided in the job training plan, 14 through 21; and second, such individual is economically disadvantaged, is receiving a free lunch under the National School Lunch Act, or participates in a Chapter 1 compensatory education program.

Section 253(b) provides that not less than 65 percent of in-school participants must be individuals who, in addition to meeting the first two requirements, are included in one or more of the following categories: basic skills deficient, educational attainment more than one grade level below the level appropriate for the individual's age, pregnant or parenting (including fathers), individual with disabilities (including a learning disability), homeless, or a category established by the SDA that is in accordance with guidelines promulgated by the Secretary and approved by the Governor.

Under the amended section 253(c), individuals who are out of school are eligible for the youth program if they are aged 16 through 21 and economically disadvantaged. Section 253(d) provides that not less than 65 percent of out-of-school participants must, in addition to meeting the first two requirements, be either basic skills deficient, a school dropout, pregnant or parenting, disabled, homeless, or meet a category established by the SDA. Section 253(e) provides that not more than 10 percent of youth who participate in the program may be individuals who are not economically disadvantaged if they face other serious barriers to employment.

Section 253(f) provides that at least 60 percent of the participants in the youth program in each SDA must be out-of-school youth who meet the requirements of subsections (c), (d) or (e). However, this minimum percentage may be reduced to a lower minimum requirement (not less than 40 percent) if the Governor approves a request submitted by an SDA which specifies an alternative requirement and justifies the alternative based on characteristics of the youth population in the SDA. This is intended to be a limited exception appropriate to circumstances, such as an exceptionally low dropout rate, which results in a lower proportion of out-of-school youth who could benefit from the program in an SDA.

Section 254 is amended to provide the design for the youth program. Section 254(a) provides that the youth program is to be conducted on a year-round basis.

Section 254(b) is amended to provide that the program includes an assessment of each participant's skill levels and service needs, development of service strategies which identify achievement objectives, appropriate employment goals and services to be provided, and a review of each participant's progress in meeting the objectives of the service strategy.

Where the assessment and the service strategy indicate such services are appropriate, the youth program is to make available to participants the following services: basic skills training, occupational skills training, pre-employment and work maturity skills training, work experience combined with skills training, and supportive services. As indicated above with respect to the adult program, the service strategy is not to be considered a contract and these provisions do not create an entitlement for participants.

Section 254(c) is amended to provide a list of services which may be provided under the program. These services include, in addition to the services authorized for the adult program, mentoring, tutoring, study skills training, instruction for high school completion or certificate of high school equivalency, and limited internships in the private sector.

Other services listed include alternative high schools jointly established or supported with educational agencies and school-to-work, apprenticeship or postsecondary education transition services.

This list, which is not exhaustive, provides for a comprehensive set of services that is intended to address the multiple barriers to employment often experienced by at-risk youth.

Section 254(d) contains certain conditions relating to the program. First, in developing service strategies and designing services, the SDAs and PICs are to take into consideration exemplary program strategies and practices. It is intended that this condition will promote effective planning.

Second, school dropouts who are under the age of 18 must reenroll in and attend a school or alternate school program as a condition of participation.

Third, pre-employment and work maturity skills training are to be accompanied by either work experience or by additional basic or occupational skills training.

Fourth, work experience, job search assistance, job search skills training and job clubs activities are to be accompanied by basic or occupational skills training.

The third and fourth conditions requiring combinations of services are intended to ensure the kind of intensive training that will enhance the long-term employability of youth participants. Under these conditions, the additional services may be provided, sequentially or concurrently, under other programs. Such programs may include the Job Corps and JOBS. This provision is intended to promote coordination between programs and flexibility in determining how these services are to be delivered.

A fifth condition is that needs-based payments are to be determined in accordance with a local formula as under current law. Finally, this subsection authorizes the provision of counseling and supportive services for a period of up to one year after a participant has completed the program and provides that volunteer opportunities are to be made available to successful alumni of this program to provide services, such as tutoring, to participants.

It should be noted that this section does not prohibit the provision of summer work experience to participants. However, such work experience would have to be one part of a youth's service strategy and accompanied by additional education or training in a year-round program.

Section 255 is amended to provide for linkages between SDAs and other entities and programs to ensure the effective, comprehensive, and coordinated delivery of services under the youth program.

Section 255(a) required that SDAs establish linkages with educational agencies. These linkages are to include formal agreements with local educational agencies that will identify the procedures for referral and provision of services to in-school youth, the methods of assessment of in-school youth, and procedures for notifying the program when a youth drops out of the school system. Other linkages with educational agencies are to include arrangements to ensure that the program supplements existing programs provided by local educational agencies to in-school youth, arrangements to ensure that the program utilizes existing services provided by local educational agencies to out-of-school youth, and arrangements to ensure regular exchanges of information between the program and local educational agencies regarding the progress of in-school participants.

Under the design of the youth program, educational agencies will play a key role. The linkages described above are intended to ensure the coordination of those agencies and of existing programs with the program under part B.

Section 255(b) provides that SDAs shall also establish appropriate linkages with other Federal programs such as the Job Corps, vocational education programs, chapter 1 compensatory education programs, special education programs and JOBS.

Section 255(c) provides that linkages which would enhance the delivery of services under the youth program should also be established with other agencies and organizations, such as local service agencies, business and labor organizations, and volunteer groups.

Section 256 allows for a transfer of up to 10 percent of funds from the youth program to the adult program under part A if the same conditions governing transfers from the adult to the youth program are met (i.e., sufficient economic conditions and approval of the Governor).

Section 119 amends section 314(f) of JTPA to provide that participation in training, except for on-the-job training, under the Title III dislocated worker program is to be deemed to be approved training for purposes of the unemployment compensation (UC) program. This amendment would facilitate coordination between Title III and the UC program by providing Title III training is to be deemed approved by the State agency. A similar provision was part of Title III until the revision of the dislocated worker program by the Omnibus Trade and Competitiveness Act (OTCA). The Conference Report for OTCA (House Rept. 100-576, p. 1030) indicated that the approved training rule was to be included in Title III, but the provision did not appear in the final text of the Act.

Section 120 of the bill amends section 427(a)(2) of the JTPA to increase the ceiling on the proportion of non-residential slots in the Job Corps program from 10 percent to 20 percent. The increase is intended to promote increased access to the program by disadvantaged young women who have small children and are therefore unable to participate in the residential program.

Section 121 establishes the Youth Opportunities Unlimited Program as a new part H of title IV of JTPA. The purposes of the program, as described in the section 491, include enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community, and facilitating the coordination of comprehensive services to such youth.

Section 492 authorizes the establishment of a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas. The Secretary may only award grants to service delivery areas in which the target area is located, or to section 401 (Indian and Native American Program) or section 402 (Migrant and Seasonal Farmworker Program) grantees.

Grants may be awarded to not more than 25 communities during the first year of authorization. The one-year grants are renewable for each of the 2 succeeding years if the grant recipient satisfied the grant requirements during the previous year. In awarding grants, the Secretary must consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target community.

The new section 493 provides definitions of the terms for purposes of this part. "Participating community" is the city, State, or Section 401 or 402 grantee in which the program will be administered. "High poverty area" refers to an urban census tract, Indian reservation or Alaskan native village, or rural county with a poverty rate of 30 percent or more. Finally, "target area" is defined as the high poverty area or set of contiguous high poverty areas within the participating community that will be the focus of the program.

The new section 494 sets forth the requirements for applying for funds under the program. The participating communities with the highest concentrations of poverty, as determined by the Secretary based on the Census data, are eligible to apply. The Governor, or, for Native American and migrant worker communities, the section 401 or 402 grantee, may submit an application in accordance with procedures specified by the Secretary. The application is to include a comprehensive plan designed to achieve goals for youth in the target area. Examples of such goals, which are to be specified in the plan and measurable, include increasing the proportion of youth completing high school or entering community colleges and other advanced training programs, or placed in jobs. Significantly, the plan is to include supporting goals for the target area such as increasing security or reducing the number of drug-related arrests. In addition, the application is to demonstrate how the participating community will make use of educational and vocational resources, include an estimate of the number of youth to be served, include a description of resources available in the participating community which will be used to achieve the goals of the program, and provide evidence of local community support.

The new section 495 provides for the grant agreement. Under such agreement, the grant recipient is to designate a target area with a population of 25,000 or less. The grant funds are to be used to provide activities selected from a set of youth program models designated by the Secretary or alternative models described in the application and approved by the Secretary. Examples of such models include non-residential learning centers, alternative schools, and combined summer remediation, work experience and work readiness training.

Other conditions identified in this section are that funds are to be used for services to youth ages 14 through 21, that the local educational agency and the community are to provide activities and local resources necessary to achieve the supporting goals that are specified in the application; the participating community is to provide such activities and resources as are necessary to achieve the goals in the application; the participating community is to carry out special efforts to establish coordination among Federal, State or local programs serving the target population; and the funds are to be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area, and are to supplement, and not supplant, other Federal, State and local funding.

Section 496 specifies that grants (except for section 401 and 402 grantees) are to be in equal amounts. The participating community must match one-for-one the grant provided under this part. Not more than 25 percent of the participating community's share may be from Federal sources other than funds received under this part.

Section 497 authorizes the Secretary to establish necessary reporting procedures.

Finally, section 498 requires the Secretary to provide assistance to the participating communities in implementing the program. The Secretary is authorized to retain up to 10 percent of the funds allotted for this part to provide such assistance and to conduct a formal, rigorous evaluation of the program.

This important new program offers a means to assist communities in developing a coordinated, comprehensive strategy to address the needs of youth.

Section 122 provides technical and conforming amendments.

Section 123(a) provides that the amendments made by this title shall take effect July 1, 1992. Section 123(b) contains a transition provision that provides that changes in performance standards pursuant to the amendments made by the Act shall be issued as soon as sufficient data are available, but no later than July 1, 1994.

In addition, section 123(c) requires that the secretary provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of Title II. The purpose of this guidance is to limit the documentation burden to the minimum necessary to adequately verify eligibility, and ensure that the documentation burden does not discourage participation of eligible individuals. This guidance must be provided by February 1, 1992.

Section 123(d) provides that the Secretary evaluate the impact of Title II programs, as amended by this bill, on participant employment, earnings, and welfare dependence, in multiple sites using random assignment.

Finally, section 123(e) contains a general transition provision allowing the Secretary to establish necessary rules and procedures to provide for an orderly transition to and implementation of these JTPA amendments.

Title II provides for the establishment of a human resource investment council in each State. The council would promote Statewide coordination of certain federally-assisted human resource programs by replacing separate existing state councils with a single State advisory body.

The State human resource investment council would advise the Governor regarding programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, JTPA, the Rehabilitation Act of 1973, the Wagner-Peyser Act, JOBS, and section 6(d)(4) of the Food Stamp Act of 1977 (the Food Stamp Employment and Training Program). Under current law, there is no State advisory council for programs under the Rehabilitation Act, JOBS, and the Food Stamp Act. There are separate State councils authorized for programs under each of the other Acts.

Section 201(a) provides that each State that receives assistance under the applicable federal programs would establish a single State council to review the provision of services and use of resources and advise the Governor on methods of coordinating the programs. The council would also provide advice to the Governor on the development and implementation of State and local standards and measures relating to the programs.

Section 201(b) provides that the membership of the Council is to be appointed by the Governor with 30 percent appointed from representatives of business and industry, 30 percent from representatives of organized labor and community-based organizations, 20 percent from chief administrative officers in State agencies administering the applicable programs and other representatives of State entities, and the final 20 percent from representatives of local governments, local educational, and welfare agencies, and individuals with special expertise.

Subsections (c) and (d) of this section authorize the council to prepare a budget, to be approved by the Governor, and to obtain the services of personnel to carry out its functions. Subsection (e) provides that the State certify to the Secretary of Labor the establishment and membership of the council 90 days before the submission of a job training plan under JTPA. Subsection (f) lists the applicable programs under the council's jurisdiction, which were described above.

Section 202 contains conforming amendments to each of the Acts which authorize the applicable programs. These amendments clarify the duties of the council with respect to each Act and provide for coordination of the programs by the council.

Section 203 provides that the effective date for this title is July 1, 1992.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. KERRY. Mr. President, I rise today to introduce a bill to reauthorize the programs of the National Oceanic and Atmospheric Administration.

NOAA performs many important services for the Nation. NOAA's National Ocean Service manages the Nation's ocean and coastal resources and charts our skies and oceans. The National Weather Service forecasts our weather and provides hurricane warnings. The National Marine Fisheries Service has the very difficult task of managing and conserving the Nation's fisheries. The Office of Oceanic and Atmospheric Research helps us understand our atmospheres, oceans, and marine resources. And finally, Mr. President the National Environmental Satellite, Data, and Information Service manages the Earth-observing satellite systems that support weather forecasting and provide us with land remote-sensing capabilities.

In addition to reauthorizing these very important programs, this bill addresses several specific needs that I would like to highlight.

This bill would allow NOAA to begin modernizing its oceanographic fleet. This fleet of 23 vessels, comprising about one-third of the total U.S. oceanographic fleet, is nearing its service life. The average age of the vessels is now over 25 years and much of the equipment on board has not kept pace with modern technology for such activities as mapping the oceans or detecting global change. Furthermore, 6 of the 23 vessels have been deactivated due to aging.

The condition of the fleet seriously limits NOAA's ability to carry out its research and monitoring responsibilities. A 1990 report of an interagency science and engineering group estimated that NOAA programs need about twice as much vessel time to carry out their missions. The Administration is completing a plan for revitalizing the fleet. This bill would allow NOAA to begin this modernization effort.

Americans continue to be concerned about waste disposal, sewage pollution, toxic chemicals, and oilspills in marine waters. A recent report by the National Research Council calls for increasing the use of monitoring information for marine environmental management, conducting comprehensive monitoring of regional and national status and trends, and improving the design of monitoring programs.

The bill I am introducing today would create a national monitoring program for ocean and coastal waters to assess current conditions as well as detect changes. This comprehensive program would coordinate and enhance existing efforts of Federal, State, and local agencies, which currently spend an estimated $133 million monitoring the condition of the marine environment. NOAA has been particularly active in this effort through its National Status and Trends Monitoring Program which collects information at 180 marine sites around the Nation.

Monitoring is particularly useful for assessing the effectiveness of pollution control efforts. Massachusetts residents, for example, are about to spend in excess of $6 billion to clean up Boston Harbor. This is an unprecedented cleanup effort and it is in the Nation's interest to determine what will be achieved in terms of water quality improvements for this large expenditure.

Finally, this bill authorizes NOAA to research and develop dolphin-safe fishing technologies for harvesting tuna. The number of dolphins killed each year by the foreign tuna fleet is still unacceptably high. This is a serious concern from both an environmental and foreign policy perspective. It is clear that the best way to stop this unnecessary slaughter is to develop new fishing methods that are not dependent on encircling dolphins.

The National Oceanic and Atmospheric Administration provides many valuable services to the Nation and I am pleased to introduce this bill to reauthorize its many important programs. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1405

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. For the purposes; of this Act, the term—

(1) "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); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $313,034,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $209,787,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,801,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a) of this section, $78,000,000 for fiscal year 1992 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $47,399,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall

be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $373,907,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) SEARCH AND RESCUE SATELLITE SYSTEM.—Of the sum authorized under subsection (a) of this section, $2,300,000 in fiscal year 1992 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $35,317,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $51,087,000 for fiscal year 1992.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $58,273,000 for fiscal year 1992;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992.

(c) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof $52,843,000 for fiscal year 1992";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,869,000 for fiscal year 1992"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$15,585,000 for fiscal year 1992".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(c) Of the sums authorized under subsection (a) of this section, $1,000,000 for fiscal year 1992 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

TITLE IV—MISCELLANEOUS PROVISIONS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $72,105,000 for fiscal year 1992.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—(1) There are authorized to be appropriated to the Department of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $12,753,000 for fiscal year 1992.

(2) The Secretary shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,573,000 for fiscal year 1992.

(2) There are authorized to be appropriated to the Department of Commerce to enable

the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1992.

(3)(A) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,500,000 for fiscal year 1992 for the reactivation and operation of the research vessel ALBATROSS IV.

(B) If on the date of enactment of this Act the research vessel ALBATROSS IV is not in active service, the Secretary of Commerce, subject to the availability of appropriations under this paragraph, shall reactivate that vessel.

(4) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(5)(A)(i) Except as provided in clause (ii), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(ii) The President may authorize exceptions to the prohibition in clause (i) if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date such notice is received by the Congress.

(B)(i) A vessel of the National Oceanic and Atmospheric Administration the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(ii) Clause (i) does not apply in the case of voyage repairs.

(6) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(d) NOAA, FLEET MODERNIZATION.—(1) In addition to amounts authorized by subsection (c), there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992 modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(2) Not later than October 1, 1991, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(3)(A) Subject to subparagraphs (B), (C), and (D), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(B) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to paragraph (2).

(C) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that—

(i) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(ii) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(D) The Secretary of Commerce 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 which specifies the term of effectiveness of the contract;

(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 which 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 which are unobligated on the date of the termination.

(e) MARITIME FINANCING.—Section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)), is amended—

(1) in paragraph (1)(C) by striking "States or in the fisheries of the United States." and inserting in lieu thereof "States, the fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration."; and

(2) in paragraph (2)(C) by striking "or noncontiguous domestic trade or in the fisheries of the United States." and inserting in lieu thereof "noncontiguous domestic trade, fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration.".

(f) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,900,000 for fiscal year 1992.

REQUIREMENT OF NOTICE OF REPROGRAMMING

SEC. 402. The Secretary of Commerce shall not reprogram an amount appropriated under the authority of this Act unless, before carrying out that reprogramming, the Secretary provides notice of that reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives.

TITLE V—COASTAL MONITORING

SHORT TITLE

SEC. 501. This title may be cited as the "Marine and Coastal Monitoring Act of 1991".

PURPOSE

SEC. 502. The purpose of this title is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 504. The comprehensive national mointoring program referred to in section 502 shall consist of—

(1) a nationwide monitoring network as described in section 505;

(2) intensive regional monitoring programs as described in section 506; and

(3) a national monitoring center as described in section 507.

NATIONWIDE MONITORING NETWORK

SEC. 505. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspects of such waters:

(1) toxic substances, both organic and inorganic, and their biological effects;

(2) nutrient over-enrichment and low oxygen conditions;

(3) toxic and nuisance algal blooms; and

(4) overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 506. (a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas

nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—(1) The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a longterm monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the members's usual place of residence, in accordance wtih section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 505. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its long-term monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of long-term monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 507.(a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish within the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this title in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this title and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this title;

(3) support research studies to develop improved procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this title;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this title; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this title to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

BOSTON HARBOR MONITORING

SEC. 508. As part of the program established under this title, the Administrator shall, in connection with the cleanup of the Boston Harbor, develop sophisticated and credible techniques and methodologies for collecting and analyzing baseline data on environmental phenomena in the Harbor, such as bacteria, quality and quantity of indigenous species, and swimmability. The Administrator shall work with the Massachusetts Water Resources Agency in preparing a multiyear plan for such development of techniques and methodologies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the program established by this title, $3,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and $15,000,000 for fiscal year 1995.

Mr. HOLLINGS. Mr. President, today, I am pleased to join Senator KERRY and others in introducing the National Oceanic and Atmospheric Administration Authorization Act of 1991. As I have in the past, I remind my colleagues of the importance of fostering and improving the many important efforts of the National Oceanic and Atmospheric Administration [NOAA], which this authorization bill is intended to reinforce. The bill reauthorizes many important NOAA atmospheric and satellite, ocean and coastal, and fisheries programs. It also contains important provisions dealing with coastal monitoring and modernization of the NOAA oceanographic research fleet.

NOAA provides the Nation with information about our oceans and atmosphere and global change that is essential to ensure the sound use of our natural resources. In fact, protection and restoration of the marine environment have become the focus of activity at the Federal, State, and local government levels. Each year, the various governmental agencies spend billions of dollars on corrective measures to improve our coastal environmental quality. Last year, Federal, State, and local agencies, public utilities, and private corporations spent more than $133 million to monitor the condition of the marine environment. Given this investment, it is time that we establish the national comprehensive coastal monitoring program set forth in this bill.

This bill also has important provisions dealing with dolphin-safe tuna fishing. As a principal author and longtime supporter of the Marine Mammal Protection Act [MMPA], I have worked for a balanced and comprehensive Federal approach to marine mammal conservation. The killing of dolphins is a serious problem, one we attacked last year when we reauthorized the MMPA. Currently, embargoes are in place against countries which have not complied with the terms of that law. There are additional ways we can address the problem. I believe that the best longterm solution to the recurring tuna-dolphin issue is to develop fishing methods that do not involve encirclement of dolphins. To that end, $1 million is set aside in this bill to develop coordinated research and development of dolphin-safe fishing methods. Not only will this effort work to develop alternative fishing gear, but it will focus on understanding the behavioral bonds that link dolphin and yellowfin tuna in the eastern tropical Pacific Ocean together.

I look forward to moving ahead expeditiously with the reauthorization of these important NOAA programs.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, three weeks ago last Tuesday, nine Republican Senators introduced a package of three civil rights bills to provide the framework for addressing the difficult issue of various Supreme Court decisions that were decided two years ago.

The effort that was made three weeks ago last Tuesday was to provide bal-

anced legislation in an effort to meet the needs of those who believed that the civil rights law should be changed and the concerns that were expressed by the White House and others, particularly with respect to quotas.

The purpose of the three bills was to fashion a compromise. The nine Senators who introduced those three bills believed that we went at least half way in meeting the concerns that had been expressed by the President and by those in the administration.

During the three weeks that followed the introduction of that legislation, we engaged in a series of discussions with administration officials and others to attempt to understand as best we could their concerns about the legislation that we introduced. Shortly after the bills were introduced, over a period of two days, at the staff level, there were eight hours of detailed discussions—in the words of Attorney General Thornburgh, line-by-line discussions—of the administration's concerns.

Mr. President, I am about to introduce three additional bills that are designed to go yet further in meeting the concerns that were expressed by the administration. Specifically, 22 different problems stated by administration lawyers have been addressed in the follow-on legislation that I am about to introduce.

Mr. President, I ask unanimous consent that a list of those 22 specific concerns and how they were addressed be printed in the RECORD.

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

CHANGES MADE AT THE REQUEST OF THE ADMINISTRATION, JUNE 27, 1991

1. S. 1207, THE CIVIL RIGHTS RESTORATION ACT OF 1991

a. The Administration expressed concern that attorney's fees granted by this bill for mixed motive cases (Price Waterhouse cases) would not be limited to the attorney's work performed on the mixed motive case. The concern was that the attorney would always plead a mixed motive claim along with numerous other claims and attempt to recover fees for work done on the other claims as well as the Price Waterhouse claim.

Response: Cosponsors inserted language that ensures that attorneys receive fees "directly attributable only to the pursuit of a claim under this section."

b. The Administration expressed concern about the bifurcation of the rule governing challenges to consent decrees or court-ordered remedies.

Response: Instead of applying different rules, cosponsors agreed to apply the same rules to all consent decrees or court-ordered remedies.

c. The Administration was concerned about retroactive application of the Martin v. Wilks section.

Response: Cosponsors made the section in question prospective.

d. The Administration wanted technical corrections in the section of the legislation concerning Lorance v. AT&T Technologies.

Response: Cosponsors made the technical corrections.

e. The Administration believed that the provision concerning affirmative action was too broad.

Response: Cosponsors narrowed the provision.

2. S. 1208, THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1991

a. The Administration believed that the purposes section was unclear and too broad.

Response: Cosponsors clarified it.

b. The Administration strongly emphasized the need to use the term "cause" to describe the plaintiff's burden in a disparate impact case.

Response: Cosponsors adopted the term "cause."

c. The Administration was disturbed by the phrase "after discovery" in describing the plaintiff's burden in a disparate impact suit.

Response: Cosponsors removed the term "after discovery."

d. The Administration was concerned about a clause they viewed as ambiguous with regard to when a defendant may use the defense of "business necessity."

Response: Cosponsors clarified that the defense was not available in intentional discrimination suits.

e. The Administration requested the deletion of a clause concerning statistical imbalances in the racial makeup of an employer's workforce.

Response: Cosponsors deleted the clause.

f. The Administration requested the deletion of a "comparable worth" construction clause.

Response: Cosponsors deleted the clause.

g. The Administration requested deletion of the subsection concerning court-ordered race-norming.

Response: Cosponsors deleted subsection in question.

h. The Administration requested use of the phrase "manifest relationship to the employment in question" in the definition of "business necessity."

Response: Cosponsors incorporated that phrase in the bill's definition.

i. The Administration was concerned about the potential breadth of the term "selection" in the definition of "business necessity."

Response: Cosponsors deleted this term and replaced it with a narrower description of employment practices.

j. The Administration was concerned that employers would lack discretion in making its own hiring decisions.

Response: Cosponsors attempted to clarify that employers have discretion in choosing their employees.

k. The Administration believed that certain sections of the bill would be misconstrued as circular.

Response: Cosponsors deleted terms of concern.

l. The Administration preferred conceptual descriptions (rather than lists of examples) in the definition of "business necessity."

Response: Cosponsors deleted lists and used language designed to describe the concepts.

m. The Administration requested deletion of construction clauses that it viewed as superfluous and subject to misconstruction.

Response: Cosponsors deleted the construction clauses in question.

n. The Administration requested that liability not be automatically assessed against an employer who did not know about an alternative employment practice which has a less disparate impact upon a protected group than the employer's practice.

Response: Cosponsors adopted the Administration's position on alternative practices.

3. S. 1209, THE CIVIL RIGHTS AND REMEDIES ACT OF 1991

a. The Administration requested a limit on damages for "reasonable accommodation" cases under the Americans with Disabilities Act.

Response: Cosponsors developed a "good faith" exception for such cases.

b. The Administration requested a cap on future pecuniary damages.

Response: Cosponsors adopted such a cap.

c. The Administration requested a lowering of caps on compensatory and punitive damages.

Response: Cosponsors accommodated request by lowering caps, and creating three tiers of damages for varying sizes of businesses.

Mr. DANFORTH. Mr. President, the most difficult single issue by far that faced us, and continues to face us, has been the definition of business necessity, for the purpose of addressing the issue created by the Wards Cove case. We have been wrestling with the issue of business necessity for approximately a year and a half, and it has been very, very difficult to resolve.

Again, when the legislation was introduced 3 weeks ago, an effort was made to accommodate both the concerns of those who wanted to change the civil rights law and the concerns that had been expressed by the administration. But we recognized that, after introducing that legislation, it was necessary to try to reach some sort of accommodation with the administration in the definition of business necessity.

So beginning with the legislation that was introduced 3 weeks ago, a total of six different legislative suggestions on defining business necessity were put to the administration. Two of them—the one that was in the bill, S. 1208, and a follow-on suggestion—were in the form of formal offers that were made by the nine Republican Senators to the administration. The remaining four were more informal suggestions noted by me to the administration.

Two days ago, Governor Sununu got back to me with his suggested modification of one of the various proposals. That particular modified approach was in turn submitted to Senator KENNEDY and others, with the suggestion of the nine Republican Senators that it be accepted. Senator KENNEDY expressed his concerns with that language, and the judgment of this Senator was that his concerns were in fact well taken and that they should be addressed, and that the proposal should be modified.

So suggestions, in turn, were made by me as to how the Sununu proposal should be modified, and those suggestions are incorporated in the legislation that I am about to send to the desk.

Mr. President, I will send to the desk a description of the various proposals that have been made for defining business necessity. The last two proposals

that are mentioned are the so-called Sununu proposal, and my modification of the Sununu proposal.

One suggestion I would make to interested Senators and to others is that they analyze the difference between the Sununu proposal and what I have suggested. I believe that most people would find that the differences are very, very close.

So. Mr. President, I ask unanimous consent that this description of the various definitions of business necessity be printed in the RECORD.

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

DEFINITIONS OF BUSINESS NECESSITY

LANGUAGE OF S. 1208

The term "required by business necessity" means—

(1) in the case of employment practices involving selection, that the practice or group of practices bears a manifest relationship to the requirements for effective job performance; and

(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

The term "requirements for effective job performance" includes—

(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

(2) any other lawful requirement, that is important to the performance of the job, including, but not limited to, factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others.

Option 1: The term "required by business necessity" means—

(1) in the case of employment practices primarily measuring qualification for or ability to do the job, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or job family; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 2: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 3: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a demonstrable relationship to successful performance of the jobs for which it was used.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 4: The term "required by business necessity" means—

(1) in the case of employment practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 5: The term "required by business necessity" means—

the challenged practice must bear a manifest relationship to the employment in question.

(1) in the case of employment practices used to measure job qualifications or ability to do the job, the term "employment in question" means job performance.

(2) in the case of employment practices not described in paragraph (1), the term "employment in question" means a legitimate business objective of the employer.

The term "job performance" includes—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

SUNUNU PROPOSAL

The term "required by business necessity" means—

(1) in the case of employment practices that are used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes, but is not limited to—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Sununu proposal with suggested Danforth changes

The term "required by business necessity" means—

(1) in the case of employment practices that are *used as job qualifications or* used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" *means* [includes, but is not limited to]—

(1) the performance of actual work activities required by the employer for a job or class of jobs; *or* [and]

(2) any requirement related to *work* behavior that is important to [the performance of] the job, but may not comprise actual work activities.

Mr. DANFORTH. Mr. President, a very strong effort has been made by nine Republican Senators to make the bill acceptable to President Bush. We believe that we have come very close to addressing the President's concerns. We know that remaining concerns are there, but we believe that we have come about 90 percent of the way.

Our hope now is that the President will be able to reach over to us for that remaining 10 percent; that we can have a bill which is both acceptable to those who want legislation and which is acceptable to the President of the United States. It will take a little bit of a reach. But I think we have closed the gap sufficiently, so that it is certainly something that can be accomplished.

I would like finally to say, Mr. President, just as a matter of personal motivation and why I am so concerned about this issue, I think that business necessity, so-called disparate impact cases, are so unusual in the courts that we could probably survive with any of the various definitions that have been proposed.

I do believe there are substantive problems in the Sununu definition. I believe the proposal that is incorporated in the legislation which I will soon send to the desk is good public policy. But I think that the real issue is not so much the exact wording of the legislation. I think the real issue before us is the extent to which race is going to be a nagging political issue in this country.

I know, Mr. President, that there are those who believe that it is somehow a winning issue; that race is a wedge issue, that it can divide people, and that it can build constituencies. But I believe that it is a bad issue for the country. And I particularly believe that it is a bad issue for the Republican Party, my party. I think the job of Government in this diverse country should be an attempt to bring people together, not to find ways to rub nerve ends raw. And I think that is exactly what we are doing by constantly harping on the issue of quotas, the issue of job preferences, and so on.

Almost nobody likes quotas. I have never heard anybody in the U.S. Senate express a liking for quotas. But I think a lot of people like the quota issue as a political issue. And the principle reason I believe that it is important to move forward and attempt to com-

promise this legislation is to try to put this issue behind us.

I am confident that there is a national consensus in America on the issue of fairness in employment. I am confident that the overwhelming majority of Americans believe that people should be hired, not on the basis of their race or their gender or any other such reason, but people should be hired on their ability to do the job and that employers should be able to defend themselves without resorting to quotas. I am confident that that is the overwhelming sentiment of the people of the United States.

I think that it is possible to build on that sentiment. I believe that it is possible to legislate that sentiment. I think that that is what the nine Republican Senators are doing. I am confident that that is the result of the legislation that I will now send to the desk. Mr. President, it is time to build on the national consensus and not tear it apart. We in the U.S. Senate, and those in the executive branch as well, have a choice to go either way. I think it is time to make the reasonable accommodations and compromises that are necessary to build the consensus back again.

Mr. President, I send three bills to the desk and ask unanimous consent that they be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1407

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 "Civil Rights Restoration Act of 1991".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that legislation is necessary to provide additional protections against unlawful discrimination in employment.

(b) PURPOSE.—The purpose of this Act is to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

SEC. 3. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

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

"(b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.".

SEC. 4. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k) Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended—

(1) by designating the first through third sentences as paragraph (1);

(2) by designating the fourth sentence as paragraph (2)(A); and

(3) by adding at the end the following new subparagraph:

"(B) On a claim where an individual proves a violation under section 703(k) and a repondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

"(i) may grant declaratory relief, injuctive relief (except as provided in clause (ii)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under this section; and

"(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).".

SEC. 5. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4 of this Act) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (3), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

"(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

"(II) a reasonable opportunity to present objections to such judgment or order; or

"(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 6. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means to meet the burden of production and persuasion.

"(n) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by inserting "(1)" before "A charge under this section"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this section, an unlawful employment practice occurs when—

"(A) a seniority system is adopted, an individual becomes subject to a seniority system, or a person aggrieved is injured by the application of a seniority system or provision of the system; and

"(B) the system has been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. AUTHORIZING AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee".

SEC. 9. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 12 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking "thirty days" and inserting "90 days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties.".

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SEC. 10. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

Section 7(e)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)(2)) is amended to read as follows:

"(2) If a charge filed with the Commission is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the individual referred to in subsection (d). The individual may bring an action against the respondent named in the charge not earlier than 60 days after the date on which the charge was timely filed and not later than 90 days after the date of the receipt of the notice.".

SEC. 11. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) is amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended—

(1) by inserting "(a)" after "SEC. 702.", and

(2) by adding at the end the following:

"(b) It shall not be unlawful under Section 703 or 704 for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

"(c)(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by Section 703 or 704 engaged in by such corporation shall be presumed to be engaged in by such employer.

"(2) Section 703 and 704 shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

"(A) the interrelation of operations;

"(B) the common management;

"(C) the centralized control of labor relations; and

"(D) the common ownership or financial control; of the employer of the corporation.".

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

SEC. 12. EDUCATION AND OUTREACH.

Section 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new paragraph:

"(2) In exercising its powers under this title, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

"(A) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

"(B) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination; concerning rights and obligations under this title or such law, as the case may be.

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are in accordance with the law.

SEC. 14. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to section 1977 of the Revised Statutes (42 U.S.C. 1981), and the amendments made by this Act, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C.; 2000e et seq.), the Age Discrimination in Employment Act of 1967 (42 U.S.C. 621 et seq.), section 1977 of the Revised Statutes, this Act, and the amendments made by this Act shall, subject to subparagraph (D), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, section 1977 of the Revised Statutes, this Act, and the amendments made by this Act, shall, subject to paragraphs (2) and (5) apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) or section 15 of the Age Discrimination in Employment Act of 1967 (42 U.S.C. 633a).

SEC. 15. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the the Acts amended by this Act.

SEC. 16. EFFECTIVE DATE.

IN GENERAL.—This Act and the amendments made by this Act shall take effect upon enactment.

SEC. 17. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

S. 1408

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 "Equal Employment Opportunity Act of 1991".

SEC. 2. FINDING AND PURPOSES.

(a) FINDING.—Congress finds that the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 109 S. Ct. 2115 (1989) has weakened the scope and effectiveness of Federal civil rights protections.

(b) PURPOSES.—The purposes of this Act are—

(1) to overrule the proof burdens and meaning of business necessity in Wards Cove Packing Co. v. Atonio and to codify the proof burdens and the meaning of business necessity used in Griggs v. Duke Power Co., 401 U.S. 424 (1971); and

(2) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

SEC. 3. BURDEN OF PROOF IN DISPARATE IMPACT CASES.

IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k)(1)(A) An unlawful employment practice based on disparate impact is established under this title only if—

"(i) a complaining party demonstrates that a particular employment practice or particular employment practices (or decision-making process as described in (B)(i)) cause a disparate impact on the basis of race, color, religion, sex, or national origin; and

"(ii)(I) the respondent fails to demonstrate that the practice or practices are required by business necessity; or

"(II) the complaining party makes the demonstration described in subparagraph (C) with respect to a different employment practice and the respondent refuses to adopt such alternative employment practices.

"(B)(i) With respect to demonstrating that a particular employment practice or particular employment practices cause a disparate impact as described in subsection (A)(i), the complaining party shall demonstrate that the particular employment practice causes in whole or in significant part the disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision-making process are not capable of separation for analysis, the decision-making process may be analyzed as one employment practice.

"(ii) If the respondent demonstrates that a specific employment practice is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(C) An employment practice which causes in whole or in significant part a disparate impact that is demonstrated to be required by business necessity shall be unlawful if the complaining party demonstrates that a different available employment practice, which would have less disparate impact and make a difference in the disparate impact that is more than negligible, would serve the respondent's legitimate interests as well and the respondent refuses to adopt such alternative employment practice.

"(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

SEC. 4. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 3) is further amended by adding at the end the following new subsection:

"(1) It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex or national origin.

SEC. 5. DEFINITIONS.

IN GENERAL.—Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(1) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'required by business necessity' means—

"(1) in the case of employment practices that are used as job qualifications or used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

"(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

"(o) The term 'employment in question' means—

"(1) the performance of actual work activities required by the employer for a job or class of jobs; or

"(2) any requirement related to behavior that is important to the job, but may not comprise actual work activities.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 6 COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendments made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in Paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the amendments made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964 and the amendments made by this Act shall, subject to paragraphs (2) and (5), apply with respect to the Act shall, subject to paragraphs (2) and (5), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

"(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment.

"(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 727 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

S. 1409

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 "Civil Rights and Remedies Act of 1991."

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace.

(b) PURPOSE.—The purpose of this Act is to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

SEC. 3. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

The Revised Statutes are amended by inserting after section 1977 the following new section:

"SEC. 1977A. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.—

"(1) CIVIL RIGHTS.—In an action brought by a complaining party under section 706 of the Civil Rights Act of 1964 (42 USC 2000e-5(e)) against a respondent who intentionally engaged in an unlawful employment practice prohibited under section 703 and 704 of the Act (42 U.S.C. 2000e-2, 2000e-3), and provided that the complaining party cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981), the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(2) DISABILITY.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a))) against a respondent who intentionally engaged in a practice that constitutes discrimination under section 102 of the Act (42 U.S.C. 12112), other than discrimination described in subsection (b) paragraph (3)(A), or other than discrimination described in subsection (b) paragraph (6) (except for practices intended to screen out individuals with disabilities), against an individual, the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(3) REASONABLE ACCOMMODATION AND GOOD FAITH EFFORT.—In cases where a violation involves the provision of a reasonable accommodation pursuant to section 102(b)(5), damages may not be awarded where the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

"(b) COMPENSATORY AND PUNITIVE DAMAGES.—

(1) DETERMINATION OF PUNITIVE DAMAGES.—A complaining party may recover punitive damages under this subsection if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) EXCLUSIONS FROM COMPENSATORY DAMAGES.—Compensatory damages awarded under this section shall not include back pay, interest on back pay, or any other type of relief authorized under section 760(g) of Civil Rights Act of 1964.

(3) LIMITATIONS.—The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed—

(A) in the case of a respondent who has 100 or fewer employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(B) in the case of a respondent who has more than 100 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000; and

(C) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to limit the scope of, or the relief available under, section 1977 of the Revised Statutes (42 U.S.C. 1981).

"(c) JURY TRIAL.—

"(1) IN GENERAL.—(A) If a complaining party seeks compensatory or punitive damages under this section, any party may demand a trial by jury.

(B) The court shall not inform the jury of the limitations described in subsection (b)(3).

"(d) DEFINITION.—As used in this section:

"(1) COMPLAINING PARTY.—The term 'complaining party' means—

"(A) in the case of a person seeking to bring an action under subsection (a)(1), a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(2) DISCRIMINATORY PRACTICE.—The term 'discriminatory practice' means a practice described in paragraph (1) or (2) of subsection (a).".

SEC. 4. ATTORNEYS' FEES.

The last sentence of Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting ", 1981A" after "1981".

SEC. 5. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendment made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provision described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entitiy as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of the law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under the amendment made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under the amendment made by this Act, shall, subject to paragraph (2), apply with respect to any employee in an employ-

ment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

SEC. 6. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

Mr. BIDEN. Mr. President, I do not want to damage his standing and reputation, but I think the Senator from Missouri has demonstrated once again, as he has a number of times on this floor, that this body is in fact made up of people of character, significant character, men and women who have come to this body to legislate, to solve problems, and not to politic. Although all of us are capable at times, and out of necessity believe it is important to push for partisan advantage in order to accomplish substantive results, I must say that the comments just made by the Senator from Missouri—and I heard them only as I sat in the cloakroom trying to work out the final stages of this crime bill—demonstrate to me what all of us know; that in JACK DANFORTH, there is a man of character. I am proud to serve in the Senate with him. I do not have any idea what the substance of his legislation is. I have no idea whether I will support it or not support it. I have not read it. But I know one thing, I am proud to serve in a body with men like JACK DANFORTH.

Mr. DURENBERGER. Mr. President, I rise to thank my colleague from Delaware for his comments and to say I certainly share those comments. I have come to the floor to congratulate my colleague, Senator JACK DANFORTH of Missouri, for his very special, commendable—I probably cannot find enough appropriate superlatives—for the effort he has put forth in mediating the civil rights dialog between the administration, civil rights groups, the business interests, and the Senate Democratic leadership. It seems to me there can be no doubt that all America hopes and prays there will be a successful resolution of what has become an incredibly divisive issue.

In the Congress, we do not approach civil rights in this session on a very clean slate. As all of us know, the civil rights bill was highly controversial last year. Some politicians, for political gain, sought to exploit racial animus—and I accent, as my colleague from Missouri did, racial animus—by raising questions about the legitimacy of the previous civil rights efforts. Tensions were high, and America focused on "quotas," on "affirmative action," and on whether our society has become sufficiently progressive that racial preferences favoring minorities are no longer necessary, and even the suggestion that perhaps they have become more harmful than helpful.

This Senator remains a steadfast supporter of civil rights, despite the efforts of those who have attempted to use the quota issue to divide America. My own record on civil rights has been beyond reproach, I would say. As a principle cosponsor of Americans With Disabilities Act last year and a strong supporter of such civil rights initiatives as the Voting Rights Act and The Civil Rights Restoration Act that overturned the Grove City decision, there can be no doubt that this Senator remains devoted to the cause of equality and equal opportunity for all Americans regardless of race, sex, national origin, or religion.

That is why I supported the civil rights bill last year. In fact, I believe so strongly in civil rights that I even voted to override my own President's veto of the bill.

This year we have been presented with an opportunity to resolve that civil rights issue. Senator DANFORTH introduced legislation just 3 weeks ago that provides meaningful relief to victims of discrimination, that overturns various harmful Supreme Court decisions such as Lorance versus AT&T, Martin versus Wilks, Patterson versus McLean Credit Union, and that promises to provide the definitive compromise bill that avoids quotas.

Along with eight other Republicans, I am a cosponsor of that legislation. After Senator DANFORTH introduced our proposal, our staffs became enmeshed in marathon discussions with all the interested parties. Specifically, we spent over 10 hours with the Justice Department and administration officials in order to deal with their concerns with the Danforth bill. These occasionally tortuous discussions helped to focus the issues and to increase our depth of understanding of the administration's position.

Further, we were in constant contact with civil rights groups as well as with various Democratic leaders because we believed that their problems deserved strong consideration, too.

Through the past 3 weeks, we all shared JACK DANFORTH'S commitment to play a mediating role in this process. I analogize his role as that of midwife, attempting to coax a yet-to-be-born child into this new world. The midwife cannot make the birth happen, but clearly that person can facilitate the birth, wait with outstretched arms, positioning the child during the birth process in anticipation of a wonderful event.

Our goal remains to position this civil rights bill in such a way that the President of the United States will sign it, to position it in such a way that the Democrats will support it. In order to achieve that goal the cosponsors of the Danforth bill made several modifications, as he has indicated earlier on the floor. In significant ways we altered our original proposal to accommodate the White House.

Clearly, when Senator DANFORTH first introduced our proposal, we were merely in a state of false childbirth. We thought the mother was having contractions, but it turned out the birth would not occur very soon, and 3 weeks passed. During that time, changes were made to the bill. To name just a few examples, there were changes in the formulation of the prima facie case for disparate impact cases, where plaintiffs challenge neutral practices that adversely affect minority groups. Originally, we said that the challenged practice must be "responsible in whole or in significant part" for the disparate impact. But the administration insisted on the term "causes" rather than "is responsible" because they were concerned that our phrase might mean that the challenge practice "merely contributed to" the disparate impact rather than serving as the proximate cause of the disparate impact.

Further, the administration has said from the beginning that they wanted to return to the legal standard employers use to defend disparate impact suits that the Supreme Court enunciated in its seminal decision, Griggs versus Duke Power. In that case, the Supreme Court stated that employers may defend practices that adversely affect minority groups by showing that the challenged practice bears a "manifest relationship to the employment in question."

Mr. President, the Danforth cosponsors agreed to that language. In the most controversial section of this entire bill, we so-called moderate Republicans have conceded that the business necessity definition that the administration has stated that it wanted for 18 months, is acceptable. Again, we experienced once more the hope that we could coax the birth of a civil rights bill.

But now we are faced with a new twist. Suddenly, the language of Griggs is no longer acceptable. Why not? How come the language which captures the intent of which the Attorney General

desires suddenly does not meet with White House approval? How could we be so close and yet so far? The administration has told us that the language would be acceptable if we omit reference to qualifications in our bill. The White House believes that employers should not have to justify their employment practices that measure qualifications by showing that they bear a manifest relationship to the employment in question.

Mr. President, it is clear, even to the nonlawyer, that the term "qualifications" is exactly what the Griggs case was all about. Griggs dealt with a high school diploma requirement that an employer utilized as a qualification for employment. Omission of that term certainly would overturn rather than modify the Griggs case.

So, Mr. President, we are left once again as a midwife, attempting to coax a civil rights bill through the mother of all controversies. Once again, we have come within a hair's breadth of reaching an agreement that all parties should find acceptable. I remain concerned that this newborn will be a breach birth, where there is a particular danger that the child will be choked by its own umbilical cord. JACK DANFORTH has done all that he can. JACK DANFORTH has delivered a civil rights bill that no parties completely love, but all parties should be able to accept.

We know that after conception, as parents, we cannot choose a child's hair color, height, or sex. There are some things that parents have to accept, even if they had their heart set on having a son and then become parents of a baby girl. Shortly after birth, however, all parents realize what a blessing a newborn child is, whether male or female. Similarly, in this case, I came here today to urge all parties to realize that the civil rights bill that the so-called moderate Republicans have tried to deliver and that the Senator from Missouri has laid at the desk this afternoon is clearly a bill that will make everyone proud.

Mr. President, I urge the White House, the Democrats, the business community, and the civil rights groups, to respond favorably to the Danforth proposal.

Mr. BOREN. Mr. President, over the last several days, or many hours, it has been my privilege to have conversations and attend meetings with the distinguished Senator from Missouri [Mr. DANFORTH], with regard to an effort to work out a bipartisan consensus on the civil rights bill that will soon be pending before the Senate. These discussions have involved not only Members of the Democratic and Republican parties in the U.S. Senate, they have also involved members of the administration and members of the White House staff in a effort to come together to find a consensus approach toward civil rights legislation.

Mr. President, when an individual Senator undertakes a negotiation like this, as Senator DANFORTH has undertaken, it is an undertaking that carries with it grave political risks, on an issue as controversial and divisive, potentially, as this proposed civil rights legislation is.

It is much easier for a Senator to stay in the background, to stay out of the line of fire, to keep his or her head down and to not be noticed, to not commit himself or herself to a particular course of action or behavior until it becomes absolutely necessary to cast a vote on a particular matter of legislative policy that is before us.

Unfortunately for the public policy of this country, too many of us often follow this course of least resistance and least political risk. That is not what is good for the country. We all have a responsibility to try to do what is best for our country to try to find the right policy answers. And on an issue of this importance and this magnitude, it is particularly important that we try to speak with a single voice as Americans; that rather than having equality of opportunity be an issue which divides us along party lines, or lines defined by sex, or race, or national origin, or religion, or physical condition, we need to share, as Americans, one common feeling and one common commitment that this should be a country, and this should be a legal and political system, and this should be a community in which all of us have equal standing as Americans without regard to any other defining characteristic. And each of us, men and women, those with physical disabilities and those with no physical disabilities, those of one religion and those of another, those of one race and those of another race, and have an equal opportunity to participate as full members of that family.

There are many signs of growing division in our country. Some refer to it as Balkanization. Some have referred to it as tribalization of our country. More and more factors that drive wedges between us and divide us at a time when we face a changing world, the need to come together to improve our educational system, to deal with our underlying social problems, to improve our economic productivity in a way that will restore and keep the strength of this country as we go into the next century.

And so, Mr. President, this is a time in which we need to come together as one American family caring for each other, understanding each other, and respecting each other, not divided from each other. It is a time in which our political leadership needs to be appealing to our best instincts and not appealing to our worst instincts, appealing to those parts of our personalities and being that bring us together and not appealing to those elements of prejudice in our being that would drive us apart.

Mr. President, for us to have a divisive debate on civil rights legislation in this Chamber, to have one group pitted against another on two sides of a proposal before us, to have it perhaps injected as an issue into the next Presidential campaign is bad for America. It is not only bad politics, it is, more important, bad for America, bad for this country. It can further divide this country along racial, religious, and ethnic lines. It is a divisive debate that in this deliberative body, which is used to debate, it really should have no place right now. It is a debate that we do not need to have. It is a debate that we should not have in this country.

Instead, we should seek to find ways to accommodate each other, to come together, to work out a proposal that protects the rights of all Americans and equal opportunity for employment, to be a productive part of the society, to have our work performance and our professional performance judged on the merits and on no other characteristics, while at the same time not imposing any artificial structure, any quotas, any kind of rigid straitjacket that would, indeed, instead of providing equal opportunity bear the mark of a preference for one group over another, further dividing us, further causing resentments.

Mr. President, that is why the Senator from Missouri, Senator DANFORTH, with all the political risks, decided to step forward and to try to be an intermediary between the White House and the Congress on this important issue of civil rights legislation, and between both sides of the aisle, and different philosophical perspectives on civil rights legislation that will soon be before us.

By taking that stance, Mr. President, he took on a very thankless task. When you stick your head up and you try to fashion a compromise of that kind in a moderate and a reasonable way to bring people together instead of using the rhetoric that inflames passions and divides people apart, you take on a risk, and you almost assure yourself that you will be criticized and misjudged by those especially who are taking the polar position on each side of the issue. When you seek common ground you usually end up angering people on both sides of the issue in what has been a divisive debate.

I have been dismayed when I have heard those on both sides of this issue, even some of it perhaps coming from the White House itself and from some sources there—I am not implying to the President himself, but some who work in that building criticize—and trying to pick apart, and trying to question what the Senator from Missouri has been doing.

I think it is important that those of us who are here and are called upon to

be responsible, whether we agree with the Senator from Missouri on every point or not—and I do not know yet whether I fully agree with the piece of legislation that the Senator has introduced today in regard to civil rights. I cannot say at this time whether I will vote for or against this proposal, but I know one thing, Mr. President, I have immense respect for the process which he has followed. I have immense respect for the Senator from Missouri for having the political courage and the devotion to this country to say, "I'll step forward. I'll take on the task that no one else wants of trying to find a consensus and come to a common agreement on civil rights legislation for this country. I will step forward," he said, and try to find a way to pull us together when there are those on both sides of the issue who might find it politically beneficial to find a way to drive us apart in this country.

Too often, and we have seen it in situation after situation, those who take the reasonable middle ground, those who work to bring people together, are ground up by the extremists on both sides. Those who are fighting for unity and community are often punished by those who would want to divide us.

I think all of us should reflect upon the integrity and the courage of the Senator from Missouri. And let me say I think that our colleagues on both sides of the aisle, whether they vote like the Senator from Missouri, whether they agree with the Senator from Missouri on this issue or other issues, would say both publicly and privately that he is one of the Members of the Senate in whose integrity we have total confidence, whose character we respect and admire. Time and time again I have heard my colleagues privately express, not just on this issue but on many issues, their admiration for the example of character and integrity which he sets as a public official in this country.

Mr. President, I do not know the outcome yet of what will happen in the civil rights debate. I do not know whether the Danforth proposal will pass or whether it will fail. I do not even know at this point how I will end up voting on this proposal. But I know one thing, Mr. President; his efforts deserve to be saluted by all of us. His efforts to find a common ground, his efforts to bring us together, his efforts to keep this country from undergoing a divisive debate over the issue of equal opportunity for all of our citizens deserve to be commended by all of us. They should stand as an example to all of us to have the same kind of courage, when faced with an issue in which we might have special understanding or expertise, to come forward and assume a similar role.

What is wrong with this country is not that we have too many JACK DANFORTH's, too many moderate, reasonable people who are trying to find ways to bring us together instead of to divide us. What is wrong with this country is we do not have enough people in either political party with the kind of courage that he has demonstrated, to try to bring us together on an issue of this importance, to step forward with a moderate, reasonable voice to try to find a common denominator.

Mr. President, I hope my colleagues, those on the floor and those who might be listening in their offices or those who might read my remarks later, will take the opportunity to say to Senator DANFORTH we appreciate the effort that he has made on behalf of the well-being of this country; we appreciate his efforts to stop a train in motion that might move forward to further divide this country at a time when we need unity; and to say to him that his example has not been lost on the rest of us, that hopefully it will call from the rest of us those same qualities and that same determination to make a difference in the right way, and to exercise the moral and political courage to step forward, to speak out, to make an effort and to be visible in a controversial issue of policy when it is necessary for the sake of this country.

So I express to Senator DANFORTH my personal appreciation and admiration for his efforts, and I express my hope that the kind of leadership and commitment he has shown on this issue will cause more colleagues on both sides of the aisle to follow a similar path of political courage and integrity and public service in the highest tradition of this body that he has demonstrated on this particular issue.

I thank the Chair.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, I am introducing the Telephone Advertising Consumer Rights Act, a bill that responds to the national outcry over the explosion of unsolicited telephone advertising. I am pleased to join this effort which was begun by Representative EDWARD J. MARKEY, the chairman of the House Telecommunications and Finance Subcommittee, who has shown real vision and leadership in this area.

The telemarketing industry has witnessed unprecedented success over the past 10 years. In fact, telemarketing sales skyrocketed to over $435 million in 1990. This is a fourfold increase since 1984. This marketing success has created an industry in which over 300,000 telemarketing solicitors call more than 18 million Americans every day. Many consumers and business owners, however, complain that these calls are not only an annoyance, but also can pose dangerous consequences.

The cost and the interference of unsolicited advertising calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. I am proud to say that my home State of South Dakota is at the forefront of this effort and has just passed one of the most comprehensive pieces of legislation dealing with telemarketing abuse. Congress needs to act now to provide uniform ground rules to protect consumers while ensuring that the telemarketing industry continues to be a vigorously active player in the U.S. economy.

The Telephone Advertising Consumer Rights Act directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider, if this bill becomes law, is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange. This bill would not end unsolicited calls, but it would allow consumers to choose how their phone is used and requires vendors to respect that consumer decision.

Due to advances in autodialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers and paging and cellular equipment. There are many examples of autodial machines hitting hospital switchboards and sequentially delivering a recorded message to all phone lines. In some instances, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phone inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, my bill requires autodialer machines to release the phone line after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call. This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. My bill requires that autodial fax ma-

chines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

My legislation provides uniform Federal guidelines to ensure that the telemarketing industry will continue to experience unprecedented growth. Responsible telemarketers welcome a single set of clear rules. This bill will not preempt any State law addressing this topic. Rather, it would assist States in their attempts to regulate intrastate telemarketing abuse.

I urge my colleagues to support and cosponsor this legislation. It can ensure a robust telemarketing industry while giving consumers the ability to choose how their telephones are used.

Mr. President, I ask unanimous consent to have the Telephone Advertising Consumer Rights Act printed in the RECORD following my remarks.

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

S. 1410

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 "Telephone Advertising Consumer Rights Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 226 (47 U.S.C. 226) the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator;

"(B) to dial such numbers; and

"(C) to deliver, without initial live operator assistance, a prerecorded voice message to the number dialed, with or without manual assistance.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to do either or both of the following: (A) to transcribe text or images (or both) from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship. Such term does not include a call or message by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to make any telephone solicitation in violation of the regulations prescribed by the Commission pursuant to subsection (c);

"(2) to use, to make any telephone solicitation, any telephone facsimile machine or any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under subsection (d), or to use, to make any telephone solicitation, any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards;

"(3) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement in violation of any regulations prescribed by the Commission pursuant to subsection (e);

"(4) to use any automatic telephone dialing system to make unsolicited calls—

"(A) to any emergency telephone line or pager of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency; or

"(B) to any telephone number assigned to paging, specialized mobile radio, or cellular telephone service; or

"(5) to use a computer or other electronic device to send an unsolicited advertisement via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the advertisement or on the first page of each transmission, the date and time it is sent, an identification of the business sending the advertisement, and the telephone number of the sending machine or of such business.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of telephone network technologies) for protecting such privacy rights, in terms of their cost effectiveness and their other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, or to receiving certain classes or categories of telephone solicitations, and to make that compiled list available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the tele-

phone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in notifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with subsection (b);

"(J) be designed to enable and require States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) Considerations required for use of database method.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after 6 months after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business or other entity sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 12 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(2) AUTOMATIC TELEPHONE DIALING SYSTEMS.—The Commission shall prescribe technical and procedural standards for automatic telephone dialing systems that are used to transmit any prerecorded telephone solicitation. Such standards shall require that—

"(A) all prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business or other entity; and

"(B) such systems will, as soon as is technically practicable (given the limitations of the telephone exchange service facilities) after the called party hangs up, automatically create a disconnect signal or on-hook condition which allows the called party's line to be released.

"(e) CONSIDERATION OF FACSIMILE MACHINE RESTRICTIONS.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding to prescribe rules to restrict the use of any telephone facsimile machine or computer or other electronic device to send any unsolicited advertisement to the telephone facsimile machine of any person. In establishing such restrictions, the Commission shall consider—

"(1) the extent to which unsolicited advertisements are transmitted through telephone facsimile machines;

"(2) the extent to which recipients of such advertisements incur costs for such receipt; and

"(3) the most cost effective methods of preventing advertising abuses with telephone facsimile machines.

"(f) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(1) The use of telephone facsimile machines or other electronic devices to send unsolicited advertisements.

"(2) The use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(g) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of this section shall take effect 30 days after the date that regulations are prescribed under subsection (c).".

SEC. 4. CONFORMING AMENDMENT.

Section 2(b) of the Communications Act of 1934 is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

MIDDLE-INCOME TAX RELIEF AND FAMILY PRESERVATION ACT

Mr. DODD. Mr. President, I rise today to introduce the Middle-Income Tax Relief and Family Preservation Act of 1991.

Throughout our history, Americans have shared a common goal—to make life better for our children than it was for us in our own time. It's a basic axiom which first bound us as a Nation of immigrants and which continues to define us as a Nation and a people. It's a common sense of purpose which makes us the people that we are—hard working, optimistic, and tolerant.

Today—for the first time in our history—America's working families can no longer count on a better life for their children. These families are not the very poor, nor are they the very rich. They are the millions of families who count themselves among that uniquely American institution: The middle class.

Caught in a squeeze between changing family demographics, stagnant income, and rising basic costs, families now question whether the American dream is beyond reach. They ask, Why can't we afford to buy a house? Where do we find affordable child care that is also safe? How can we afford to send our children to college? And finally, they ask, Why doesn't the Tax Code treat our family more fairly?

The economic pressures on working families are severe and getting worse. Incomes for middle-class families have been virtually stagnant, despite the entrance of millions of mothers into the labor force over the past decade. At the same time, rising costs have further pressed tight family budgets. In the past 20 years, median rents have risen from 21 to 29 percent of household income, and the cost of college from 25 to 31 percent of income.

As I travel around my home State of Connecticut, I see families caught in the same squeeze. They earn the Nation's highest median income, but must also endure extremely high basic consumer expenses. While housing costs increased by an average of 300 percent nationally from 1970 to 1990, Connecticut residents faced an average increase of 600 percent during that same period. The cost of child care in our State is 33 percent higher than the national average—$4,500 for preschoolers in Connecticut child care centers, as compared to $3,400 nationally.

I am equally disturbed by the extent to which Federal policies contribute to the economic squeeze for middle-income families. During the 1980's, the burden of Federal taxes shifted from the wealthy to the tired shoulders of the middle class. Between 1977 and 1990, the share of Federal taxes paid by the richest 1 percent of Americans decreased 15 percent, while they increased by almost 2 percent for middle-income taxpayers.

Working families have done their share in the workplace and through their tax payments. Now it's time they receive their fair share. It's time to correct the inequities of the past and to give families the economic tools they need to remain strong and to nurture their children. I believe very strongly that government cannot substitute for the family. But government can help families help themselves.

Today, I am introducing the Middle Income Tax Relief and Family Preser-

vation Act of 1991. This proposal provides tax relief for middle income families by increasing the personal exemption by 50 percent for those in the 15 percent bracket and by 25 percent for those in the 28 percent bracket. To provide special help to families raising young children, the bill also converts the dependent exemption into a $800 tax credit for each child under age 5. To alleviate the high costs of college, my proposal restores the tax exclusion for income from scholarships and fellowships.

I am encouraged by the growing bipartisan consensus in support of tax relief for working families. Just this week the National Commission on Children recommended unanimously a $1,000 tax credit for each American child. This morning, the Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, conducted a hearing on the economic squeeze on working families, the third in a series begun in January. There, Senator COATS, the ranking minority member of the subcommittee, spoke strongly in favor of an increase in the personal exemption, for which he has been pushing hard.

Tax reform alone cannot deal with the root cause of family dissolution which, in turn, exacerbates the external economic squeeze on working families. For example, we know that one-quarter of children today grow up in single-parent families and that these children are four times more likely to live in poverty than other children. The basic problem: Lack of adequate child support from absent parents. The proposal I am introducing today strengthens child support enforcement by the States and establishes assured child support demonstration projects for children whose absent parents cannot be found. Finally, the bill creates a National Commission on Family Strengths to look at questions associated with divorce and its impact on children, in an effort to understand how Federal and State policies can help to strengthen families.

Families are the most basic fabric of our society. Many argue that this fabric is tattered and shattered to the point of dysfunction. I disagree. American families remain resilient and loving, despite tremendous economic pressures and structural changes. This legislation responds to those pressures and changes, in order to better support and encourage families.

Mr. President, I ask uanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1411

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 "Middle Income Tax Relief and Family Preservation Act of 1991".

TITLE I—FAMILY TAX RELIEF

Subtitle A—Personal Exemption Amount

SEC. 101. INCREASE IN PERSONAL EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 151(d) of the Internal Revenue Code of 1986 (defining exemption amount) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'exemption amount' means the sum of—

"(A) a regular exemption amount equal to $2,300, and

"(B) in the case of—

"(i) a 15-percent bracket taxpayer, an additional exemption amount equal to $1,150, or

"(ii) a 28-percent bracket taxpayer, an additional exemption amount equal to $575."

(b) DEFINITIONS.—Subsection (d) of section 151 of such Code is amended by adding at the end thereof the following new paragraph:

"(5) DEFINITIONS RELATING TO ADDITIONAL EXEMPTION AMOUNT.—For purposes of paragraph (1)—

"(A) 15-PERCENT BRACKET TAXPAYER.—The term '15-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 not greater than 15 percent.

"(B) 28-PERCENT BRACKET TAXPAYER.—The term '28-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 greater than 15 percent but not greater than 28 percent."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 151(d)(4) of such Code is amended—

(1) by striking "1989, the dollar amount" in the matter preceding clause (i) and inserting "1992, each dollar amount", and

(2) by striking "1988" in clause (ii) and inserting "1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Refundable Credit for Children

SEC. 111. REFUNDABLE CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. TAX CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $800 multiplied by the number of qualified personal exemptions of the taxpayer for the taxable year.

"(b) QUALIFIED PERSONAL EXEMPTION.—For purposes of this section, the term 'qualified personal exemption' means any personal exemption which (but for section 151(d)(3)) would be allowed to the taxpayer under section 151 for a child of the taxpayer (as defined in section 151(c)) who has not attained age 5 at the close of the calendar year in which the taxable year of the taxpayer begins.

"(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be rounded to the next highest multiple of $10).

"(d) COORDINATION WITH MEANS-TESTED PROGRAMS.—Any refund made by reason of this section, and any payment made under section 7524, shall be treated in the same manner as refunds made by reason of section 32 and payments made under 3507 for purposes of—

"(1) sections 402, 1612, and 1613 of the Social Security Act and title XIX of such Act, and

"(2) the laws referred to in paragraphs (1) through (5) of section 32(j)."

(b) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS OF DEPENDENTS FOR WHICH CREDIT ALLOWED.—Section 151(d) of such Code, as amended by section 101, is further amended by adding at the end thereof the following new paragraph:

"(6) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS FOR WHICH CREDIT ALLOWED.—The exemption amount for any dependent with respect to which a credit under section 35 is allowed for the taxable year shall be zero."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 35. Tax credit for children.

"Sec. 36. Overpayments of tax."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 112. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if—

"(1) the taxpayer elects during the preceding taxable year to receive payments under this section during the taxable year,

"(2) the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(A) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(B) estimate the amount of such refund, and

"(3) the Secretary determines that the taxpayer will be so entitled and the estimated amount of such refund (without regard to this section).

"(c) TIMING AND AMOUNT OF PAYMENTS.—

"(1) AGGREGATE PAYMENTS.—The aggregate payments made by the Secretary under this

section to a taxpayer for the taxable year shall equal approximately 80 percent of the Secretary's estimate under subsection (b)(3).

"(2) QUARTERLY PAYMENTS.—The Secretary shall make the payments under this section on a quarterly basis in approximately equal amounts.

"(d) OTHER PROVISIONS.—

"(1) PROCEDURES TO ASSURE PAYMENTS TO INDIVIDUALS HAVING ADJUSTED GROSS INCOMES OF $12,000 OR LESS.—If a taxpayer has an adjusted gross income of $12,000 or less for any taxable year and the Secretary accepts a taxpayer's certification that he reasonably expects that his income tax return for the following taxable year will be substantially similar to his income tax return for the taxable year, the Secretary shall make all reasonable efforts to make payments under this section to such taxpayer for such following taxable year.

"(2) CHANGES IN ESTIMATED REFUND.—If, at any time, the Secretary changes his estimate under subsection (b)(3) for any taxable year, the Secretary may adjust subsequent payments under this section for such taxable year to reflect the new estimate.

"(3) COORDINATION OF PAYMENTS WITH CREDITS.—

"(A) IN GENERAL.—If any payment is made by the Secretary under this section to any taxpayer for a taxable year, then the taxpayer's tax imposed by chapter 1 for such taxable year shall be increased by the aggregate of such payments.

"(B) RECONCILIATION.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by chapter 1 for purposes of determining the amount of any credit allowable under subpart C of part IV of subchapter A of chapter 1 other than the credit allowed by section 35."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Advance payments of credit for children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Scholarships and Fellowships

SEC. 121. RESTORATION OF PRIOR LAW EXCLUSION FOR SCHOLARSHIPS AND FELLOWSHIPS.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 117. SCHOLARSHIPS AND FELLOWSHIP GRANTS.

"(a) GENERAL RULE.—In the case of an individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) as a fellowship grant,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) LIMITATIONS.—

"(1) INDIVIDUALS WHO ARE CANDIDATES FOR DEGREES.—In the case of an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(2) INDIVIDUALS WHO ARE NOT CANDIDATES FOR DEGREES.—In the case of an individual who is not a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall apply only if the condition in subparagraph (A) is satisfied and then only within the limitations provided in subparagraph (B).

"(A) CONDITIONS FOR EXCLUSION.—The grantor of the scholarship or fellowship grant is—

"(i) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(ii) a foreign government,

"(iii) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(iv) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

"(B) EXTENT OF EXCLUSION.—The amount of the scholarship or fellowship grant excluded under subsection (a)(1) in any taxable year shall be limited to an amount equal to $300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during such taxable year, except that no exclusion shall be allowed under subsection (a) after the recipient has been entitled to exclude under this section for a period of 36 months (whether or not consecutive) amounts received as a scholarship or fellowship grant while not a candidate for a degree at an educational institution described in section 170(b)(1)(A)(ii).

"(c) FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES NOT INCLUDABLE MERELY BECAUSE THERE IS REQUIREMENT OF FUTURE SERVICE AS FEDERAL EMPLOYEE.—

"(1) IN GENERAL.—If—

"(A) an amount received by an individual under a Federal program would be excludable under subsections (a) and (b) as a scholarship or fellowship grant but for the fact that the individual is required to perform future service as a Federal employee, and

"(B) the individual establishes that, in accordance with the terms of the grant, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an institution of higher education, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an institution of higher education.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized health profession, and

"(iv) is a public or other nonprofit institution.

"(3) SERVICE AS FEDERAL EMPLOYEE.—For purposes of this subsection, service in a health professional shortage area shall be treated as service as a Federal employee.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(b) CONFORMING AMENDMENTS.—

(1) Section 74(a) of such Code is amended by inserting "and fellowship grants" after "scholarships".

(2) The second sentence of section 1441(b) of such Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are—

"(1) that portion of any scholarship or fellowship grant which is received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is not excluded from gross income under section 117(a)(1) solely by reason of section 117(b)(2)(B); and

"(2) amounts described in subparagraphs (A), (B), (C), and (D) of section 117(a)(2) which are received by any such nonresident alien individual and which are incident to a scholarship or fellowship grant to which section 117(a)(1) applies, but only to the extent such amounts are includible in gross income."

(3) Section 7871(a)(6) of such Code is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E) and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 117(b)(2)(A) (relating to scholarships and fellowship grants),".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and fellowship grants" after "scholarships" in the item relating to section 117.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

Subtitle D—Revenue Provisions

SEC. 131. INCREASE IN RATE OF INDIVIDUAL INCOME TAX FOR HIGH-INCOME TAXPAYERS.

(a) IN GENERAL.—

(1) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—Subsection (a) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on married individuals filing joint returns and surviving spouses) is amended by striking the item beginning "Over $78,400" and inserting the following new items:

"Over $78,400 but not over $160,000.	$17,733.50, plus 31% of the excess over $78,400.
"Over $160,000	$43,029.50, plus 34% of the excess over $160,000."

(2) HEADS OF HOUSEHOLDS.—Subsection (b) of section 1 of such Code (relating to tax imposed on heads of households) is amended by striking the item beginning "Over $67,200" and inserting the following new items:

"Over $67,200 but not over $120,000.	$15,429.50, plus 31% of the excess over $67,200.
"Over $120,000	$31,797.50, plus 34% of the excess over $120,000."

(3) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—Subsection (c) of section 1 of such Code (relating to tax imposed on unmarried individuals, other than surviving spouses and heads of households) is amended by striking the item beginning "Over $47,050" and inserting the following new items:

"Over $47,500 but not over $100,000.	$10,645.50, plus 31% of the excess over $47,500.
"Over $100,000	$26,920.50, plus 34% of the excess over $100,000."

(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—Subsection (d) of section 1 of such Code (relating to tax imposed on married individuals filing separate returns) is amended by striking the item beginning "Over $39,200" and inserting the following new items:

"Over $39,200 but not over $80,000.	$8,866.75, plus 31% of the excess over $39,200.
"Over $80,000	$21,514.75, plus 34% of the excess over $80,000."

(5) ESTATES AND TRUSTS.—Subsection (e) of section 1 of such Code (relating to tax imposed on estates and trusts) is amended by striking the item beginning "Over $9,900" and inserting the following new items:

"Over $9,900 but not over $12,600.	$2,343, plus 31% of the excess over $9,900.
"Over $12,600	$3,180, plus 34% of the excess over $12,600."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 132. SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $300,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $300,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $300,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $300,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$150,000' for '$300,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part shall be applied—

"(1) after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $300,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 133. INCREASE IN RATE OF CORPORATE INCOME TAX.

(a) IN GENERAL.—Subparagraph (C) of section 11(b)(1) of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking "34 percent" and inserting "35 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 11(b) of such Code (relating to ineligibility of personal service corporations for graduated rate) is amended by striking "34 percent" and inserting "35 percent".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "35 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 134. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "27 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—ASSURED MINIMUM CHILD SUPPORT DEMONSTRATION PROJECTS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households has increased significantly;

(2) there is a high correlation between childhood poverty and growing up in a single-parent household;

(3) family dissolution often brings the economic consequence of a lower standard of living for the custodian and children, such that children are nearly twice as likely to live in poverty after such dissolution as before;

(4) one-fourth of single mothers who are owed child support receive none, and another one-fourth receive only partial payments;

(5) single mothers above and below the poverty line are equally likely to receive none of the child support they are owed; and

(6) the failure of children to receive an adequate level of child support limits the ability of such children to thrive and to develop their potential and leads to long-term societal costs in terms of health care, welfare, and loss in labor force productivity.

(b) PURPOSE.—It is the purpose of this Act to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support from the noncustodial parents of such children and to strengthen the establishment and enforcement of child support awards. The child support assurance approach is structured on a demonstration basis in order to implement and evaluate different options with respect to the provision of intensive support services and mechanisms for administering the program on a national basis.

SEC. 202. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to not more than 6 States to conduct demonstration projects for purposes of establishing or improving a system of assured minimum child support payments in accordance with this section.

(b) CONTENTS OF APPLICATION.—An application submitted by the Governor of a State shall—

(1) contain a description of the proposed child support assurance project to be estab-

lished, implemented, or improved using amounts provided under this section, including the specific activities to be undertaken and the agencies that will be involved;

(2) specify whether the project will be carried out throughout the State or in limited areas of the State;

(3) estimate the number of children who will be eligible for assured minimum child support payments under the project, and the amounts to which they will be entitled, on average as individuals and in the aggregate;

(4) describe the child support guidelines and review procedures which are in use in the State and any expected modifications;

(5) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive years beginning with fiscal year 1992;

(6) contain assurances that the State is currently at or above the national median paternity establishment rate (as defined in section 452(g)(2) of the Social Security Act) and that the State will improve the performance of its State agency (designated by the State to carry out the requirements under part D of title IV of the Social Security Act) by at least 4 percent each year in which the State operates a child support assurance project under this section in—

(A) the number of cases in which paternity is established when required;

(B) the number of cases in which child support orders are obtained; and

(C) the number of cases with child support orders in which collections are made;

(7) contain assurances that, to the maximum extent possible under current law, the State will use Federal, State, and local job training assistance to assist individuals who have been determined to be unable to meet such individuals' child support obligations;

(8) describe the extent to which multiple agencies, including those responsible for administering the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act and child support collection, enforcement, and payment under part D of such title, will be involved in the design and operation of the child support assurance project; and

(9) contain such other information as the Secretary may require by regulation.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project designed to provide a minimum monthly child support benefit for each eligible child in the State to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) REQUIREMENTS.—(1) A child support assurance demonstration project funded under this section shall provide that—

(A) any child (as defined in paragraph (2)) with a living noncustodial parent for whom a child support order has been sought (as defined in paragraph (3)) or obtained and any child who meets "good cause" criteria for not seeking or enforcing a support order is eligible for the assured child support benefit;

(B) the assured child support benefit shall be paid promptly to the custodial parent at least once a month and shall be—

(i) $3,000 per year minimum for the first child, and $1,000 per year minimum increments for the second and each subsequent child;

(ii) offset and reduced to the extent that the custodial parent receives child support in a month from the noncustodial parent;

(iii) indexed and adjusted for inflation; and

(iv) in the case of a family of children with multiple noncustodial parents, calculated in the same manner as if all such children were full siblings, but any child support payment from a particular noncustodial parent shall only be applied against the child support assured benefit for the child or children of that particular noncustodial parent;

(C) for purposes of determining the need of a child or relative and the level of assistance, one-half of the amount received as a child support payment shall be disregarded from income until the total amount of child support and Aid to Families With Dependent Children benefit received under part A of title IV of the Social Security Act equals the Federal poverty level for a family of comparable size;

(D) in the event that the family as a whole becomes ineligible for Aid to Families With Dependent Children under part A of the Social Security Act due to consideration of child support assurance benefits, the continuing eligibility of the caretaker for Aid to Families With Dependent Children under such title shall be calculated without consideration of the child support assured benefit; and

(E) in order to participate in the child support assurance project, the child's caretaker shall apply for services of the State's child support enforcement program under part D of title IV of the Social Security Act.

(2) For purposes of this section, the term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by the law of the State in which such individual resides.

(3) For purposes of this section, a child support order shall be deemed to have been "sought" where an individual has applied for services from the State agency designated by the State to carry out the requirements of part D of title IV of the Social Security Act or has sought a child support order through representation by private or public counsel or pro se.

(e) CONSIDERATION AND PRIORITY OF APPLICATIONS.—(1) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve not more than 6 applications which appear likely to contribute significantly to the achievement of the purpose of this section. In selecting States to conduct demonstration projects under this section, the Secretary shall—

(A) consider the geographic dispersion and variation in population of the applicants;

(B) give priority to States the applications of which demonstrate—

(i) significant recent improvements in enforcement of child support awards and collection of child support payments; and

(ii) that efforts will be made to link child support systems with other service delivery systems; and

(C) ensure that, if feasible, the States selected use a variety of approaches for child support guidelines.

(2) Of the States selected to participate in the demonstration projects conducted under this section, the Secretary shall require, if feasible—

(A) that at least 2 or more of such States provide intensive integrated social services for low-income participants in the child support assurance project, for the purpose of assisting such participants in improving their employment, housing, health, and educational status; and

(B) that at least 2 or more such States plan to cooperate and to integrate interstate establishment and enforcement of child support awards.

(f) EVALUATION AND REPORTS.—(1) Each State that conducts a demonstration project under this section shall, as a part of such demonstration project, conduct an interim and a final evaluation of the effectiveness of the demonstration project and shall submit an interim and final report to the Secretary concerning the results of the evaluation and any improvements in child support enforcement.

(2) The evaluation and report submitted by a State to the Secretary shall analyze and describe (in such a manner as prescribed by the Secretary)—

(A) the impact of the child support assurance project on the economic and noneconomic well-being of children and adults in both custodial and noncustodial households;

(B) the work force participation rates of both custodial and noncustodial parents as a result of participation in the child support assurance project;

(C) the impact of the child support assurance project on Aid to Families With Dependent Children participation rates, grants, and funding levels;

(D) a comparison of enforcement effectiveness in intrastate and interstate cases;

(E) the impact on custodial and noncustodial families of access to intensive integrated services for custodial families and to job training services for noncustodial parents;

(F) the impact of child support guidelines on the effectiveness of the child support assurance project and the economic well-being of children and adults in both custodial and noncustodial families;

(G) administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the collection of adequate child support payments from noncustodial parents;

(H) the measures that the State has taken or intends to take to eliminate or reduce impediments described in subparagraph (G) that are attributable to administrative policies and laws of the State or a political subdivision of the State; and

(I) any other relevant items as the Secretary may require.

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than fiscal year 1992 and shall be conducted for not less than 3 and not more than 5 consecutive years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) COST SAVINGS RECOVERY.—The Secretary shall develop a methodology to identify any State cost savings realized in connection with the implementation of a child support assurance demonstration project conducted under this Act. Any such savings realized as a result of the implementation of a child assurance demonstration project shall be utilized for child support enforcement improvements or expansions and improvements in the Aid to Families With Dependent Children Program conducted under part A of title IV of the Social Security Act within the participating State, and Federal expenditures for such project within the State shall be reduced in proportion to any such savings.

(i) EVALUATION AND REPORT TO CONGRESS.—Three and 5 years after commencement of the first State child support assurance dem-

onstration project, the Secretary shall conduct an evaluation of each such demonstration project and submit a report to the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives concerning the effectiveness of the child support assurance demonstration projects funded under this section. Such report shall analyze the reports received by the Secretary under subsection (f) from each participating State and shall compare the effects of different types of child support guidelines.

(j) RESTRICTIONS ON MATCHING AND USE OF FUNDS.—(1) A State conducting a demonstration project under this section shall be required—

(A) except as provided in paragraph (2), to provide not less than 20 percent of the total amounts expended in each calendar year of the project to pay the costs associated with the project funded under this section; and

(B) to maintain its level of expenditures for child support collection, enforcement, and payment at the same level, or at a higher level, than such expenditures were prior to such State's participation in a demonstration project provided by this section.

(2) A State participating in a demonstration project under this section may provide no less than 10 percent of the total amounts expended to pay the costs associated with the project funded under this section in years after the first year such project is conducted in a State if the State meets the improvements specified in paragraph (6) of subsection (b).

(k) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937;

(2) title V of the Housing Act of 1949;

(3) section 101 of the Housing and Urban Development Act of 1965;

(4) sections 221(d)(3), 235, and 236 of the National Housing Act;

(5) the Food Stamp Act of 1977;

(6) title XIX of the Social Security Act; and

(7) child care assistance provided through part D of title IV of the Social Security Act, the Child Care and Development Block Grant, or title XX of the Social Security Act,

any payment made to an individual for child support up to the amount which a child support assurance benefit would provide shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month.

(l) TREATMENT OF CHILD SUPPORT BENEFIT.—Any assured child support benefit received by an individual under this title shall be considered child support for purposes of the Internal Revenue Code of 1986.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the account established in subsection (n) such sums as may be necessary in each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the purposes of this section.

(n) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby created on the books of the Treasury of the United States an account consisting of such amounts as may be appropriated to such account as provided in paragraph (2).

(2)(A) There are appropriated to the account and available for expenditure amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by subtitle D of title I of this Act to the extent necessary to satisfy the authorizations of appropriations under subsection (m).

(B) The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the account.

TITLE III—NATIONAL COMMISSION ON FAMILY STRENGTHS

SEC. 301. ESTABLISHMENT OF NATIONAL COMMISSION ON FAMILY STRENGTHS.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Commission on Family Strengths" (hereafter in this title referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 21 members, of which—

(A) seven members shall be appointed by the President;

(B) seven members shall be appointed by the Speaker of the House of Representatives; and

(C) seven members shall be appointed by the President pro tempore of the Senate.

(2) REPRESENTATION.—The members of the commission shall be appointed under paragraph (1) from among individuals who—

(A) are representative of organizations providing services to children and families;

(B) have engaged in academic research with respect to the problems and needs of children and families;

(C) are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children and families;

(D) are parents or representatives of parents or parents' organizations;

(E) are members of the judiciary with responsibility for family law matters; and

(F) are members of a family law bar association.

(3) CONSULTATION.—The appointments shall be made under paragraph (1) after consultation with the chairpersons of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

(4) EX OFFICIO MEMBER.—The Secretary of Health and Human Services shall serve as an ex-officio member of the Commission.

(5) TERMS.—Each member of the Commission shall serve for a term of 2 years, except that 9 of the initial members (3 of each group appointed under subparagraphs (A), (B) and (C) of paragraph (1)) of the Commission shall serve for a term of 1 year.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(7) QUORUM.—Eleven members of the Commission shall constitute a quorum for purposes of the business of the Commission, but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet not less than four times each year at the call of the Chairperson.

(9) VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in such membership shall not affect its powers and shall be filled in the same manner as the original appointment.

(10) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the members of the Commission.

(2) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director under paragraph (1) and such other personnel as it considers appropriate to assist in the performance of its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct public hearings and enter into contracts or cooperative agreements for the facilitation of expert studies and reports in order to receive diverse opinions concerning ways to strengthen and preserve families and to enhance the economic and noneconomic status of children.

(2) STUDY AND REPORT TOPICS.—The Commission shall include the following matters in the studies, reports and hearings undertaken under paragraph (1):

(A) ENHANCING FAMILY STABILITY.—Matters relating to approaches that may enhance family stability that the Commission may elect to pursue, including—

(i) the manner in which educational programs provided for young people prior to their marriage may help decrease the possibility of later divorce;

(ii) the manner in which the accessibility and effectiveness of counseling for troubled families can be improved;

(iii) whether special procedures for divorce, including waiting periods, should be utilized for families in which children are involved; and

(iv) the role of mediation or conciliation, both voluntary and mandatory, in divorce proceedings, including those in which children are involved.

(B) ECONOMIC IMPACT OF DIVORCE.—Matters relating to the economic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which divorce affects the standard of living of parents and children;

(ii) whether child support awards are modified appropriately over time; and

(iii) whether any detrimental economic impact of divorce on children could be mitigated through a requirement that all children's economic issues be resolved prior to other distributions of marital property.

(C) NONECONOMIC IMPACT OF DIVORCE.—Matters relating to the noneconomic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which conflict during divorce proceedings can be minimized, especially when custody is disputed; and

(ii) the manner in which effective assistance can be provided to children during and after the divorce of their parents, including school-based programs.

(D) ROLE OF THE JUDICIARY.—Matters relating to the role of the judiciary in helping to preserve families that the Commission may elect to pursue, including—

(i) the manner in which the judiciary can be best informed and trained regarding the impact of divorce and divorce proceedings on children; and

(ii) whether courts should be encouraged to provide certain social services to families contemplating or undergoing divorce.

(3) RECOMMENDATIONS AND REPORTS.—

(A) RECOMMENDATIONS.—The Commission shall compile and analyze the findings of the Commission with respect to the topics described in paragraph (2) and related matters and shall develop recommendations for—

(i) Federal and State policies to strengthen and preserve families; and

(ii) model State legislative reforms where appropriate.

(B) REPORTS.—Not later than March 31, 1994, the Commission shall prepare and submit to the President, the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, an interim report concerning the recommendations developed under subparagraph (A). Not later than September 30, 1994, the Commission shall prepare and submit to the President and such Committees, a final report concerning such recommendations.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission, or any duly organized committee thereof, may for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such committee determines appropriate. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or committee thereof.

(2) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

POSTAGE RATE REFORM ACT

Mr. STEVENS. Mr. President, today I am introducing legislation to reduce the cost, to the taxpayers, of Federal subsidies for certain nonprofit and other mailers, and still protect nonprofit organizations that provide an essential service to the American public.

As we all know, this subsidy, which is appropriated to the U.S. Postal Service, is entitled by Revenue Forgone. Soon we will be dealing with the Treasury/Postal Subcommittee appropriation bill. The level of funding for this category is in severe jeopardy. Unless we prioritize just who should receive funding for subsidized mailing, almost all worthy recipients of Revenue Forgone will suffer.

The Appropriations Committee must decide if it is more important to increase funding for drug interdiction programs, and to improve the security of our borders, or if it is more important to subsidize mailings by university pamphlets urging tours of the fjords of Norway.

The bill I am introducing, by request, is the administration's bill from last year. It is based on the Postal Rate Commission's study mandated by Congress in 1985. It is a starting point for discussion. I hope my colleagues will study this bill over the recess so we can move on this issue before the Treasury/Postal appropriations bill comes before us in July We must do something this year to resolve this issue.

Mr. President, I ask unanimous consent to have the entire text of the bill and the accompanying section-by-section analysis printed in the RECORD.

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

S. 1412

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 "Postage Rate Reform Act of 1990".

SEC. 2. RESTRICTION OF POSTAGE SUBSIDIES.

(a) COMMERCIAL SERVICES; POLITICAL ADVOCACY; ADVERTISING; EDUCATIONAL ORGANIZATIONS OTHER THAN SCHOOLS.—Section 3626 of title 39, United States Code, is amended by adding the following subsections:

"(j) For purposes of this section, the rates for mail under former section 4452 (b) and (c) shall not apply to any matter which advertises—

"(1) an article or product, unless more than half of the labor of producing or assembling the article or product has been performed by members of the mailing organization or by persons for whose benefit the mailing organization was established;

"(2) travel or insurance;

"(3) any other service, unless the service is provided by members of the mailing organization or by persons for whose benefit the mailing organization was established; or

"(4) a gift or premium offer unless the gift or premium may be kept by the addressee whether or not a contribution is made.

"(k) The rates for mail under former subsections 4452 (b) and (c) of this title shall not apply to any matter which attempts to influence legislation or to influence a partisan election.

"(1) If the advertising portion of an issue of a publication exceeds 10 percent of such issue, the publication shall not be eligible for rates established under this section for mail under former subsection 4358(d).

"(m) For purposes of this section, a nonprofit organization or association shall be considered to qualify as "educational," as that term is used in former sections 4358, 4452, and 4554 of this title, only if its primary purpose is to administer a course or courses of instruction through a teacher-student relationship in school.".

(b) PUBLISHER MAILINGS AT LIBRARY RATE.—Section 3683 of title 39, United States Code, is amended by striking out "(a)" and by striking out subsection (b).

SEC. 3. POSTAGE RATES FOR GOVERNMENT MAIL.

(a) PRINCIPLE FOR SETTING GOVERNMENT RATES.—Section 3622 of title 39, United States Code, is amended by adding at the end the following new subsection:

"(d) In establishing rates or fees for each class of mail or type of service, it shall be a policy of this title that rates charged the Federal Government for any class of mail or type of service shall not exceed:

"(1) the direct and indirect postal costs attributable to it, plus

"(2) an assignment of other costs of the Postal Service in an amount which bears the same ratio to such attributable costs assigned under subsection (b)(3) of this section as other mail of the same class or type but not sent under chapter 32 of this title bears to the attributable costs of such other mail.".

(b) TRANSITIONAL POSTAGE CHARGES.—From October 1, 1991, until such time as rates of postage are changed under title 39, United States Code, as amended by subsection (a), the United States Postal Service, in determining the equivalent of postage on penalty and franked mail as required under sections 3206 and 3216 of such title, shall take into consideration such differences in attributable costs between such mail and non-Government mail as are reflected in the record of Postal Rate Commission Docket No. R87-1.

SEC. 4. EFFECTIVE DATE.

This Act is effective October 1, 1991.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. This section amends 39 U.S.C. 3626 and 3683 to tighten eligibility requirements for reduced rate mailings, and to cure defects which have enabled such rates to be used for purposes not warranting public financial support. These reforms would curtail the use of reduced rates to send advertising mail and political advocacy mail, and stop the use of favored library rates by publishers and distributors. This section would also limit qualification as a nonprofit "educational" organization to those involving courses of instruction with a teacher-student relationship.

Sec. 3. This section establishes, as a policy to be used in postal rate proceedings, the principle that rates and fees paid by the Federal Government for a class of mail or type of service should not exceed certain costs. These costs are the actual costs of delivering Government mail, plus the same percentage of other postal costs as is charged in the rates for comparable commercial mailings. The Federal Government, like other mailers, would be able to file a complaint with the Postal Rate Commission if this policy is not implemented with respect to a particular class of mail or type of mail service. Subsection (b) provides that until the next postal rate proceeding is completed, the Postal Service must estimate the appropriate charges using the attributable cost data for penalty and franked mail that appears in the record of the last postal rate case, Docket No. R87-1.

The practical effect of this change is that the rate for Federal mail would reflect actual costs attributable to delivering it, which are in most instances lower than the generally applicable rates.

Sec. 4. This section provides that the provisions of the Act take effect October 1, 1991.

Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON, and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and

Tibet; to the Committee on Foreign Relations.

TERMINATION OF HUMAN RIGHTS ABUSES IN CHINA

Mr. KENNEDY. Mr. President, the continuing imprisonment, torture, and execution of members of the pro-democracy movement in China make it more important than ever that we review our actions in that part of the world to ensure that Americans are working with, and not against, the forces of freedom.

Today, jailed Tiananmen Square activists and Buddhist monks are being subjected to forced labor to assemble products for export to the United States, German, and Japanese markets. Many firms in the free world have become unknowing partners in deals with prison camps.

The United States should be doing more to end these human rights abuses. The bill I am introducing today with Senators GRASSLEY, DECONCINI, CRANSTON, and WELLSTONE would enlist U.S. businesses in this effort.

This legislation requires U.S. nationals engaged in commercial activities in China to follow certain guidelines in conducting business. Legislation nearly identical to this, H.R. 1571, was introduced in the House on March 21st by Representative JOHN MILLER, of Washington, and has been incorporated into the House Foreign Aid Authorization bill.

Prisoners, including large numbers of political prisoners, are an integral part of China's labor force. Products from forced labor camps are sold in domestic and foreign markets and have become a large component of the Chinese economy. One-third of the tea produced in China, for example, comes from labor camps.

Prisoners mine, manufacture, and harvest a variety of other products, including coal, textiles, steel, machine tools, automobiles, chemicals, electronic goods, fans, shoes, ceramics, and over 20 agricultural products, including soybeans, fruits, rice, wheat, and corn.

The Chinese Government has actively—and successfully—sought United States markets for these goods. In 1980, China exported $1.1 billion in goods to the United States, compared to United States exports to China of $3.7 billion. In 1990, however, China exported $15.2 billion in goods to the United States, compared to United States exports to China of only $4.8 billion—handing China a trade surplus of $10.4 billion. This year, that gap is likely to rise to at least $15 billion, ranking China's trade advantage over the United States behind only Japan and Taiwan.

In scope, number of camps and prisoners, and degree of cruelty, these forced labor camps are deplorable. Between 4,000 and 6,000 exist in China and Tibet, and 10 to 20 million people are detained. Each camp typically has two names; one denotes its prison status, such as Cheng Tao Jail No. 1, and the other is used to reflect its role as a business enterprise, such as the Cheng Tao Machinery Factory.

Large numbers of the forced laborers are political detainees. Few have had trials. Typically, they are sent to the camps on vague counterrevolutionary charges. Prisoners work up to 15 hours a day and are not allowed to speak to one another. Torture with cattle prods for disobedience is common. Incarceration ends only when party officials deem their attitude corrected. Even then, it is common for released prisoners to be required to return to work in the prison each day for the rest of their lives.

The United States should speak out against this shameful repression, and U.S. business should do its part, too. Our increasing commercial ties with China should not be at the expense of the forced labor of Chinese and Tibetan political prisoners.

This legislation requests United States nationals participating in joint ventures in China and Tibet to follow nine important principles:

First, to refrain from using products made by forced labor;

Second, to safeguard employees from dismissal because of their political beliefs, participation in non-violent demonstrations, past records of arrest for non-violent protests, or membership in organizations committed to non-violence;

Third, to ensure that business operations do not harm the environment;

Fourth, to use businesses not controlled by the Chinese Government when looking for business partners in China;

Fifth, to prohibit any military presence on the premises of industrial cooperation projects;

Sixth, to promote freedom of association and assembly among employees;

Seventh, to press Chinese authorities for a list of those arrested since the massacre in Tiananmen Square in 1989, for an end to secret detention, and for access by international observers to places of detention;

Eighth, to avoid political indoctrination programs on company premises; and

Ninth, to promote freedom of expression for workers.

Current law prohibits the importation of products produced from forced labor, and the bill requires the Secretary of State to submit annual reports on procedures taken to enforce this law and on which goods produced in China and Tibet are the product of forced labor.

The bill also requires the Secretary of State to report to Congress on whether U.S. companies are complying with these principles. Two years after enactment of the bill, companies not adhering to the principles would lose export marketing support from the U.S. Government.

The U.S. Government should not be supporting American businesses overseas that participate in basic violations of human rights.

Congress needs to take a strong stand against the gross injustices of forced labor. Our message of support for human rights in China is strongest if private industry and the government speak with one voice. I urge my colleagues to join me in passing this legislation.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income; to the Committee on Labor and Human Resources.

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN ACT

Mr. AKAKA. Mr. President, the reauthorization of the Higher Education Act is without doubt one of the single most important pieces of social legislation the Senate will consider in this session of the 102d Congress. Of primary concern to me is title IV of the act, which in fiscal year 1991, provided about $18 billion in student aid to help financially needy students attend post-secondary colleges, universities, and trade and technical schools.

Today, Mr. President, I am introducing the Income Dependent Educational Assistance Loan Act of 1991 [IDEAL]. The bill would establish an IDEAL student loan demonstration program in 10 congressional districts. Under an IDEAL loan, each student borrower would be obligated to pay back—typically over a 25-year period—his or her loan at a predetermined and unchanging fixed percentage of current income, thus making the loan repayment "income dependent."

What makes the proposed income dependent loan program attractive is that the loan repayment schedule takes into account a key factor in loan servicing—an individual's ability to repay. When employed, a fixed percentage of an individual borrower's pay would be automatically withheld by his or her employer and forwarded to the Federal Government as a partial loan repayment. If a borrower, however, becomes unemployed, takes a maternity leave, or becomes disabled, his or her payments would be temporarily reduced for that period of time the individual is out of the work force.

I am introducing this legislation because I am concerned that under current student financial aid programs, many middle-income families are being forced to assume massive loans to send their children to college. In the case of low-income families, I fear that a large number of very able students are simply abandoning their college aspira-

tions altogether because grants and loans are either unavailable or insufficient to meet their education costs.

In advancing my proposal, I should note that the concept of low cost, income dependent student loans is not new. My proposal is unique, however, because IDEAL student loans would be universally available to all students without regard to family income or equity assets held.

Also, it is important to understand that the establishment of an IDEAL student loan program is intended to supplement, but not replace, existing Federal grant and workstudy programs. In fact, I believe that including an IDEAL loan program in the Higher Education Act reauthorization bill would result in the availability of additional Federal resources for grant in aid programs for the truly needy. At the same time, IDEAL loans would equally benefit the middle class who are struggling to cope with the spiraling cost of education, but are presently barred from Federal loan programs because they fail the so-called "needs-tests" which determine eligibility.

Mr. President, I have with me a summary of the provisions of the IDEAL program, and I request unanimous consent that it be printed in the RECORD at this point of my statement.

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

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN PROGRAM SUMMARY

Eligibility:

All citizens of the United States under 56 years of age.

Awards:

Maximum award of $10,000 per year; $40,000 in lifetime.

Actual award may not exceed the cost of tuition and room and board plus a stipulated amount for miscellaneous educational related expenses.

Awards may be used at any state accredited or licensed postsecondary institution, including vocational schools and new "apprenticeship" programs.

Repayment Rates:

Repayment is income-dependent.

Repayment rate is based on amount of award, age of recipient, and the year of the award.

Repayment rates apply only to first $50,000 of earnings.

Maximum repayment period is 25 years.

No repayments beyond age 65.

Notification of Employers:

Recipients are notified of award by IDEAL Fiduciary Trust.

Recipients obligated to notify employers of IDEAL repayment rate.

Employers responsible for withholding.

Self-employed recipients must file quarterly with IRS.

Functions of IDEAL Trust:

Processing applications: Applications are made directly to the IDEAL Trust agency. It verifies eligibility, grants investment awards, and notifies recipients of their IDEAL rate and the terms of their payment obligations. Funds are not released directly to the recipient but to the institution or training program in which the recipient is enrolled. These institutions and programs provide local administration of the investment award for a modest fee.

Managing the IDEAL trust fund: The agency obtains funds from the sale of U.S. Treasury bonds.

Establishing repayment rates: The agency will determine the IDEAL rates in accord with prevalent economic conditions and projections. The rate schedules for future participant cohorts are periodically reviewed and adjusted in order to maintain the integrity of the fund.

Coordinating repayments from participants via IRS.

Mr. President, if I may, I would like to take just a few minutes to expand my remarks on why this legislation is needed. As you know, over the past several weeks, Congress has been conducting hearings on various aspects of the student financial aid issue. Two questions receiving significant attention are how to meet the needs of low-income and middle-income families and how to find an appropriate balance between grant and loan assistance.

The administration's fiscal year 1992 education budget would significantly reduce Federal student financial assistance for most middle-class families. In fact, Mr. President, over the past 10 years of Republican administrations, the typical student Federal aid package has shifted from three-quarters grants and one-quarter loans to a point where it is almost the reverse. Moreover, Federal grant programs have failed to keep up with the soaring costs of college. In 1979, the maximum Pell grant covered 46 percent of average college costs. By 1989, it covered only 21 percent. The difference was made up by loans.

These figures do not tell the whole story, however, since many students from low-income families lowered their educational sights and simply gave up the hope of obtaining a college education. As a result, according to information contained in a recent American Council on Education report, the 41 percent in access gains made by low-income students into colleges between 1966 and 1977 were lost by 1987. Since 1981, the proportion of freshmen from low-income families enrolled in universities dropped by nearly half, from 18.5 to 9.7 percent.

To put this in perspective, we must remember that over 95 percent of all Federal higher education dollars go to student aid. When Congress reauthorizes the Higher Education Act later this year, it is my belief that we should strengthen, rather than diminish, the historical commitment we have made to the young people of our country in providing such assistance. I also believe the heavy reliance on traditional fixed repayment educational loans to finance postsecondary education has put many students and their families deeply in debt. As a consequence, I fear many young people are being driven away from public service occupations such as teaching, nursing, and other social service jobs in order to repay their student loans.

A review of the higher education financing landscape indicates that when it comes to paying for the costs of attending college, the wealthy and a small but select number of low-income students have things pretty well in hand. Wealthier students, by virtue of their family's economic circumstances, generally pay these costs out of existing assets. High ability low-income students, on the other hand, without either assets or resources, have available to them an array of Government and private sector grants and scholarships. Regrettably, Mr. President, most low-income and all moderate-income families have pretty much been left to fend for themselves. As I noted earlier, more often than not, middle-income parents have found no alternative but to assume massive loans to enable their children to attend college. In the case of low-income families, these students are forced to discard their college aspirations altogether because grants and/or loans are insufficient to meet their college costs.

The administration's fiscal year 1992 education budget proposals, if enacted, would only add to the misery and apprehension of middle-income families who hope to send a son or daughter to college next fall.

For example, under the administration's budget, a student from a family whose income is $20,000, and who attends a 4-year State college, would receive 40 percent less in fiscal year 1992 under the Pell Grant Program. This would be $628 less than he receives this year. Even worse, a community college student with a family income of $20,000 would see a 73-percent reduction in his or her grant award under the Bush plan.

The administration's retargeting of Pell Grant aid would generally take funds away from families who have a limited amount of income to send a son or daughter to college. Even with the financial aid benefits provided under current law, these families are already struggling to meet college costs.

The President's education budget also calls for altering the eligibility formula for Federal financial student aid. Eligibility requirements would be tightened, and funding would be reduced, for supplemental educational opportunity grants and college work study. Estimates show that about 750,000 middle-income students no longer would be eligible for aid under the Bush proposal.

Needless to say I do not believe the White House budget adequately addresses the pressing needs of these American families who are having a difficult time sending their children to college or other postsecondary training programs. What we are finding is that without some type of Federal relief, an increasing number of middle-income

families will be without the necessary resources to meet the rising costs of a college education for their children.

It is for these reasons, Mr. President, that the establishment of an income dependent student loan program such as IDEAL makes good sense. It meets a prevailing need, and from a public policy perspective, is based on sound financing utilizing proven and widely accepted actuarial principles. In addition, since the borrowing power of the Federal Government is being used to initially fund the program, the cost of borrowing will be kept to the absolute minimum. Moreover, since IDEAL is a direct loan program, the Government will be buying capital wholesale, so to speak, rather than retail, as is true under current guaranteed loan programs now in force using private capital and commercial banks for the source of funds. And we shouldn't lose sight of the fact that over the long term the IDEAL Program is ultimately self-financing as the pool of borrowers grows and payback contributions expand.

In practical terms, Mr. President, restructuring postsecondary education financing along the lines spelled out in my IDEAL bill, would respond to a number of problems inherent in the federally sponsored student financial aid programs currently available. In this regard, University of Massachusetts economist, Barry Bluestone, and his colleagues, Alan Clayton-Matthews, John Havens, and Howard Young, recently produced an economic policy institute briefing paper proposing an income dependent loan program. Although the Bluestone group's proposal uses a funding mechanism completely different from the one in my bill, they suggest that an income dependent loan program such as IDEAL would prove to be beneficial for the following reasons:

First, a universal income dependent loan program eliminates much of the morass of current Federal loan programs in favor of one, comprehensive plan available to all postsecondary students;

Second, it provides a substantially greater amount of funds under superior terms to most current programs, thus allowing students to better meet the rising cost of postsecondary education;

Third, it is available to all students in accredited postsecondary schools regardless of family income. There is no needs test. It is a middle-class program every bit as much as one aimed at the low, and moderate income student;

Fourth, since repayment is based on actual earnings, there is effective deferral or principal and interest as long as the student is pursuing full-time studies and has little wage and salary income;

Fifth, as a result of income dependency and IRS collection, defaults are virtually eliminated—something that now costs the U.S. Treasury in excess of $1.5 billion a year. Moreover, stricter licensing of trade schools with State oversight boards partially funded by a portion of the program's administrative fees would provide effective sanctions against schools that are supplying inadequate or inappropriate training to students. This would reduce the number of students whose incomes were not enhanced by their schooling;

Sixth, it applies equally to all forms of postsecondary schooling from apprenticeships and proprietary trade institutions to graduate and professional schools. It does not discriminate between the student who pursues, for instance, an undergraduate degree in political science and one who seeks retraining as a welder or office machine repairer;

Seventh, racial and gender discrimination in the labor market is not automatically ratified as is the current practice under fixed obligation loans. The income dependent feature of the program requires students to repay based on actual earnings and therefore takes full account of differences in earnings which arise for any reason;

Eighth, because the program is income dependent, students will be more likely to enroll in programs that conform to their academic strengths and career goals than in programs which simply hold out the promise of spectacularly high earnings that can be used to repay fixed short-term loans. This may mean slightly fewer students opting for law careers and MRAs and slightly more students preparing for careers in elementary and secondary school teaching, nursing, and other fields where the monetary rewards are smaller but the contribution to society is arguably no less and very likely greater;

Ninth, under this program, students can pay for their own education as the benefits from that education become manifest. More importantly, this will release most parents of at least some of the heavy burden of funding their children's education; and

Finally, an income dependent program such as IDEAL, by eliminating the need for the Stafford and Perkins loan programs, frees up $5.1 billion of Federal education spending per year. These dollars—or at least a portion of them—could be used to expand the Pell and SEOG grant programs for the most financially disadvantaged students.

There are likely to be other benefits as well, Mr. President, not the least of which is simplified and cheaper administration of education loans. The bottom line, however, is that the IDEAL loan program is needed today to provide student financial aid relief to middle-income families and educational security to low-income students as they face the spiraling costs of attending postsecondary institutions of higher education.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL MEMBERSHIP ON THE LIBRARY OF CONGRESS TRUST FUND BOARD

Mr. PELL. Mr. President, as chairman of the Joint Committee on the Library, I am introducing a bill requested by the Librarian of Congress to expand the membership of the Library's Trust Fund Board and to authorize the Librarian to make temporary investment of receipts.

This bill is identical to S. 2758 which I introduced in the 101st Congress and which the Senate passed on September 18, 1990, but which was not acted on by the House.

The Library of Congress Trust Fund is an important mechanism for helping to fund the extensive operations of our great national Library. The Librarian, Dr. James Billington, has explained the need for the increased range and flexibility which this bill would provide in a letter which I ask unanimous consent be printed in the RECORD at this point.

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

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation which would provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes. The Senate passed this legislation last year, but the House failed to act on it.

This legislation would do the following: (1) increase the public membership of the Board from two to ten; (2) increase the number of board members who shall constitute a quorum from three to nine; and (3) give the Librarian of Congress authority to make immediate temporary investments of monies received until the Board has formally made a determination as to their investment.

Let me address the substance of these amendments.

Board: The Library of Congress Trust Fund Board has only two public members appointed by the President, the Secretary of the Treasury or his designee, the Chairman of the Joint Committee on the Library, and the Librarian of Congress. It is my desire to enlist the assistance of public members of the Board in soliciting gifts and bequests to the Library. Two public members are obviously not sufficient to assist a national institution in building an endowment that would be suitable to enhance the effectiveness of the Library's educational and cultural programs for the nation. This bill increases the membership to 10, 4 members of whom shall be appointed by the Speaker of the House of Representatives, and 4 members of whom shall be appointed by the President pro tempore of the Senate. Comparable boards for national institutions have at least. 10 public members. I believe the increase will help enlist financial support of the Library of Congress on a nation-wide basis.

Quorum: Raising the number needed for a quorum relates to the increased membership of the Board.

Librarian's authority for temporary investment: This amendment is requested because funds presently cannot be invested until the Library of Congress Trust Fund Board is polled and all the members vote on the investment. Under the proposed amendment, the Librarian of Congress would have authority to invest gifts of cash temporarily in order for interest to be earned from the time the principal is received by the Library. An accounting for this temporary investment, of course, would be made to Congress and to the Board on an annual basis.

Library of Congress trust funds have not kept pace with increases in appropriated funds as they should have over the past several decades. Our trust funds today provide 2.5 percent of total income compared with 6 percent in 1968. I believe this legislation will help us revitalize the Trust Fund Board and make it an active supportive agent for the Library of Congress in enlisting private sector support. I urge that we move ahead quickly with legislation to expand the Library of Congress Trust Fund Board.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. PELL:

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

LIBRARY SERVICE FEES

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I am introducing today legislation requested by the Librarian of Congress to provide a full statutory base of authority for the Library to charge fees for certain services to the public.

This proposed legislation has been prompted in large part by technological advances which were totally unknown when Congress first enacted authority in 1902 for the Library to sell copies of its card catalog and other publications. The bill will provide for fee-based services such as specialized searches of computerized data bases and public access to on-line computer files in the Library reading rooms.

I note that the bill would not encroach on services presently provided without fee by the Library.

I ask unanimous consent to have printed in the RECORD at this point a letter from the Librarian of Congress, Dr. James H. Billington, which sets forth in detail the need for this legislation.

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

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation that will provide a modern authorization and fiscal structure for the various Library of Congress products and services that have long been supported by fee service charges. This legislation is responsive to a draft General Accounting Office report, which recommends that the Library of Congress seek legislation to authorize revolving fund accounts already in existence. In addition, we are requesting authority to add services that will enable the Library of Congress to supply business and industry and the educational and information communities some of the specialized information they need in order to maintain this nation's educational, competitive, and productive status in a world highly dependent upon information.

This legislation does not introduce any new services that will compromise or encroach on services that have traditionally been delivered without fee. The Library of Congress is determined to sustain and improve these existing free core services, including organizing, cataloging, and preserving its collections, and providing reference services and domestic interlibrary loan.

The Library has been engaged in fee services as far back as 1870, when the Copyright Office became part of the Library. In 1902, 2 U.S.C. 150 was enacted, authorizing the Library to sell catalog cards and other publications for cost plus 10 percent. The Library of Congress Gift and Trust Fund Board Act of 1925 authorized the acceptance of gifts, bequests or devices of property for the benefit of the Library, its collections and services. Under this authority, the Library has accepted gifts which established service fee revolving funds, to which income generated from sales of items produced through these funds could be returned. The most notable such gift in 1938 was used to establish the Photoduplication Service for purposes of providing for a fee copies of materials from the Library's collections for members of the public.

The Library now charges fees under three separate authorities:

(1) *2 U.S.C. 150*, approved in 1902, which authorizes the sale of "copies of the card indexes and other publications"; (2) *2 U.S.C. 160*, approved in 1925, Disbursement of gifts to the Library, which has been used since 1938 as a revolving fund authority; and (3) *31 U.S.C. 1535*, approved in 1932, The Economy Act, which is a general authorization allowing Federal government agencies to do work for each other when it is most economical to do so.

The Library of Congress is the largest knowledge resource in the world, containing nearly 100 million items in multiple formats. Modern technology has led to ways in which the Library's collections can be more fully shared by the American people. But because of limitations in the Library's statutory authority, the Library has been unable to share its collections and its expertise as widely as is desirable. On many occasions we have had to turn down requests from the private sector for specialized information services because we could not use the receipts to reimburse the appropriated funds used to support the work.

With the exception of copyright fees covered by Title 17 of the U.S. Code, all current Library products and services for which a fee is charged would be covered by the new legislation we seek. These current products and services include: catalog cards, machine readable catalog records, and technical publications; photoduplicates of the collections, including motion picture films, video tapes, sound recordings and facsimile reproductions; publications that are produced by Library gift funds; special research and bibliographic services for other Federal agencies, and support services for the Federal Library and Information Center Committee; photocopies of translations into English from the files of the National Translation Center; and a variety of other products from the sales shop including folk art, pictures, posters, greeting cards, and other Library-related items for visitors to purchase.

This legislation will allow the Library of Congress to improve its financial management of these activities and to provide for fee services and products by such means as: providing expedited document delivery services including copying services, and special express delivery services; offering specialized search and bibliographic services from the Library's unique databases for science, business, and industry; allowing public access to commercial and other fee service on-line computer files in the Library of Congress reading rooms; and providing training in specialized fields such as preservation and library service, including reference and research services. Products of the Congressional Research Service are specifically exempted without prior Congressional approval.

We have included in the draft legislation a requirement for a public notice and comment period for any proposed new fee service. This will give Library users an opportunity to comment on the merits of the service. This legislative proposal has been reviewed and revised after discussions with representatives of national library associations, the information industry, and Congressional staff from the authorizing and appropriations committees of both the House and the Senate. We have recieved very constructive comments from all parties, and they are reflected in the legislation.

The enclosed draft represents, I believe, the balanced interests of all concerned. It reaffirms the Library's long-standing commitment to provide core services without fees, enables the Library to exploit its resources more fully for those information-dependent groups whose work benefits the nation, and prepares the Library of Congress for a third century of continued information services to the Congress and the nation.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

UNITED STATES-JAPAN INDUSTRY AND TECHNOLOGY MANAGEMENT TRAINING ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the United States-Japan Industry and Technology Management Training Act of 1991. I am pleased that Senators MCCAIN, GORTON, and DECONCINI are joining me in introducing this bill.

Mr. President, the strength of the U.S. defense industrial base directly depends on the strength of the Nation's overall industrial base. Unfortunately, the U.S. industrial base is losing ground in the international economic

competition. Various private groups, most notably the Council on Competitiveness in its recent report "Gaining New Ground," have pointed out the extent to which the United States is losing leadership in many areas of critical technology.

While the United States is losing ground, Japan is gaining ground almost across the board. Japan has demonstrated outstanding abilities in building and sustaining a strong industrial base by creatively using science and technology to support its industrial base activities. Indeed, the 1991 Department of Defense Critical Technologies Plan states that Japan is capable of making important contributions in 11 of the 21 technologies most critical to national defense, and ahead of the United States in 5 of those 11.

Mr. President, we need to be in a position to benefit from Japanese scientific and technological advances in the same way that Japan has benefited from United States advances over the years. It is clear to me that the United States stands to benefit by cooperating with Japan in the development of precompetitive technologies and transferring to the United States technologies developed in Japan, particularly in those areas identified by the Department of Defense as critical.

A major barrier to understanding Japanese management and business practices, to United States-Japan cooperation in the development of technologies important to defense, and to the transfer of technology from Japan to the United States, is the lack of United States scientists, engineers, and managers with training in the Japanese language. If we are to benefit from Japanese advances, we need to address this shortfall.

In each of the last 2 years I have visited Japan under the auspices of the Armed Services Committee and seen for myself the extent to which Japan has developed critical defense technologies that are ahead of the United States. On each trip, I was told time and again of the difficulties of accessing Japanese technology because of the lack of technically trained United States citizens who are proficient in Japanese. In an attempt to address this, I worked to include a provision in the fiscal year 1991 Defense Authorization Act which would provide funding for programs at colleges, universities, and nonprofit institutions that would train United States scientists, engineers, and managers in Japanese language and culture. The Department of Defense directed the Air Force Office of Scientific Research to manage the program, and that office is currently in the process of accepting proposals.

While I am pleased that the Department of Defense is implementing this program, I am disappointed that the Department is treating this as a one-time authorization and is not planning to continue the program. Japan is a technological superpower and should be treated as such. We need to build a sustained program of Japanese language training that will allow sustained United States access to Japanese science and technology. I am introducing this act today to lay the groundwork for such an effort.

This act requires the Secretary of Defense, acting through the Undersecretary of Defense for Acquisition, to establish a program of competitively awarded grants to United States universities, colleges, and nonprofit institutions for the purpose of promoting the study of Japanese language and culture.

In addition to criteria for selection decided upon by the Department of Defense, special consideration shall be given to universities, colleges, and nonprofit institutions that can support participation by scientists, engineers, and managers from Department of Defense and Department of Energy defense laboratories; develop plans to place United States scientists, engineers, and managers in Japanese Government and industry laboratories to promote the transfer of technology to the United States; and agree to share program costs on an equitable basis.

Mr. President, this is a concise, straightforward measure that will, if enacted, allow us to better access and transfer Japanese technology to the United States. I urge my colleagues to support it.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1417

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States–Japan Industry and Technology Management Training Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has built a research, development, and manufacturing base that is unparalleled in comparison to the research, development, and manufacturing bases of countries other than the United States.

(2) According to the defense critical technologies plan submitted to Congress by the Secretary of Defense in 1991, Japanese industries have significant capabilities in research, development, and application of eleven of the twenty-one critical defense technologies identified in the plan.

(3) According to the plan, the capabilities of Japanese industries with respect to five of those eleven technologies are at least equal to the capabilities of United States industries with respect to such technologies.

(4) It is vital to the national security and economic prosperity of the United States that United States institutions of higher education, Federal laboratories, and United States industries use the capabilities of Japanese industries as effectively as Japanese industries have used the capabilities of such United States entities during the last four decades.

(5) In order for United States institutions of higher education, Federal laboratories, and United States industries to be able to use such Japanese capabilities effectively, those United States institutions must be able to interact with Japanese industries.

(6) Among the most significant barriers to effective interaction of United States institutions of higher education, Federal laboratories, and United States industries with Japanese industries (including Japanese research and manufacturing institutions) are the general inability of United States scientists, engineers, and managers to communicate in the Japanese language and the limited knowledge that such personnel generally have of Japanese culture.

(b) PURPOSE.—The purpose of this Act is to encourage the training of United States scientists, engineers, and managers in Japanese culture, language, and business and management practices in order (1) to facilitate cooperation of United States research, development, and manufacturing institutions with such Japan industries (including Japanese research and manufacturing institutions), and (2) to facilitate transfers of knowledge from such Japanese institutions regarding seminal advancements in science, engineering, and industry management to such United States institutions.

SEC. 3. UNITED STATES-JAPAN MANAGEMENT TRAINING PROGRAMS.

(a) ESTABLISHMENT.—Chapter 111 of title 10, United States Code, is amended—

(1) by redesignating section 2196 as section 2197; and

(2) by inserting after section 2195 the following new section 2196:

"§2196. Management training program in Japanese language and culture

"(a) The Secretary of defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program to award grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations that conduct programs for scientists, engineers, and managers to learn Japanese language and culture.

"(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

"(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activites that is beneficial to the development and application of defense critical technologies by such laboratories.

"(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

"(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

"(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

"(3) Whether an appropriate share of the costs of such activites will be paid out of funds derived from non-Federal Government sources.

"(c) For the purposes of this section the term 'defense critical technologies' means

any technology identified as critical in an annual defense critical technology plan submitted to the Congress under section 2508 of this title.".

(b) CONFORMING AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2196 and inserting in lieu thereof the following new matter:

"2196. Management training program in Japanese language and culture.
"2197. Definition.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of Defense to carry out section 2196 of title 10, United States Code (as added by section 3), $10,000,000 for each of fiscal years 1992 and 1993.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes; to the Committee on Environment and Public Works.

SILVIO O. CONTE FEDERAL BUILDING

Mr. KERRY. Mr. President, I rise today to honor one of the most dedicated public servants to ever represent the Commonwealth of Massachusetts and one of the greatest individuals who has served in Congress, Silvio Conte.

Sil Conte entered politics because he wanted to make a difference. Well, Sil made a big difference for the people of the First Congressional District and the United States whom he served for 32 special years. He was a compassionate defender of the common man who never lost sight of the reason he was elected. Too often, Congress gets wrapped up in the atmosphere of Washington, assuming what happens inside the beltway is of the utmost importance. But Sil Conte, with his wit and humor, always brought the issues back into perspective.

Silvio Conte spent his life helping the poor and working class, protecting the environment, and trying to give each and every American a chance for the American dream. Silvio saw what was wrong and tried to correct it, saw what was right and tried to preserve it; regardless of the politics of the situtation. His enormous legacy stands as a monument to good government and professional integrity.

Today, Senator KENNEDY and I are introducing a bill to rename the Pittsfield Federal Office Building the Silvio O. Conte Federal Building. We hope this will serve as a small token of our respect and affection for Sil and a tribute to his tireless efforts to help his fellow citizens. I ask that my colleagues join with us to thank Silvio Conte for his service and for sharing part of his special life with us.

Mr. KENNEDY. Mr. President, I rise in support of this bill to name the Federal Building in Pittsfield, MA, after Silvio Conte. The people of Pittsfield have requested this tribute, and it's not hard to see why. Sil was a most beloved and revered Representative in his district, in Massachusetts, and in the Congress. His ability to help his constituents through the appropriations process was the stuff of legend. It is said that all Sil Conte had to do was walk into the House Appropriations Committee room, raise his little finger, and western Massachusetts had a new Federal project. If he had got us any more, we'd have had to call the state Conte-chusetts.

His wit and compassion were equally legendary. Perhaps no Member of Congress wore his heart more clearly on his sleeve than Sil, and what a warm and beautiful heart it was, always reaching out to those in need. Day in and day out, year in and year out, for over three decades of brilliant public service in the House of Representatives, Sil Conte was always there when his constituents and his country needed him, advancing America's real priorities, standing firm against unfair budget cuts, and other proposals that would damage the goals we share. He had a deep and abiding sense of compassion for the elderly, the sick, the poor, and all the others who need our help the most. And he knew, perhaps better than anyone in Congress, how to get the job done with a touch of humor. You could always count on Sil to make his point with a prop or a poem that left us laughing.

It is most appropriate that this Federal building, where Sil maintained his district office since the day it opened, and which owes its very existence to Sil's efforts, should be named after him. I urge my colleagues to support this legislation which pays tribute to one of the finest public servants Massachusetts and the Nation have ever known, Silvio O. Conte.

By Mr. PRESSLER (for himself, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health-care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. SPECTER):

S.J. Res. 170. A joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day," and authorizing the display of the National League of Familes POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, in 1969, when I first expressed concern about resolving the fates of the missing Americans who served this Nation in times of conflict, I spoke to only 20 POW/MIA family members.

Now, 22 years years later, the issue has become a national priority. Thousands of concerned Americans have joined the National League of Families in demanding answers. The POW/MIA flag now stands in the rotunda of the Capitol as a reminder to all. And it will not come down until we have the fullest account possible of our missing Americans.

President Bush has a deep interest in this issue. The President has pledged that "We will do everything that a Government can do to recover the missing * * * If more can be done, then it will be."

Today, I am pleased to introduce legislation with Senator SPECTER, designating September 20, 1991, as "National POW/MIA Recognition Day."

We designate this day to pay tribute to our heroic men and women of our Nation's armed services who have suffered for their courageous service to America. We designate this day to remember the lonely hours of silent pain and sacrifice of American Families that have lost their loved ones, and now wish only to know their fate. We designate this day to renew our promise to these families that we will continue to demand that other nations cooperate with our goal to have the fullest accounting possible for our missing heroes.

Some may forget, some may wish to, we shall not.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

WISCONSIN CHEESE MONTH

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that recognizes the month of August 1991 as Wisconsin Cheese Month.

Mr. President, Wisconsin is the dairy capital of the United States. Over 75 percent of the milk produced in Wisconsin is made into cheese. The majority of cheese processed in Wisconsin is exported. Therefore, Wisconsin is a viable source of feeding Americans and people around the world.

Cheese and other Wisconsin dairy products are vital to many low-income programs, such as Women, Infants, and Children [WIC], school lunch programs, Temporary Emergency Food Assistance Program, and other welfare programs. It is important that the hard working Wisconsin dairy farmers, producers, and processors be recognized for their contributions to this Nation.

This year will mark the 100th anniversary of the Wisconsin Cheese Makers Association. The Wisconsin cheese makers association has led the way in formulating dairy policy in Wisconsin and across this Nation.

Mr. President, August 1991 deserves the attention of this Nation as "Wisconsin Cheese Month." I hope my col-

leagues will join me in supporting this important resolution.●

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. A joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

● Mr. INOUYE. Mr. President, I am pleased today to introduce, on behalf of myself and 41 colleagues, a Senate joint resolution designating the month of November 1991, and the month of November in each year thereafter, as "American Indian Month."

Earlier this session I wrote to each of you, inviting you to join me in a resolution that would designate the month of November as American Indian Month and I thank all of you who have done so.

As you know, by action of the Congress, all of next year will be the Christopher Columbus quincentenary jubilee, and many events will commemorate developments in the Americas since the arrival of Europeans in this hemisphere. It seems to me that it would be especially fitting before that 500th anniversary arrives for the Congress to designate 1 month on a permanent basis to honor the first inhabitants of this land and to celebrate their contributions to the life of this Nation.

Mr. President, my goal this year is not to obtain the simple majority of sponsors needed to adopt the resolution, but to obtain the sponsorship of all Members of the Senate. I ask even those of you who shun resolutions because they are so numerous to make an exception for what surely is an exceptional case.

I ask you to join me in this historic gesture.●

ADDITIONAL COSPONSORS

S. 83

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 177

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 177, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Nevada [Mr. REID] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the names of the Senator from Missouri [Mr. BOND] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 474, a bill to prohibit sports gambling under State law.

S. 542

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 747

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 757

At the request of Mr. LEAHY, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 757, a bill to authorize the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 878

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 930

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 930, a bill to amend the Higher Education Act of 1965 to provide financial assistance for middle income students.

S. 1023

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1023, a bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

S. 1127

At the request of Mr. BRYAN, the names of the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. LOTT], the Senator from Arizona [Mr. MCCAIN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1127, a bill to direct the heads of the departments and agencies of Federal Government to make available to the public information relating to members of the Armed Forces of the United States who are officially considered to be prisoners of war, missing in action (body not returned) by reason of certain wars of the United States.

S. 1197

At the request of Mr. KENNEDY, the name of the Senator from Arkansas

[Mr. BUMPERS] was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act concerning family planning and to provide for the availability of information and counseling regarding pregnancies, and for other purposes.

S. 1305

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes.

S. 1346

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1346, a bill to amend the Internal Revenue Code of 1986 to provide for a 50 percent-of-occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied.

S. 1351

At the request of Mr. DOMENICI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1351, a bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

S. 1352

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1352, a bill to place restrictions on United States assistance for El Salvador.

S. 1364

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1367

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met.

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week".

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating October 16, 1991, and October 16, 1992, as "World Food Day".

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week".

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. LOTT], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

SENATE RESOLUTION 147—TO EXPRESS SENATE OPPOSITION TO THE USE OF FORCE TO RESOLVE POLITICAL DIFFERENCES IN YUGOSLAVIA

Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE) submitted the following resolution; which was considered and agreed to.

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991 the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yugoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) The Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) The Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement.

(c) The Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. DOLE. Mr. President, I am submitting this resolution in response to

the crisis in Yugoslavia, together with the chairman and ranking member of the Foreign Relations Committee, the President pro tempore, Senator PRESSLER and Senator NICKLES.

This resolution expresses Senate opposition to the use of force to resolve political differences within Yugoslavia. As I said here earlier today—I think that this is a very important message to send, especially now that the central goverment has mobilized the Yugoslav Army and ordered the use of force in response to the Croatian and Slovenian Declarations of Independence. The crisis is escalating and we need to stand firm against the use of violence and brute force.

This resolution will support the administration's efforts to promote dialog—with the objective of a political settlement involving greater sovereignty and independence for the Republics of Yugoslavia.

Tragically, today there are already more than 100 people dead—in Slovenia alone—as a result of fighting between Yugoslav Army troops and Slovenian militia. There are reports of clashes in Croatia, too, among army units and Croatian police which have resulted in casualties.

Mr. President, now is the time for the U.S. Senate to say clearly and with one voice that it rejects violence and supports democracy and peaceful dialog. I believe that this resolution does just than and I urge its adoption.

Mr. PELL. Mr. President, I am pleased to join with the distinguished minority leader Mr. DOLE to submit a resolution regarding the crisis in Yugoslavia.

Today's reports from Yugoslavia are extremely distressing. In response to the June 25 declarations of independence by Croatia and Slovenia, the central government ordered the Yugoslav Army to step up activity along the Slovenian and Croatian borders and to seize border posts. Apparently, violence has broken out between the Yogoslav Army and republic militias, resulting in the deaths of both civilians and soliders. Press reports indicate that the violence is escalating, and according to Slovenia's Defense Minister Janez Jansa, more than 100 people have been killed or injured in the fighting.

I would note that disturbing reports are also coming out of the province of Kosova. Apparently, the President of the Parliamentary Party of Kosova, Venton Surroi, has been arrested, tried without representation, and sentenced to 60 days in prison. I sincerely hope that this arrest is not a signal that the Government of Serbia is capitalizing on the current uncertainty to step up its repression of the Albanian population in Kosova.

The resolution that we are introducing today condemns the use of force to resolve differences within Yugoslavia and calls for an end to the hostilities. It also urges the central government to agree to calls for negotiations leading to a peaceful settlement of the issues affecting all of Yugoslavia. These calls for negotiations are coming from within Yugoslavia as well as from foreign capitals. Finally, the resolution urges the Republic of Serbia to allow the normal constitutional rotation of the Federal Presidency to occur.

The steps we are urging must be taken if further violence is to be avoided and if a degree of normalcy is to return to Yugoslavia. It is critical that the Senate declare its position on the present crisis firmly and unequivocally, and therefore I strongly urge that my colleagues support this measure.

SENATE RESOLUTION 148—RELATIVE TO SELF-DETERMINATION FOR THE PEOPLE OF THE REPUBLIC OF MOLDAVIA

Mr. PRESSLER (for himself and Mr. HELMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 148

Whereas the Romanian principality of Moldavia emerged as an independent state in the 14th century;

Whereas Moldavia was invaded in 1806 by the Russian army and annexed by the Russian Empire in 1812 as a result of the Russo-Turkish Treaty of Bucharest;

Whereas on November 15, 1917, the Soviety Government proclaimed the right of the peoples of the Russian Empire to self-determination and the establishment of separate states;

Whereas on December 2, 1917, the democratically-elected Moldavian constituent assembly, the *Sfatul Tsarii*, proclaimed Moldavia an independent republic;

Whereas on April 9, 1918, the Constituent Assembly voted to unite Moldavia with the Kingdom of Romania;

Whereas the United States, France, Italy, Great Britain, Japan and the other allied states specifically sanctioned and recognized the reunion of Moldavia with Romania in the Peace Treaty of Paris of October 28, 1920;

Whereas the Soviet Union's armed forces invaded the Kingdom of Romania on June 28, 1940 and occupied eastern Moldavia and northern Bucovina, and Hertsa in contravention of the Charter of the League of Nations; the Treaty of Paris of 1920; the General Treaty for the Renunciation of War of 1928; the Romanian-U.S.S.R. Mutual Assistance Pact of 1936; the Conventions for the Definition of Aggression of 1933; and generally recognized principles of international law;

Whereas the annexation of Moldavia, northern Bucovina, and Hertsa was prospectively agreed to in certain secret protocols to a treaty of non-aggression concluded between the Government of the Soviet Union and the German Reich on August 23, 1939;

Whereas from 1940 to 1953 hundreds of thousands of Romanians from Moldavia and Bucovina were deported by the U.S.S.R. to Central Asia and Siberia;

Whereas the United States Government has repeatedly stated its refusal to recognize forcible seizure of territory pursuant to the terms of the so-called Stalin-Hitler Pact, including the 1940 Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Governments of the United Kingdom, the Soviet Union and the United States are parties to the Atlantic Charter of August 14, 1941, in which the signatories declared their "desire to see no territorial changes that do not accord with the freely expressed will of the peoples concerned" and affirmed their wish "to see sovereign rights and self-government restored to those who have been forcibly deprived of them" during the course of the Second World War;

Whereas on August 31, 1989, the Supreme Council of Moldavia declared Romanian to be the official language of the Republic and reestablished the Latin alphabet forbidden by the Soviet Government during the occupation of Moldavia as the alphabet of written Romanian;

Whereas in March, 1990, the Romanian people of Moldavia were able to vote in free and fair elections for deputies to the Supreme Council of Moldavia;

Whereas on April 27, 1990, the Supreme Council of Moldavia restored the flag of Romania as the official flag of the republic;

Whereas on June 23, 1990, the Supreme Council of Moldavia declared the Republic of Moldavia a sovereign state;

Whereas on December 16, 1990, more than 800,000 Romanians gathered at the Second Grand National Assembly in the Moldavian capital of Chisinau to declare the national independence of Romanians in occupied territories;

Whereas the people of Moldavia refused to participate in the Soviet referendum of March 3, 1991 despite Soviet governmental efforts to threaten and intimidate the Moldavian people into accepting a new union treaty;

Whereas the signatory states of the Helsinki Final Act have accepted the principle of the equal rights of people and their right to self-determination;

Whereas pursuant to article 8 of the Helsinki Final Act "all people always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development": Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should—

(1) Support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and issue a statement to that effect;

(2) Support future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of Romania with Moldavia and Northern Bucovina as established in the Paris Peace Treaty of 1920, the prevailing norms of international law, and in conformity with Principle 1 of the Helsinki Final Act.

Mr. PRESSLER. Mr. President, I am pleased to sponsor a resolution today with Senator HELMS regarding a shameful anniversary. Tomorrow, the Romanian people of Bessarabia and northern Bucovina will commemorate the 51st anniversary of their loss of freedom. On June 28, 1940 Red Army tanks rolled onto Romanian land bringing forth destruction and captivity in the Soviet Union.

Mr. President, the question of Moldavia raises both human rights and legal concerns. The Romanian principality of Moldavia emerged as an independent state in the 14th century.

On January 24, 1918, the democratically-elected Moldavian constituent assembly proclaimed Moldavia's independence. On April 9, 1918, Moldavia chose freely to unite with the Kingdom of Romania.

Bucovina, part of Moldavia, was invaded by Turkey in the 18th century, and remained part of the Austro-Hungarian Empire until 1918. On June 28, 1918, the General Congress of Bucovina proclaimed union with Romania.

The reunion of Moldavia and northern Bucovina with Romania was recognized by the United States and other allied States. Unfortunately, this reunion was short-lived. Stalin set his eyes on the Romanian land and negotiated a secret pact with Nazi Germany in 1939 to lay an illegal claim to Moldavia.

According to article 1 of the Secret Supplementary Protocol, Finland, Estonia, Latvia, and Lithuania were granted to the Soviet Union. Article 3 of the Secret Supplementary Protocol reads as follows: "As regards southeastern Europe, Soviet interest in Bessarabia is emphasized. The German side declares its complete lack of interest in these areas." The map which accompanied the Nazi-Soviet Pact placed the Romanian town of Hertsa in the region to be occupied by the Soviet Union.

The annexation went almost unnoticed; Europe was convulsed in war against fascism. Communism's war against democracy went almost unnoticed. As a result Eastern Europe was lost to the Soviet empire. Only Finland was to regain a precarious freedom.

The military occupation of Moldavia was a direct violation of international agreements, including the League of Nations Pact. In 1929, when the Soviet Union participated in the Briand-Kellogg pact, the Soviet Union pledged to "maintain the existing peace." On July 3, 1933 Romania and the Soviet Union concluded an agreement concerning the definition of aggressor and of territory. In signing this agreement the Soviet Union recognized that Bessarabia belonged to Romania. In the name of territorial expansion these agreements were disregarded.

Mr. President, today the people of Moldavia are moving peacefully towards democracy. Meeting in Kishinev, the capital of Moldavia, last December, 800,000 Romanians of Bessarabia, Transnistria, and northern Bucovina stated their unequivocal opposition to association with the Soviet Union.

Mr. President, I ask unanimous consent that the Proclamation of the Great National Assembly of all Romanians, signed on December 16, 1990, be printed in the RECORD at the conclusion of my remarks.

Tomorrow in Kishinev, representatives from the West, including some from the United States, will attend a conference to discuss the Nazi-Soviet Pact and Moldavia's legal claim to self-determination. The conferees will discuss the illegality of the current Soviet occupation and current human rights abuses against the Modavian populace.

Tragic human rights abuses have been directed against the people of Moldavia since its occupation a half-century ago. These abuses have included mass deportations, Russification, and persecution of the Romanian Orthodox Church. Human rights violations today include beatings of Moldavian young men serving in the Soviet army. The democratically-elected government of Moldavia has chosen not to participate in plans for the new union treaty. As a result, threats, economic sanctions, and military maneuvers have been employed against Moldavians.

Mr. President, I am disturbed by reports of human rights abuses against these poeple. I urge human rights groups and the Department of State to monitor events in Moldavia more closely.

Mr. President, according to the Helsinki Final Act, to which the Soviet Union and the United States are signatory, "all peoples always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, and cultural development."

I am pleased to stand with the people of Moldavia on their move toward self-determination and freedom. I urge Senators to support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of all Romanian lands.

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

PROCLAMATION OF THE SECOND SESSION OF THE GREAT NATIONAL ASSEMBLY

The Second Session of the Great National Assembly of all Romanians of Bessarabia, Transnistria and Northern Bucovina, having convened at a crucial moment in our people's history, finds the following:

After the First Session of the Great National Assembly of August 27, 1989 which marked the beginning of the national liberation process of the Romanians of Bessarabia and Bucovina, the soviet imperialistic forces escalated their hostilities and pushed to its limits the state of oppression in which our people has languished during the past fifty years of foreign occupation.

In order to salvage its dominance, that last colonial empire on the globe is ready to shatter the future of the Romanians of the occupied territories, compelling them to sign a treaty of union, in order to give a semblance of legality to the actual occupation that took place on June 29, 1940.

The Romanian lands of Bessarabia and Northern Bucovina have always been integral parts of the Moldavian State, that emerged in the 14th century on the territories of the Getae and of the Dacians, who are the ancestors of the Romanians.

In 1775 the Hapsburg Empire wrenched from the Moldavian State its northern area, Bucovina, with the tacit agreement of the Russian Emperor.

After the war between Russia and Turkey which raged from 1806 to 1812, and after prolonged diplomatic encounters, the Russian Empire managed to dismantle the Moldavian State through the Peace Treaty of Bucharest (1812), seizing the area between the rivers Prut and Nistru to which they gave the artificial name of Bessarabia.

An outcome of the collapse of the Russian and of the Austro-Hungarian Empires after World War I was the fact that Bessarabia and Bucovina were able to use their natural and legitimate right to self-determination. On December 2, 1917 the Democratic Republic of Moldavia was created. After the Ukraine declared herself an independent republic, the Parliament of the Republic of Moldavia—called the Land Council—declared on January 24, 1918 the independence of the Democratic Republic of Moldavia. On March 27 in the same year, the Land Council voted that Bessarabia be united with the motherland, Romania—thus implementing the will of the people and making use of its historical and national rights. The National Assembly of Bucovina also voted on November 28, 1918 the unconditional and permanent union of Bucovina within her ancient boundaries which extend between the rivers Ceremus, Colacin and Nistru, to the Romanian motherland.

The implementation of the national and administrative unity of the Romanian people on December 1, 1918 fulfilled its perennial dream. As a result of the act of union of 1918, the Romanians east of the river Prut and those of Bucovina preserved their national existence and became an integral part of the life of our nation.

The Romanians of Transnistria, who had been the victims of the oppression exerted by the tsarist regime as early as the end of the 18th century, were the first to suffer during the twenties and the forties the oppression, the deportations, the state-organized starvation, the intensive process of denationalization carried on by the soviet dictatorship. Tens of thousands of rural workers and of educated people, unable to endure the horrors of bolshevism any longer, escaped to the right bank of the Nistru, to their Romanian brothers.

The imperialist forces, inimical to our nation, were not ready to accept the loss of their former colonies and carried on their policy of expansion and annexation. After the Stalin-Hitler pact of August 23, 1939, after a series of ultimatums forwarded by the Soviet government to Romania on June 26 and 28, 1940, based on specious argumentation and on the support of fascist states, the U.S.S.R. occupied on June 28, 1940 the Romanian lands of Bessarabia and Northern Bucovina, under the threat of military action against the population.

Thus the Soviet Union perpetrated an act of aggression against Romania, flagrantly infringing her independence and her territorial integrity, and breaking the Briand-Kellog Pact of renouncing war it had signed on August 28, 1928 at Paris, and also breaking the agreement between the Soviet Union, Estonia, Latvia, Poland, and Romania it had signed on February 9, 1929.

According to international law, the occupation of foreign territories through acts of aggression must be void *ab initio* (from the very beginning).

Then followed the dismantling of the occupied territories through the arbitrary and

dictatorial decisions of the Supreme Soviet of the U.S.S.R. of August 2, 1940, and of the Presidium of the Supreme Soviet of November 4 of the same year, according to which the South of Bessarabia, the County of Hotin, Northern Bucovina, and the greater part of Transnistria were ripped apart and engulfed into the Ukraine. However, dismembering the Soviet Socialist Republic of Moldavia in the manner in 1940 does not change the status of occupied territories that has been and continues to be that of Bessarabia and Northern Bucovina in the light of international law.

Following that 1940 act of aggression and occupation, approximately one million Romanians from Bessarabia and Bucovina fled, crossing the river Prut into Romania. In the summer of that year, the regime of the occupiers destroyed the best among our citizens who could not escape.

The Christian Orthodox Church of Bessarabia and Northern Bucovina, who had over two million members, was wrenched from its proper place against the will of its members, of its clergy, and of its Holy Synod, and subjected to a foreign church authority located over one thousand kilometers away.

The reprisals of 1944–45, the state-organized starvation of 1946–47, the mass deportations of 1949–53 killed off more hundreds of thousands of people. In the name of the "struggle against nationalism and antisoviet feelings", the reprisals never stopped between 1950 and 1990, and are still continuing in some areas of the grievously martyred and misappropriated land of Moldavia.

The massive dislocation and replacement of the population, the suppression and destruction of the national culture, and the policy of imperialistic dictatorship brought upon Moldavia the danger of another territorial fragmentation, jeopardizing our very national existence. In this manner the soviet state is guilty of one more crime in international law, namely of genocide.

For 50 years the U.S.S.R. has pursued a policy of physical and spiritual annihilation of our people, using to that end the structures set up after the act of occupation, and first and foremost through the communist party and the soviet secret police, the KGB, implanted here on our national territory. The Russian Orthodox Church, as a docile handmaid of the communist state, also pursued a policy of spiritual genocide against the Romanian population under soviet occupation.

The occupying power recruited for those structures local residents and made them betray their own people. Those structures of the occupying power are still unrestrained and active on our territory, and are working against our national liberation.

At the basis of the physical and spiritual destruction of our people lies the communist ideology, which is alien to the nature, the interests, and the aspirations of the Romanians. In 1940 the communist system ripped apart our nation; today it carries on the same policy but wears the mask of pluralism and of the agreement between the torturer and his victim; it brings about new acts of dismemberment and tries to force us again in the deadly embrace of the totalitarian soviet state. That system endeavors to keep us victims of the absurd bolshevist ideology, and continues issuing a series of presidential decrees proclaiming the inviolability of the monuments and memorials of the leader of the 1917 coup d'état.

A direct outcome of the 1940 act of aggression is the presence of our national territory of the occupying army, of the communist party of the Soviet Union, and of its secret police, the KGB, active even today to ensure the soviet imperialistic domination. The direct participation of these forces in the recent acts of dismemberment of the Moldavian land is one more proof of their true function. The soviet army has ground down and continues to grind down the bodies and souls of our young people, sending them to their death to promote foreign interests.

The unlawful and inhuman face of the U.S.S.R. is also revealed by the way that state openly flouts international law and all human values. Overcome by the process of its dissolution, that empire attempts to stifle the national liberation movements, and to impede the inevitable process of de-colonization that has begun in the occupied territories, by openly threatening the states that have declared their independence, by bringing about their dismemberment, by ignoring the right of nations to self-determination, by applying economic embargoes, and by using direct military intervention. It is along those lines that the soviet empire attempts to make us sign a treaty of union, promising in exchange to spare our land that it occupies from the further fragmentation it contemplates for us, using the time-honored principle of "divide et impera" among the various ethnic groups.

The empire's ruling régime is using this new treaty of union to try to maintain the captive nations as mere component parts of a state that is prevalently monolithic and totalitarian.

Faced with the immediate danger of the total annihilation of the very national existence of the Romanians in the occupied territories, reasserting our people's perennial desire for freedom and independence, in the spirit of the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, and in accordance with the universally recognized right of the nations to self-determination,

The Great National Assembly proclaims:

The national independence of the Romanians in the occupied territories and the granting to the entire Romanian nation the right to defend and guarantee that independence using all available means;

Signing any treaty of union with an empire would confer a semblance of legality to the act of occupation of June 28, 1940 and to the situation that resulted from it. There is absolutely no legal evidence that could bear witness to our desire to become part of the U.S.S.R. Having been engulfed into the U.S.S.R. against our free will, we the people of the Romanian occupied territories have no obligation to the soviet state;

The train of events that evolve in the Romanian occupied territories is a national liberation movement directed against colonialism and against imperialism;

The future of the Romanian occupied territories should be decided only by the Romanian nation in its entirety, that nation being the unique entity to which international law applies, and that nation being the bearer of the unalterable and inalienable right to decide its own fate without external intervention;

The Moldavian Republic's participation, either through a state organ, or through a juridical body delegated by a state organ, in the drawing up or the concluding of a treaty of imperialistic union, will constitute an act of betrayal of our nation's interests and aspirations to unity and independence; should such an act of betrayal be perpetrated, the representatives' subsequent participation in the supreme organ of state power of the Moldavian Republic would be tantamount to their complicity in the betrayal; any kind of pressure exerted upon state organs (or upon juridical bodies delegated by state organs) in order to oblige them to perpetrate an act of betrayal of their nation cannot justify an act of betrayal; any deviation from this principle will be described as an act of facilitating the foreign occupation and of submitting our nation to the rule of a foreign power. It is at the same time absolutely necessary to speed up the signing of bilateral treaties and agreements of cooperation in all fields with the states and nations who have proclaimed their sovereignty and their independence;

The participation of the Moldavian Republic's deputies in the Assembly of Deputies and Supreme Soviet of the U.S.S.R. has in the present circumstances no juridical validty and no moral justification;

The lack of preparedness or in the insufficient preparedness in the political, economic, and social fields, or in the field of education, may never be used as a pretext to postpone independence;

Faithful to its striving for national unity and independence, our nation once more reasserts its desire for peaceful coexistence and cooperation with the citizens of other national extraction, granting them all rights for the free development of their ethnic, cultural, and religious life, according to the norms of international law and to the country's laws;

The religious reintegration of the Romanian nation is imperative at this time;

Our nation's progress toward democracy and independence cannot be conceived without the guarantee of all universally acknowledged basic human rights;

No state and no party or political body has a right to instigate the citizens of Moldavia to perpetrate acts of treason against their nation. Hence the continued activity on Romanian territory of the structures of the occupying power such as the Communist Party of the Soviet Union and the KGB, the soviet secret police, a.s.o., is in disagreement with the best interests and the aspirations of our people. The Great National Assembly demands that those foreign structures be legally banned and their property be nationalized;

Maintaining a host of monuments and other insignia that tend to perpetrate at all costs the memory of the proponents of the bankrupt communist ideology who are guilty of physical and of cultural genocide, such as Marx, Engels, Lenin, and others like them, is incompatible with the further development of human society toward democracy and progress;

The right of nations to decide their own fate is unlimited and indivisible. Our people has claimed that right by embarking upon a national liberation movement that cannot be stopped either by unfavorable political circumstances or by the arbitrary dictates of the leaders of the U.S.S.R. The attempts of those leaders at using the army to suppress the national liberation movement is a crime against our nation and at the same time a crime against the soldiers who are the unwilling slaves of imperialistic policy. Our people will defend its independence by all means, including open resistance, in agreement with the acknowledged norms of international law that apply to the nations that are struggling for their national liberation against colonialism and imperialism;

The process of recovering national independence cannot take place while the soviet army is in our land. The Great National As-

sembly demands that the troops of the Ministry of Defense of the U.S.S.R. be withdrawn from Moldavian territory. Until that problem is solved, it is necessary to refrain from any acts that could hurt the dignity and the human rights of military personnel and their families. Such acts would be nothing but an instigation that could jeopardize the life of the military personnel and their families on the one hand, and our people's security on the other. At the same time, the Great National Assembly finds that the Government of Moldavia cannot commit itself to satisfying the material and social needs of the hosts of soviet military personnel, over whom it has no sort of control. The Great National assembly demands the termination of the military commissariats of the Ministry of Defence of the U.S.S.R. on the territory of the Moldavian Republic, and replacing them with the recruitment of our own young people in the National Guard and in the police force. Withdrawing the units of soviet troops from the territory of the Moldavian Republic and terminating the activity of the military commissariats of the Ministry of Defense of the U.S.S.R. would be the first and the most powerful proof that today's leaders of the U.S.S.R. observe the Declaration of Sovereignty adopted by the Supreme Soviet of the Moldavian Republic, according to which Moldavia is a nonmilitary zone.

In accordance with the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, the Great National Assembly of Chişinău proclaims the need to immediately and unconditionally put an end to soviet colonialism in all its forms and activities. The Soviet State, who also signed that declaration, must grant immediately to the peoples of its own colonies their independence.

To preserve peace and stability in this part of Europe, the Great National assembly of Chişinău launches an appeal:

To the United Nations Organization's Committee of Decolonization, urging it to fulfill its mission with respect to us too and find the best means to speed up the implementation of its Declaration; also urging it to take concrete steps to that end, based on which the United Nations General Assembly could adopt a resolution regarding soviet colonialism and especially regarding the problem of the occupation by force of the Romanian territories;

To the governments and states of the world, to the United Nations Organization, and to other international bodies, urging them to recognize the status of occupied territory for Bessarabia and Northern Bucovina, with all the juridical and political consequences foreseen in international law;

To all participants in all movements of national liberation within the Soviet Union, urging them to unite themselves immediately in an Alliance for the national liberation of the captive nations of the Soviet empire.

Only a complete, deliberate and scrupulous implementation of the national independence of our people will set up an environment in which it will be possible to eradicate the consequences of the foreign occupation, and do away with the injustice that was done to us on our land for centuries. It is only in this way that it will be possible to achieve a climate favorable to the peaceful and harmonious coexistence of all citizens, regardless of nationality and religious creed, in this land.

This difficult and heroic moment arrived through the inexorable, cast-iron process of history. It requires of us that we be fully aware of the magnitude of the difficulties it brought before us, and that, guided by the light of our own conscience, we proceed to solve them for the sake of our children, of our grandchildren, and of those to come after them.—Chişinău, the Great National Assembly Square, December 16, 1990, passed by the vote of the approximately 800,000 participants in the Great National Assembly.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

D'AMATO (AND DOLE) AMENDMENT NO. 387

Mr. D'AMATO (for himself and Mr. DOLE) proposed an amendment to the bill (S. 1241) to reduce and control violent crime, as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of Title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime.".

"(D) For purposes of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime of violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is a federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

SIMON AMENDMENT NO. 388

Mr. SIMON proposed an amendment to the bill S. 1241, supra, as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SIMON (AND BIDEN) AMENDMENT NO. 389

Mr. SIMON (for himself and Mr. BIDEN) proposed an amendment to the bill S. 1241, supra; as follows:

At the end of the bill add the following new title:

TITLE —BAIL POSTING REPORTING

SECTION 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRINIMAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

KENNEDY AMENDMENT NO. 390

Mr. SIMON (for Mr. KENNEDY) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $5,000,000", and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

LAUTENBERG AMENDMENT NO. 391

Mr. LAUTENBERG proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to de-

termine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the moor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspecion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or deviced affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

HATFIELD (AND OTHERS) AMENDMENT NO. 392

Mr. HATFIELD (for himself, Mr. PRESSLER and Mr. GRASSLEY) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

EXON (AND OTHERS) AMENDMENT NO. 393

Mr. EXON (for himself, Mr. HOLLINGS, Mr. KASTEN, and Mr. DANFORTH) proposed as amendment to the bill S. 1241, supra, as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

RUDMAN AMENDMENT NO. 394

Mr RUDMAN proposed an amendment to the bill, S. 1241, supra, as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754 (f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

SPECTER AMENDMENT NOS. 395 AND 396

Mr. SPECTER proposed two amendments to the bill, S. 1241, supra, as follows:

AMENDMENT NO. 395

At the appropriate place, add the following new Section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center; *Provided further*, That the site selected for the Philadelphia U.S. Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

AMENDMENT NO. 396

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

WIRTH AMENDMENT NO. 397

Mr. WIRTH proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii) is amended to read as follows:

"(ii) records of a law enforcement unit of an educational agency or instutition that are required by State law to be made available to the public;".

THURMOND AMENDMENT NO. 398

Mr. THURMOND proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may

request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

BIDEN AMENDMENT NO. 399

Mr. BIDEN proposed an amendment to the bill S. 1241, supra, as follows:

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense,".

HEFLIN AMENDMENT NO. 400

Mr. HEFLIN proposed an amendment to the bill S. 1241, supra, as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

One page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

BRADLEY AMENDMENT NO. 401

Mr. BRADLEY proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEYMOUR AMENDMENT NOS. 402 AND 403

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 402

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

AMENDMENT NO. 403

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived:

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

HATCH (AND GORTON) AMENDMENT NO. 404

Mr. SEYMOUR (for Mr. HATCH, for himself, and Mr. GORTON) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by strking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or ";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by strking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(C) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by strking the period at the end thereof and inserting"; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

SEYMOUR AMENDMENT NOS. 405 AND 406

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 405

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use American's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

AMENDMENT NO. 406

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

GRAMM AMENDMENT NOS. 407 AND 408

Mr. GRAMM proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 407

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

AMENDMENT NO. 408

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

MCCONNELL AMENDMENT NO. 409

Mr. MCCONNELL proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

SANFORD AMENDMENT NO. 410

Mr. SANFORD proposed an amendment to the bill S. 1241, supra, as follows:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

THURMOND AMENDMENT NO. 411

Mr. BIDEN (for Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

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

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation

of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

BRYAN (AND McCAIN) AMENDMENT NO. 412

Mr. BRYAN (for himself and Mr. McCAIN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT OR STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OR PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

DECONCINI AMENDMENT NO. 413

Mr. DECONCINI proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

CHAFEE (AND OTHERS) AMENDMENT NO. 414

Mr. CHAFEE (for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 02. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 03. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 04. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

BINGAMAN (AND DOMENICI) AMENDMENT NOS. 415 AND 416

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed two amendments to the bill, S. 1241, supra, as follows:

AMENDMENT NO. 415

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

AMENDMENT NO. 416

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

SANFORD AMENDMENT NO. 417

Mr. SANFORD proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) section 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

BRYAN (AND METZENBAUM) AMENDMENT NO. 418

Mr. BRYAN (for himself and Mr. METZENBAUM) proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzles, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance" has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance.".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraph:

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or con-

nected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

DURENBERGER (AND KASSEBAUM) AMENDMENT NO. 419

Mr. DURENBERGER (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagraph (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the office within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) receive by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

D'AMATO AMENDMENT NO. 420

Mr. THURMOND (for Mr. D'AMATO) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate Section 1324(a) of Title 8, United States Code, shall be assigned not less than offense level 25 under Section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnapping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of Title 8, United States Code.

LEAHY (AND OTHERS) AMENDMENT NO. 421

Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examina-

tion, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 422

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) INITIAL REQUIREMENT.—On or before the date that is 2 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State has in effect a mandatory functional literacy program in at least 1 major correctional facility.

(b) SUBSEQUENT REQUIREMENT.—On or before the date that is 5 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State and each local jail or detention center with a population of more than 100 inmates in the State has in effect a system-wide mandatory functional literacy program.

(c) PROGRAM REQUIREMENTS.—(1) Each mandatory functional literacy program required by subsections (a) and (b) shall—

(A) to the extent possible, make use of advanced technologies, such as computer-based adult literacy learning; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case;

(iii) adequate opportunities for appropriate education services and the testing of all inmates for functional literacy upon arrival in the system or at the jail or detention center; and

(iv) an inmate participation incentive program, which may include—

(I) better housing opportunities;

(II) monetary incentives for achievement; and

(III) positive reports to parole authorities for inmates who participate and progress in the literacy program.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(d) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program required by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(e) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operaing the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(f) WITHHOLDING OF GRANTS.—(1) On and after the date that is 2 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (a).

(2) On and after the date that is 5 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (b).

(g) DEFINITION.—For the purpose of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

BIDEN AMENDMENTS NOS. 423 THROUGH 427

(Ordered to lie on the table.)

Mr. BIDEN submitted five amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 423

In the Hatch amendment No. 380, as modified and amended, in the "Section 2254 Amendments," strike the following:

"(3) by adding a new subsection (d) reading as follows:

(d) An application for a unit of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceeding."'

AMENDMENT NO. 424

In the Hatch amendment No. 380, as modified and amended, in proposed section 2259 of title 18 of the United States Code, strike the following in subsection (b): ", but the court shall not grant relief from a judgment or sentence on the basis of any claim that was fully and fairly adjudicated in state proceedings."

AMENDMENT NO. 425

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 426

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 427

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of clearly established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

BIDEN (AND OTHERS) AMENDMENT NO. 428

Mr. BIDEN (for himself, Mr. DOLE, and Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

On page 140, strike from line 3 through line 20;

On page 149, strike from line 13 through line 24;

On page 153, strike all from line 1 through line 19 on page 158.

STEVENS AMENDMENT NO. 429

Mr. STEVENS proposed an amendment to the bill S. 1241, supra, as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain in operation's system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) In general.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) Additional funding.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) Increased Mandatory Minimum Sentences Without Release FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm within intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

HEFLIN AMENDMENT NO. 430

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 243, line 21, after "criminal" insert "and mental".

On page 244, line 12, after "criminal" insert "and mental".

On page 244, line 24, after "criminal" insert "or mental history".

On page 245, after line 15, insert the following:

(e) DEFINITION.—For the purposes of this section, the term "mental history record" or "mental history file" means a record of adjudication as a mental defective or commitment to any mental institution.

BYRD AMENDMENT NOS. 431 AND 432

Mr. BYRD proposed two amendments to the bill S. 1241, supra; as follows:

AMENDMENT NO. 431

At the appropriate place, insert:

SECTION IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

AMENDMENT NO. 432

SEC. 2703.

On page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 10:30 a.m., to receive testimony on Senate Resolution 82, to establish a select committee on POW/MIA affairs.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 9:30 a.m., to receive testimony on S. 165, the Legislative Line-Item Veto Separate Enrollment Authority Act.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, July 23, at 9:30 a.m. The meeting will begin with a presentation by Mr. George White on the status of projects undertaken by the Office of the Architect of the Capitol, including the elevator program, the electrical improvements project, the recycling pilot, the Senate subway system, the Senate Chamber audio system, the Capitol terrace office project, the Capitol security plan, and the Post Office development.

Following the Architect's presentation, the committee will take up legislative and administrative business ready for consideration at the time of the meeting.

For further information regarding this hearing and markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on S. 734, to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes, and S. 736, to amend the Outer Continental Shelf Lands Act.

The hearing will take place on Wednesday, July 17, 1991 beginning at 2 p.m. in room 366 of the Senate Dirksen Office Building in Washington, DC. Witnesses will testify by invitation only.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke of the committee staff at (202) 224-2383.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 27, 1991 at 10 a.m. to hear and consider the nominations of Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury; Janet A. Nuzum and Carol T. Crawford, to be members of the United States International Trade Commission; and to consider two bills (S.J. Res. 153 and S. 1084) regarding China's most-favored-nation status.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 27, at 10 a.m., to hold a hearing on United States relations with China and to vote on pending business items.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 27, 1991 at 11 a.m.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 2 p.m., to hold a hearing on the Bankruptcy Code and individual debtors.

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

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 27, beginning at 9:30 a.m., to conduct a hearing on the issue of expanding the Federal Right to Know Program, including an examination of the discussion draft of the right to know more legislation.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. for a hearing on "Caught in the Squeeze: Economic Pressure on Working Families."

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

SUBCOMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Sub-

committee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 27, 1991, to receive testimony on S. 979, the Department of Energy Critical Technologies of 1991.

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

ADDITIONAL STATEMENTS

TRIBUTE TO ROBERT A. BOHLMAN

• Mr. KOHL. Mr. President, Chester Bowles once said:

Government is too big and important to be left to the politicians.

That rings particularly true with me when I consider the millions of lives we affect through the setting of our national priorities; when I consider the vast unmet needs of real people.

Fortunately for us, and for the people, we are sometimes saved from our own hands by the unelected, civil and public servants that help to make this system work.

There is a misconception outside of the beltway, I think, that people who work in Federal Government are 9-to-5 career bureaucrats disconnected from the real world. There is a public antipathy to Washington politics and the unelected, public servants often take the rap for that.

Contrary to that common perception, I have been incredibly impressed by the intelligence, commitment and energy of many of the people who work in this town.

Today, I want to recognize an individual who is one of the finest public servants I have had the opportunity to work with.

Bob Bohlman has served the State of Wisconsin's Department of Health and Social Services for 14 years. He began that service in the Washington State of Wisconsin office in 1977 under then Gov. Patrick Lucey. He served through the administrations of Governors Martin Schreiber, Lee Sherman Dreyfus, Tony Earl, and most recently, Tommy Thompson. He served the people of Wisconsin alongside Senators Bill Proxmire and Gaylord Nelson; alongside Representatives Robert Kastenmeier, Alvin Baldus, Clement Zablocki, Henry Reuss and William Steiger.

It is a testament, I think, to his commitment, expertise and unwavering advocacy for those in need, that he weathered partisan winds. And that is to his credit.

Bob has been an invaluable asset to the Wisconsin Department of Health and Social Services and to the delegation. He has been there at every turn when my staff or I needed information about the impact of this formula or that formula on Wisconsin. He has patiently educated so many of us on LIHEAP, AFDC, child support, foster care, the maternal and child health block grant—on virtually every aspect of the Social Security and Public Health Service Acts. If he didn't have the information we requested, he retrieved it and delivered it expediently. He has made significant contributions to sound public policy; and perhaps just as importantly, he has helped to prevent bad social policy. He has been the ultimate public servant; the ultimate team player.

As he moves forward in his career, all of us in the Wisconsin delegation will be a little bit less without his knowledge, seasoned judgment, and perseverance.

The tribute that I pay to him today is a very small token of my appreciation and best wishes.•

MARKET ACCESS—KEY TO A NEW GATT AGREEMENT

• Mr. SIMON. Mr. President, some weeks ago, someone sent me a copy of the remarks of Donald V. Fites, chairman and chief executive officer of Caterpillar, which is headquartered in my State.

Like all of us who get overrun with speeches and printed material, I put it aside until I was on an airplane trip to Los Angeles recently and had the opportunity to read it.

It seems to me what he suggests in terms of what we should keep in mind for the Uruguay round of the GATT agreements is right on target.

I was also interested in his observation that, in fact, we have been much more open to others than they have been to us, so that any agreements we can reach for opening market doors more freely serves to benefit the United States.

I ask to insert his remarks into the RECORD at this point.

The remarks follows:

REMARKS OF DONALD V. FITES, CHAIRMAN AND CEO, CATERPILLAR, INC., AND CHAIRMAN, NATIONAL FOREIGN TRADE COUNCIL

Mr. Chairman, Members of the Committee: I'm Don Fites, Chairman of Caterpillar Inc. Today, I'm testifying before you as Chairman of the National Foreign Trade Council (NFTC). The NFTC is the oldest and largest association formed to address international trade and investment issues. Its 500 corporate members account for more than 70 percent of U.S. exports.

Before relating NFTC's recommendations on GATT issues, let me recount a recent incident. The story points up a misconception that for some time has plagued discussions of the GATT. Earlier this year, a reporter for one of America's largest and most prestigious newspapers called us saying that he wanted to write an article about the market access portion of the GATT negotiations. Specifically, he wanted to write about the U.S. initiative called the "zero-for-zero tariff proposal." We were delighted. The zero-for-zero initiative is one of our top corporate priorities.

As it turned out, the reporter wasn't allowed to write his article because an editor didn't feel the story would be newsworthy. "After all," the reporter was told, "everyone knows that this GATT Round is about agriculture, services, and intellectual property protection."

It's unfortunate, but the editor was just echoing what many think . . . that the GATT begins and ends with agriculture, services, and intellectual property protection. And because of that perception, enthusiasm for a new GATT agreement has appeared lukewarm within America's manufacturing sector. That appearance is deceiving.

So if you'll permit me, this morning I want to leave discussion of those "other" issues to my colleagues. I want to talk about just one subject . . . market access!

As chairman of one of America's largest net exporters, I know that improved "market access" is not only key to the Uruguay Round . . . it's the critical ingredient for bolstering America's export performance during the 1990s and beyond.

To further open foreign markets, GATT negotiations must succeed in a number of areas. Of course, the most obvious market access issue involves tariffs. But, lower tariffs won't benefit many American manufacturers unless there are new GATT rules to ensure that exports aren't restricted. Some of the areas that deserve attention include:

GOVERNMENT PROCUREMENT PRACTICES

Access to a large overseas market . . . foreign government procurements . . . is today limited for U.S. heavy electrical, telecommunications, energy, and transportation firms by the exclusion of these sectors from coverage under the Government Procurement Code. What is particularly troubling about this phenomenon is that the U.S. market is wide open to foreign producers of these same products. The Government Procurement Code negotiation must be a priority if equity in market access is to be provided to U.S. exporters in these key sectors.

UNREASONABLE TECHNICAL STANDARDS

Greater discipline and broader application of the "standards" code would prevent technical standards and certification processes from being used to limit legitimate competition. Progress in this area would help ensure that governments do not use the standards-setting process as a new barrier to trade.

BALANCE OF PAYMENT RULES

Measures taken by developing countries for balance of payments reasons (Article XVIII) should be more disciplined. Restrictions on trade should be broad rather than product specific, should follow established guidelines, and should be limited to a specified period of time.

CUMBERSOME RULES OF ORIGIN

Negotiations to reduce non-tariff barriers should work toward eventual global harmonization of origin rules so that exporters can enjoy a more open and predictable trade environment and importers would be prevented from circumventing fair trade laws. A consensus should be achieved on the definition of "origin," on greater transparency, and on improvements in procedural due process.

Today, even antidumping rules are being used as barriers to U.S. exports. At least 27 nations have enacted antidumping laws . . . including Mexico, Korea, Brazil, and Argentina. Without improved GATT disciplines, antidumping actions could become the international "protectionist weapon of choice."

When I speak of antidumping reform, I want to be very precise. The issue is potentially a contentious one. NFTC's objective is that a new antidumping code provide greater transparency of procedures, better discipline

over circumvention, penalties to discourage repeat dumping, and other changes to ensure antidumping calculations are fairer.

As we see it, American manufacturers . . . their customers . . . and employees are poised to be the big winners if negotiators successfully craft a new GATT agreement that addresses these issues.

In a broader context, there are those who believe the risks associated with a new GATT are so great as to outweigh potential gains. We don't agree. In our view, the present international trade landscape largely represents trade rules of a past era * * * an era in which the United States was the world's only economic powerhouse and had the trade surplus to prove it. Although that era has long since ended * * * America's exporting manufacturers are still operating within the bounds of that old system.

Today—with a few notable exceptions—American markets for manufactured goods are open. Consequently, future U.S. market access concessions will likely be modest.

In contrast—while many of our trading partners have made impressive gains in productivity—their markets have only opened slightly.

Let me put it another way, when it comes to market access and the GATT * * * *the U.S. has already paid its dues * * * it's now time to collect*!

That's one reason why the National Foreign Trade Council has joined with the Zero Tariff Coalition to support the U.S. "zero-for-zero tariff proposal."

This initiative is about as straightforward as any GATT issue gets. Simply put, the United States has offered to eliminate import tariffs on the products of nine industrial sectors * * * so long as other countries agree to do the same. The sectors include: construction equipment, steel, non-ferrous materials, paper, wool products, electronics, pharmaceuticals, beer, and fish. Together, these proposed "Free Trade Sectors" account for about 30 percent of U.S. manufactured trade.

Any way you look at the zero-for-zero tariff proposal—it's not only fair, *it's a good deal for America*. For example, tariffs applied to Caterpillar-type products are about 4 to 2.5 percent in the United States * * * 4 to 11 percent in Europe * * * and over 15 percent in most developing countries. If the zero-for-zero initiative is successful, those tariffs would evaporate.

And what's true for the construction equipment industry is especially true for other zero tariff industries like semiconductors, paper, wood products, metals, and beer.

Before closing, I'd like to pass on a personal observation. There are a lot of estimates floating around Washington as to how much economic growth a new GATT agreement will generate * * * millions * * * billions * * * or even as much as a trillion dollars of growth during the next decade. I don't know what the correct number is * * * but I do know that whenever markets are opened, American manufacturers historically have benefited more than their greatest expectations.

The Mexican market is a current case in point. Since coming to office, President Salinas has stood up to "protectionists" in his country by ending many import restrictions. He opened the motor grader market in 1988 * * * reduced tariffs in 1989 * * * opened the diesel engine market in 1990. Anticipating these actions, we "guessed" that Cat exports to Mexico would increase by about $20 million. We were way off the mark. Last year Cat exports to Mexico nearly doubled * * * to $131 million.

To put $131 million in human terms, Cat exports to Mexico now generate work for 900 U.S. Caterpillar employers and 1,800 employees at the company's American suppliers.

Mr. Chairman, it's understandable that up to now, it's been *new* GATT areas commanding most of the world's attention. *New* areas often do. But for many NFTC members, the real GATT "pay off" will come by way of improved market access.

For these reasons, the NFTC urges the Senate not to interfere with the automatic two-year "fast track" extension of negotiating authority that was provided for in the Omnibus Trade Bill. Enacting fast track authority was the right decision in 1988. Preserving it is the right direction today.

That concludes my remarks. At this time, I'd be pleased to answer any questions.

Thank you.●

AIDS UPDATE

● Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of May 30, 1991, 179,136 Americans have been diagnosed with AIDS; 111,815 Americans have died from AIDS; and 67,321 Americans are currently living with AIDS.

WILL THERE BE AN AIDS CONFERENCE IN THE UNITED STATES IN 1992?

Mr. President, the Seventh Annual International Conference on AIDS has just concluded in Italy. AIDS researchers from around the world presented their findings on a host of HIV-related issues, from promising work on vaccines to the prospects for long-term survival of people with AIDS. This extraordinary yearly conference brings together the latest research on AIDS from all over the globe along with updates on how the pandemic is spreading.

Next year's conference is scheduled for Boston—but it may not take place, due to the political wrongheadedness of the Bush administration on the issue of preventing HIV-infected foreigners from visiting or immigrating to the United States.

Based upon medical evidence that AIDS is not transmitted by casual contact or through food, air, or water, the Department of Health and Human Services wisely proposed to remove HIV infection from the list of excludable diseases. But the Justice Department blocked the new policy, pending further study.

A recent editorial in the New York Times called the Bush administration position on this issue "a travesty" which makes the United States "a laughing stock in world medical circles."

The listing of HIV as an excludable disease should be based on sound medical evidence, not on politics. We should permit U.S. health authorities to decide what diseases should be grounds for exclusion. Allowing medical facts to guide our policies will help remove the misconceptions and fear that continue to shroud the truth about how AIDS is transmitted.

Mr. President, I ask that an editorial from the New York Times of June 19, 1991, be printed at this point in the RECORD.

The editorial follows:

[From the New York Times, June 19, 1991]

THIS AIDS BAN INVITES RIDICULE

The American policy to block visits or permanent immigration by foreigners infected with the AIDS virus came under justifiable criticism at the international AIDS conference in Italy this week. The policy has very little public health value. Its chief effect is to make the United States a laughingstock in world medical circles. The policy should be abandoned, quickly.

The U.S. currently bans entry to foreigners infected with several diseases, including syphilis, gonorrhea, leprosy, tuberculosis—and the virus that causes AIDS. But the Department of Health and Human Services has proposed to eliminate all but infectious tuberculosis from the list.

The wisdom behind that proposal seems plain. Neither AIDS nor any of the other diseases to be struck is spread through air, food or water to casual bystanders. Virtually the only way for an adult to get AIDS in this country is through unprotected sexual intercourse with an infected person or by sharing contaminated drug needles.

But the Justice Department, responding to an avalanche of complaints, blocked the new H.H.S. policy, leaving the old rules in place pending further debate. The two chief arguments for the ban are superficially plausible. One is that some of the infected foreigners will surely spread the virus to Americans. The other is that infected immigrants will eventually require costly care.

But the danger is slight. And if cost is the issue, then the U.S. would ban all foreigners with kidney disease, cancer or other costly ailments. It enforces no such mean-spirited policy in those cases, nor should it for AIDS.

The ban is particularly silly for short-term visitors. Trying even to identify such individuals brings widespread condemnation. The World Health Organization and European health ministers plan to boycott the international AIDS conference in Boston next year unless the U.S. changes its policy.

How to handle foreigners seeking permanent residency is a tougher issue because the longer they stay the greater the chance some might spread the virus or require care. But by one government estimate, only about 600 AIDS-infected individuals would be admitted as permanent residents each year—compared with a million Americans already infected. And finding them among the 600,000 admitted each year would require costly testing. If the goal is to fight AIDS, this is not where to spend the money. The rate of infection is far less among the foreigners than among Americans.

What a travesty that the United States, with one of the largest AIDS-infected populations in the world, has taken a stance that implies the danger comes from abroad. The Bush Administration should reverse this ban, whose chief effect is to give the U.S. an international black eye.●

A GREAT DECISION BY FUJISAWA

● Mr. SIMON. Mr. President, I want to take this opportunity to bring to the attention of my colleagues the recent decision of the Fujisawa Pharmaceutical Co. to reduce by 20 percent the price of pentamidine. Pentamidine, as

many of my colleagues know, is an FDA-approved drug used to treat and prevent pneumocystis carinii pneumonia, a life threatening pneumonia that is particularly prevalent in persons with AIDS and others whose immune systems are severely compromised.

This reduction by Fujisawa means a signficant cost savings for individuals now using pentamidine. It will reduce the cost of preventative care, both to individuals and to the Government at a time when the importance of early intervention in the management of HIV-related conditions is being increasingly recognized.

As Congress and the rest of the Nation pause to mark the 10th anniversary of the identification or "discovery" of the AIDS virus, I commend Fujisawa's decision to cut the price of pentamidine and to continue research on new products to address the AIDS crisis.

Again, I commend this decision and I hope that other firms will follow this lead to lower prices on drugs in the ongoing AIDS fight.•

PAPERWORK REDUCTION

• Mr. KASTEN. Mr. President, in a recent speech to small business owners, President Bush pledged to block costly Federal rules and redtape. He said the Government must remove some of the obstacles it has created. Last year, regulations cost the economy at least $185 billion. The President even suggested a Surgeon General's warning for the Federal Register in which proposed regulations are published: "Do not attempt to lift unless your name is Arnold Schwarzenegger."

Americans spent more than 5.3 billion hours filling out government forms last year. According to estimates, this is enough to keep 2 million people doing nothing but cutting through redtape year round. The costs, both in aggravation and in lost productivity, are inexcusable.

But unless Congress does something to reduce the paperwork demands Federal agencies place on innovators and business people, Arnold himself may need a helping hand.

The Federal redtape burden hits small business owners the hardest. Because I was a small business owner before entering public life, I know what it means: It means you have to hire extra workers for the sole purpose of filling out forms—as opposed to producing worthwhile, marketable products or services.

Opponents of the Paperwork Reduction Act claim that OMB has abused its power by taking regulatory authority away from the real experts of the Federal agencies. And in an effort to curb OMB they have introduced legislation that would seriously hinder OMB's ability to police government paperwork.

This bill comes on the heels of a 1990 decision by the Supreme Court, Dole versus United Steelworkers of America, that also has weakened efforts to curb excessive paperwork.

Driven by the Court's decision as well as by the desire to strengthen the 1980 legislation, I've joined SAM NUNN and other members of the Small Business Committee in introducing the Paperwork Reduction Act of 1991.

In the early 1980's, then-Vice President Bush spearheaded the Reagan administration's successful effort to reduce the regulatory burden on the productive sector, helping spark the economic recovery. Vice President DAN QUAYLE is building on this effort through his leadership on the President's Council on Competitiveness. I certainly hope the administration will end its silence soon on our bill and offer its firm support.

Unless we place some check on the Federal bureaucrats, unchecked regulation will threaten economic growth. Restoring—and strengthening—OMB's power to restrain the bureaucracy's natural propensity to impose excessive regulatory and redtape burdens on our entrepreneurs is needed now more than ever.

Mr. President, on June 25, 1991, the Small Business Committee held a hearing regarding the paperwork burden on small businesses. We heard from many knowledgeable and informative witnesses that gave firsthand accounts of the time and effort involved in completing government imposed paperwork. Also testifying was Mr. T. Michael Bolger of the Medical College of Wisconsin. I think it is important to recognize that research institutions must also comply with excessive government paperwork and regulations. Mr. Bolger gave the committee a firsthand account of the mountain of forms that institutions have to fill out in order to comply with the government regulations.

I would like to bring Mr. Bolger's testimony to the attention of the Senate. Mr. Bolger's testimony makes a compelling case for strengthening the Paperwork Reduction Act. Paperwork regulations are not only burdensome to small businesses, but to learning and research institutions as well.

I ask that Mr. Bolger's testimony be printed in the RECORD immediately following my remarks.

The testimony follows:

TESTIMONY BY T. MICHAEL BOLGER, PRESIDENT, MEDICAL COLLEGE OF WISCONSIN

Mr. Chairman, thank you for this opportunity to discuss the burden of federal paperwork imposed upon institutions such as the Medical College of Wisconsin. First, however, I wish to thank Senator Kasten for his championship of the Paperwork Reduction Act of 1991. He is a loyal friend of small business, and is acutely aware of the regulatory burden borne by these institutions. His concern and advocacy is appreciated throughout the State of Wisconsin.

I'd like to begin by briefly describing the Medical College of Wisconsin. It is the third largest, private medical college in the United States, and is located on the Milwaukee Regional Medical Center campus, in Milwaukee, Wisconsin. The school grants doctoral degrees in the medical and basic sciences, as well as masters degrees in the basic sciences, and public health.

Research is integral to any academic institution, and we are no exception. Last year, Medical College of Wisconsin faculty conducted over $40,000,000 of clinical and basic science research. Over 75 percent of this research is funded through federal, peer-reviewed sources.

We are afiliated with five other major health care institutions on the campus, and utilize their facilities as our primary teaching sites. Our faculty provide the staffing at most of these facilities, and are the largest providers of indigent care in the area—over $15,000,000 last year alone. We also have affiliations with a number of community and rural hospitals throughout the State for selected training programs.

We are not, therefore, an institution with a single focus. MCW has multiple missions; education, patient care, research, and community service. As an organization, we must comply with the regulatory paperwork associated with each mission. These reporting requirements are not limited to just the federal government. The Local and State governments also impose reporting requirements on institutions such as MCW. In addition, we are frequently asked to submit data to various professional associations with whom we participate, such as the American Association of Medical Colleges [AAMC], the Association of Academic Health Center [AHC], and the American Medical Association [AMA].

The amount of paperwork generated is astounding. Although the need for the data is undoubtedly legitimate, it is rarely requested in the same format twice, and is usually not comparable due to the differences in definitions generated by the various entities.

A classic example is Affirmative Action. The Federal Government annually requires us to update our Affirmative Act Plan. For our institution, the actual plan is over four inches thick. It must be completely re-written each year, due to changes in program dates and information required due to recent regulatory changes.

The State of Wisconsin and Milwaukee County Governments also require annual submission of an Affirmative Action Plan. Unfortunately, the type of information requested, and the minority definitions are not consenting among the requests. Therefore, we must submit completely separate plans to each governmental unit, and each sumbission is over the four inches thick. Consuming not only vast quantities of paper, but also vast quantities of expensive staff time.

The material generated by research proposals is also significant. The Federal Government properly requires detailed information regarding research grant proposals. This assures not only the integrity of the research, but also verifies the appropriateness of the expenditures. We feel that overall the paperwork that is requested is necessary.

However, the approval process unfortunately can generate a significant amount of duplicate paperwork.

For example, a research protocol is approved for use at a specific site. The funding agencies require the original grant proposal plus six copies. When the protocol is ex-

panded for use at other sites connected to the institution, a complete set of documentation must be submitted to certify the approval of the new site.

This means that even though the research protocol has already been approved, all of the information must be resubmitted along with a form documenting approval by the additional hospital's internal research review committee. For an institution which affiliates with numerous hospitals, such as MCW, this can create a significant amount of both duplicate paperwork and cost.

Overall, I think must agencies attempt to minimize their requests of extraneous data. However, the lack of coordination among different levels of governments and among agencies, can be burdensome.

Often, information is requested for a current isolated need, but is provided in perpetuity based upon historical precedence; and no longer based upon need.

There ought to be a mechanism to review information requests not only to determine the need and utility of the data request; but also to discern at what point in time the informational need is no longer critical.

An example of this is the Disabled Veterans & Viet Nam Veterans Report. While information on the employment of Disabled Veterans will always be relevant, I'm not sure that the information regarding the employment of Viet Nam Veterans will remain as pertinent. However, I assume that this information will continue to be collected until a national situation arises regarding the employment of veterans of a more recent conflict than View Nam.

Accordingly, there needs to be a mechanism to balance federal information needs against the burden it imposes upon the public to gather and maintain the data. I wholeheartedly support the proposed Paperwork Reduction Act of 1991; and I urge the members of this Committee to also lend their support.

Thank you very much.•

HOUSING INITIATIVE IN GREENSBORO, NC

• Mr. SANFORD. Mr. President, I would like to share some information with my colleagues about an exciting new initiative being implemented in my State by Freddie Mac and the city of Greensboro to help expand homeownership opportunities for low- to moderate-income families in the Greensboro area. I am very pleased that Freddie Mac, in partnership with the city of Greensboro, has included in its multi-billion-dollar national affordable housing program a $5 million initiative designed to help approximately 100 local Greensboro families.

As many know, Freddie Mac is a stockholder-owned corporation which was chartered by Congress in 1970 for the purpose of creating a continuous flow of funds to mortgage lenders supporting homeownership and rental housing. Since then, Freddie Mac has taken a leading role in the secondary mortgage market and now finances one out of eight American homes. The $5 million Greensboro initiative is one portion of Freddie Mac's overall commitment to provide approximately $3 billion in affordable homeownership and rental housing in 1991 and 1992.

Under the Greensboro Initiative, Freddie Mac will purchase $5 million in mortgages which will be originated by First Union Mortgage and insured by the United Guarantee Residential Insurance Co., two local financial institutions. This plan should bring greater efficiency as well as the lower costs of the secondary mortgage market to the lender, the investor, and most importantly the homebuyers.

Another critical aspect of this program involves borrower counseling which will be provided by Triad Housing Counseling Service [THCS] and funded by the city of Greensboro. THCS will provide financial counseling, homeownership training, home search assistance, and post-purchase counseling in association with North Carolina A&T State University. I believe this service will help everyone involved to better understand the benefits and requirements of the entire program.

Furthermore, through this program, modifications in the underwriting and servicing guidelines which will give familes access to financing that would not otherwise be available to them. For instance, utility companies provide credit to those individuals who would not otherwise acquire it due to their poor credit history. Another modification allows borrowers to spend 33 percent of their income on housing expenses. These stipulations make financing more feasible for Greensboro's low-income families.

I think the potential success of this program will lie in the tremendous partnership which has been formed between Freddie Mac, the city of Greensboro, North Carolina, A&T State University, local financial institutions, community based organizations and prospective borrowers.

On behalf of my colleagues, I would like to applaud this innovative program and commend all participants involved in their efforts to assist the low-income families of Greensboro to own their own homes and to offer it as a paradigm for our Nation's cities as they look for ways to provide their citizens access to decent and affordable housing.•

SCHOOLS IN DISREPAIR

• Mr. SIMON. Mr. President, recent series of articles in the Chicago Sun-Times reveals the disturbing, deteriorated physical condition of many of the schools in our Nation.

The Sun-Times reports that the 400,000 students who spend their days in Chicago's public schools are in harm's way. According to one article, on any given day, the Chicago public schools have approximately 900 fire and building code violations. Lack of maintenance is undermining the buildings that we trust to protect our most-valued resource—our children. Instead of fostering an educational environment that is safe and conducive to learning, many school buildings in Chicago and in urban centers across the Nation are dangerous and disruptive to student learning. According to a 1989 study by the Education Writers Association, a full 25 percent of all U.S. public school buildings are inadequate places for learning. They are structurally unsound and are in need of basic maintenance or major repairs.

My colleague from Massachusetts, Senator KENNEDY, has introduced a bill that, among other things, would provide some assistance to schools desperately in need of repair and renovation. S. 1135 would also encourage comprehensive school restructuring and help schools to meet the national education goals.

Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 1135. I also ask that two of the articles from the Sun-Times series—"Troublesome National Trend: Putting Off Repairs" by Maribeth Vander Weele, and "City Officials See No Easy Way Out of Schools' Crisis" by Maureen O'Donnell—be printed in the RECORD. I would be glad to provide a copy of the entire series of articles to any of my colleagues who are interested.

The articles follow:

CITY OFFICIALS SEE NO EASY WAY OUT OF SCHOOLS' CRISIS

(By Maureen O'Donnell)

Chicago leaders are calling disrepair in the city's public schools "heartbreaking" but say there's no quick fix.

"What we're seeing come to roost are the decades of negligence and the priorities being put elsewhere," said Avis LaVelle, Mayor Daley's press secretary. "It's heartbreaking."

School maintenance "was put at the bottom of the list because of other concerns . . . like keeping the [schools'] doors open," LaVelle said.

"I can't apologize for money being shifted from maintenance for teachers [salaries] and other employees. If your choice is a modern facility—with no teachers there to teach—then it does you no good."

Mayor Daley, who has children in private schools, is not insensitive to the problem, she said. She recalled that Daley helped get a bond issue of more than $200 million through the city's Public Building Commission to rehabilitate schools.

But even with that money, "the system is still breaking down," said Ald. Patrick J. O'Connor (40th), who heads the City Council Education Committee.

"Maintenance is always the first place that gets raided," said O'Connor, who is chairman of the local school council at Hawthorne Academy, which two of his children attend. Upkeep there is a "constant struggle," he said.

O'Connor said repair raids should stop. Referring to a legislative maneuver last year to let the School Board divert maintenance money for employee salaries, O'Connor said, "The fact is, they then excuse the board from spending it on repairs."

Board officials will go before the City Council Education Committee in May to talk about their budget shortfall, he said.

The committee will use that information to lobby for help in Springfield.

"That's where we'll fashion an attempt to begin to resolve the problem," O'Connor said. "It's a 10-year hole. It's not going to be resolved in one legislative session."

School Board member Ashish Sen said Chicago Sun-Times reports about ruined and decrepit city schools will help its Real Estate Committee protect what money the board has left for maintenance and repair. With a School Board deficit looming, the committee needs to protect those dollars from further cannibalization, said Sen, who is chairman of the committee.

School Board President Clinton Bristow Jr. said he wants the Real Estate Committee to find other sources of money, including possibly leasing schools after classes.

Asked why people would want to rent schools that are in disrepair, Bristow said: "That's what our Real Estate Committee is going to take a look at. . . . I'm aware of the physical conditions of the schools, and it is something that's a high priority of our board."

Another possible funding source, Bristow said, is a bill being pushed by a national organization of major school districts, the Council of Great City Schools. The legislation, known as the Urban Schools of America Act, is an effort to get more federal funding for troubled urban schools.

TROUBLESOME NATIONAL TREND: PUTTING OFF REPAIRS

(By Maribeth Vander Weele)

Cash is short in public schools. Programs are essential. And cuts must be made.

But where?

School systems across the country have asked that question and found that the least painful place—in the beginning—is in building repairs.

"Initially you don't really see the impact," said Margaret A. Scholl, maintenance branch director of the Los Angeles Unified School District. "It takes a long time for it to be felt."

It begins when policymakers postpone a year of repairs. Another year goes by, and the backlog keeps growing. "Then you're so far in the hole that you don't see any way out," Scholl said.

The Los Angeles public school system now needs about $1 billion to rehab its more than 650 schools and build or buy new ones, some of which operate year-round. Only $18.8 million is available this year.

The Los Angeles system arrived at its current crisis by postponing repairs. Since 1968, the schools' maintenance staff has dropped from 2,5000 to 1,500, Scholl said. Its building problems requiring immediate attention each year exceed 250,000.

The scenario in Los Angeles is played out throughout the nation.

One-quarter of U.S. public schools are shoddy places for learning, according to a 1989 study by the Education Writers Association. They need basic maintenance or major repairs. Some are obsolete. Others have environmental hazards or are structurally unsound.

More than half of U.S. schools were built in the 1950s and 1960s, generally a time of rapid, cheap construction, the study found.

Detroit has only enough money to fill about 10 percent of its estimated $1 billion capital need, said Darrell Burks, deputy superintendent of fiscal integrity for the Detroit Board of Education.

"When you don't have the ability to fix the problem, the shape is obvious," Burks said. "It's like a car you bought 30 years and you haven't maintained it."

For 12 years, the Detroit school system did "virtually no maintenance," said Mike Ugorcak, an architect with the system there. "We're just beginning to do some maintenance now. For a period of 10 to 12 years, we did absolutely no aesthetic painting at all."

New York has about $17 billion in building needs, according to Doris Gonzalez-Light, chief executive for school facilities. It has $4.3 billion available.

"More than half of our school buildings are more than 50 years old, and almost every one is in some state of serious disrepair, with problems ranging from leaking roofs to faulty boilers to broken windows," said Bob Terte, spokesman for the New York City school system.

BUILDING NEEDS IN MAJOR CITIES

School system	Estimated capital need	Amount available	Number of schools	Number of students
New York	$17 billion	$4.3 billion	1,000	940,000
Los Angeles	1 billion	18.8 million	650	650,000
Chicago	1.1 billion	240.3 million [1]	601	409,000
Detroit	1 billion	100 million	248	180,000

[1] Chicago is expected to borrow 155.7 million more this year.

Note.—Figures include the cost of repairs and new schools.

Source: Officials from the various school systems. Most numbers are rounded.•

NAS WHIDBEY ISLAND

• Mr. GORTON. Mr. President, when NAS Whidbey Island was slated for closure, the task of challenging Secretary Cheney's decision was onerous. This task would require the Washington State delegation and the community of Whidbey Island to work together toward achieving the goal of saving NAS Whidbey.

NAS Whidbey is one of America's finest naval air stations. In addition to the unique training conditions for A-6 pilots, the military personnel who are stationed at NAS Whidbey enjoy a quality of life unmatched by most bases. More important to the people outside Washington State, is that it will cost the Navy and the taxpayers more dollars to close NAS Whidbey than it will to keep it operating.

The Washington State delegation recognizes the value of NAS Whidbey, and I am pleased to say, we have worked to enlighten the committee on NAS Whidbey's importance to our national defense.

Individual members of the Washington delegation disagree on many policy issues, but they have a strong tradition of working well on many localized issues, the most recent being NAS Whidbey Island.

The Base Closure Commission makes its final decision on NAS Whidbey on Sunday. I commend both my colleagues from Washington State, and the citizens of Oak Harbor. Together, the citizens and the delegation have worked diligently to provide the Base Closure Commission with the information to make a balanced and fair decision.

When delegation members testified before the Commission, Senator ADAMS reaffirmed that if NAS Whidbey closes, the A-6, and EA-6 community will move to NAS Lemoore. The crowded airspace at NAS Lemoore will undermine A-6 and EA-6 training. Representative AL SWIFT's district will be most affected by this decision. He thoughtfully outlined community impact. Representative NORM DICKS applied his military expertise to explain why this closure would be detrimental to America's national defense. Representative JOHN MILLER accepted a base closure in his own district for the cause of keeping NAS Whidbey open. Representative ROD CHANDLER used his experience as a pilot to highlight NAS Whidbey's unique all weather training and electronic jamming opportunities. Finally, I asserted that the Navy will end up spending more to close NAS Whidbey than it could ever possibly save. Together, the delegation effectively argued why NAS Whidbey should remain open.

The Washington State delegation has worked hard indeed, but at the core of our efforts lies the dedication of the Oak Harbor community. Never once did they hesitate to provide us with a necessary fact or number. They did an exceptional job in wading through information to formulate a direct and persuasive testimony. The community of Oak Harbor provided the impetus to make our coalition work. This united communmity effort gave the Washington State delegation unconditional support and strength in explaining NAS Whidbey's unique qualities. I commend their dedication and offer my thanks for their invaluable service.

I am hopeful and optimistic that NAS Whidbey will remain open, but, whatever the outcome, I will walk away from this experience satisfied that the Washington State delegation and the Oak Harbor community did everything in their power to save NAS Whidbey Island.•

NEW FINANCE COMMITTEE MEMBER

• Mr. DURENBERGER. Mr. President, this morning the Senate Finance met to consider resolutions relating to the President's request for an unconditional extension of most-favored-nation status to the People's Republic of China. At a later time, I will be discussing that matter on the floor of the Senate.

What is special about today's meeting of the Finance Committee is that the committee has the privilege of a new member on the Republican side. I am, of course, referring to our distinguished colleague from Utah, Senator HATCH.

As the only Member of the Senate to serve on both the Finance Committee and the Labor and Human Resources Committee, I am extremely pleased at my colleague ORRIN HATCH's decision

to become a member of the Finance Committee.

In the 13 years I have served on the Finance Committee, it has played a most significant role in reforming tax, earnings, social insurance, health, and international trade policy. At the same time, my colleague from Utah has been a most substantial contributor to improving national policy in each of these areas.

He served 6 years as chairman of the Committee on Labor and Human Resources and is currently in his fifth year as ranking member of the committee. I have enjoyed serving under his leadership on the Labor Committee since 1989. We also served together in the first 2 years of his 5 years on the Senate Select Committee on Intelligence.

ORRIN HATCH has deserved recognition as a national leader in many fields—especially health care. I look forward to working with my colleague on both committees to guarantee universal access to quality health care.

I welcome my friend and Russell Building neighbor ORRIN HATCH to the Finance Committee with the sure knowledge that the active involvement that both of us bring to the interrelated income security and health issues will help speed up the process or reform.●

TRIBUTE TO CHASE N. PETERSON, PRESIDENT, UNIVERSITY OF UTAH

● Mr. GARN. Mr. President, the State of Utah and indeed the Nation have been well served over the past 8 years by the presidency of Chase N. Peterson at the University of Utah. Upon his retirement at the end of June, 1991, it is fitting to note the distinctiveness of his tenure and to applaud his legacy of progress. He accepted his mandate to lead, and he applied himself in that capacity in ways that are both exemplary and laudatory.

During his time in office, total university revenues increased from $305.5 million to $583.5 million. State tax funding climbed from $90.7 million to $131.7 million. Revenue from research grants and student aid went from $59.8 million to $110.8 million. Between 1983 and 1991, the portion of research overhead retained by the university rose from 25 percent to 100 percent.

Conversely, during President Peterson's tenure, the university had to deal with retroactive cuts in legislative appropriations, and in 1986 Peterson announced an 8.3 percent base budget cut.

In 1988, he played a statewide leadership role in fighting off tax initiatives that would have cut $15 million from the university's tax support. Last year, under his leadership, the university completed a 5-year, $150 million fundraising campaign, which accounted for a total of $212 million, including $2 million from faculty and staff—unparalleled feat at the University of Utah.

His legacy includes the establishment of numerous endowed chairs; a best-in-the-nation heart transplant program; a state-of-the-art genetics research building; completion of the regional Moran Eye Center; plans for a biopolymer research facility; construction started on a campus broadcast center; completion of a first-class tennis center with an indoor football facility underway; establishment of the Lowell Bennion Community Service Center; designation of a national poet laureate and two MacArthur award winners, the same year, from among the faculty; establishment of the region's first known annual Martin Luther King, Jr., celebration; several national championships in women's gymnastics and skiing; opening of a national model center for dance; establishment of the Garn Institute of Finance; spearheading an unbiased and scientific exploration into the merits of the cold-fusion phenomenon; expansion of the university's research park with a doubling of building value and an estimated economic impact on the State of $300 million; acquisition of a portion of historic Fort Douglas with privately funded plans for a center of scholarship; establishment of a humanities center; expansion of high school recruiting efforts; and a campuswide concentration on enhancing the undergraduate experience.

Additionally, he has performed the following service: chair, National Association of State Universities and Land Grant Colleges; chair, U.S. Office of Technology Assessment Advisory Council; chair, Tanner Lectures on Human Values; director, American Council on Education; member, NCAA President's Commission on Athletics; and member, Knight Commission on Intercollegiate Athletics.

President Peterson has distinguished himself as an educational statesman, an articulate advocate for higher education, a leader of prescience, tact, grace, forthrightness, humor, tenacity, good will, and charm. He deserves our appreciation; he has earned our applause.●

ANTI-SEMITISM IN ROMANIA

● Mr. DeCONCINI. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I have taken a strong interest in the many developments that have transpired in East-Central Europe since 1989.

The fall of communism in that region has brought forth a future rich in hope, opportunity, and change. In the heady aftermath of 1989, the explosion of freedoms and the lessening of tensions between East and West seemed to promise a safer, more peaceful era. Much of what we see today is encouraging, as the former Eastern bloc countries embrace the principles of democracy, free market economies, and the rule of law. But clouding the horizon is a resurgence of discrimination and prejudice we all hoped had been relegated to the past.

Despite the fact that only some 18,000 Jews remain in Romania, a country of 23 million, a virulent strain of anti-Semitism has emerged since the revolution of December of 1989. Ultra-nationalist newspapers such as Romania Mare, edited by two of Ceausescu's former propagandists, regularly print anti-Semitic and inflammatory articles. Romania Mare has the largest circulation of any weekly paper in Romania. Jews are accused of having been responsible for communism, and for currently holding too many positions of power. One paper decried the "inborn arrogance and superiority" of the Jewish race. Another advised Jews to "leave this country alone." Chief Rabbi Moses Rosen, who has received numerous threats, has urged Romania's remaining Jews to emigrate to Israel.

Equally disturbing has been the recent effort to rehabilitate the memory of former dictator Marshal Ion Antonescu, executed as a war criminal in 1946. Earlier this month, President Ion Iliescu openly condemned Antonescu and recalled his complicity with Hitler. Nonetheless, it is my understanding that the National Salvation Front's own press organ, Azi, failed to report Iliescu's statement. The Government has also recently issued two statements condemning anti-Semitism and chauvinism. I wonder how widely publicized these statements have been.

The Romanian leaders are well aware of the commitments contained in the historic Paris Charter, signed by the leaders of the 34 participating CSCE states just last year. In the Paris Charter, all CSCE states explicitly expressed their determination "to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone as well as persecution on religious and ideological grounds." Such words are not to be taken lightly.

Acts of discrimination or violence based on hate are of serious concern in many countries, including our own. And I believe the governments have a responsibility to respond. Some suggest that the way to address these acts is through censorship—preventing freedom of speech or association. I disagree. Instead, governments can promote respect for diversity through fair and equitable treatment under the law. Governments can provide committed and compassionate leadership. Governments can act to redress wrongs when they occur. Governments can promote tolerance by the policies they make and the attitudes they project. It is not enough for a government official to be open-minded or non-discriminatory him- or herself. Leadership demands a

bold and consistent demonstration of those beliefs. Leadership demands providing a model for others.

In the past, I have been disturbed by the Romanian Government's apparent unwillingness to distance itself from the nationalist press. I am therefore encouraged by President Iliescu's recent stand, and by the official statements condemning extremist and anti-Semitic articles. On July 1 and 2, the Romanian Government plans to hold a commemorative tribute for the thousands of Jews who died in the Pogrom of 1941. As I understand, President Iliescu and Prime Minister Roman will attend the 2-day ceremony, along with a high-level delegation from Israel. I commend the Romanian leadership for this gesture, and hope that it represents their firm commitment to protect the rights and the dignity of all Romanian citizens.•

ENTERPRISE FOR THE AMERICAS INITIATIVE [EAI]

• Mr. LUGAR. Mr. President, today is the first anniversary of President Bush's announcement of the Enterprise for the Americas Initiative [EAI]. Last June 27, the President unveiled what was hailed then and now as one of the most significant policy initiatives ever undertaken by an American President on behalf of the countries in the Western Hemisphere. The initiative heralds a new era of commitments with our neighbors for democracy and economic reform.

For reasons still unclear to me, the EAI received scant attention in the U.S. media. When it was reported in the press, it tended to be placed in the business section or buried somewhere in the back pages. Thankfully, it has received far greater coverage and far more interest throughout Latin America and the Caribbean where the degree of enthusiasm and support exceeds our own.

Every leader in the hemisphere with whom I have talked during the past year puts the Enterprise for the Americas Initiative at or near the top of his or her agenda. President Perez of Venezuela has called the EAI "the most important proposal ever received by countries south of the Rio Grande." Enrique Iglesius, President of the Inter-American Development Bank [IDB], stated that the EAI provided the hemispheric nations "a way * * * out of the economic swamp." And, the recent OAS conference in Santiago, Chile, gave the EAI its "unanimous and unequivocal welcome." These and other endorsements from leaders throughout the hemisphere reveal an intensity of interest and commitment long absent in our relations with Latin and Caribbean nations.

The EAI embraces three critical elements: trade liberalization, enhanced investment and capital flows, and debt relief with a strong environmental component.

The prospect of free or freer trade in the hemisphere has been received with enthusiasm. Now that we have extended the fast track authority, the first critical step to a free trade system in the hemisphere has begun with the start of talks on the North American Free-Trade Agreement with Mexico and Canada. Other countries in Latin America are seeking to begin negotiations as well. Already some dozen framework agreements have been concluded since last June. Argentina, Brazil, Paraguay, and Uruguay plan to form a common market by 1996. The Andean countries plan a common external tariff by next year and a free-trade agreement by 1996. Mexico and Central America are discussing a free-trade agreement. There is now great momentum for trade liberalization in the hemisphere and that is welcome indeed. For countries such as Chile which has already liberalized its economy significantly, it would be helpful if the International Trade Commission were to initiate a study on the impact of a FTA on the United States economy.

On the investment side, the EAI includes a $1.5 billion multilateral investment fund in the Interamerican Development Bank [IDB] to assist in reforming investment regimes. The IDB has taken the lead in assisting Latin and Caribbean countries to become more competitive in attracting capital for economic growth. The new lending program of the IDB will help countries liberalize their investment regimes and compete for capital. The first investment sector loan, amounting to $150 million, has already been extended to Chile by the IDB Board. Many other countries have expressed active interest and are negotiating investment loans as well.

It is significant that the Multilateral Investment Fund established under the rubric of the EAI has elicited funding commitments by Japan which has pledged $100 million per year for 5 years and other creditor nations in Europe have communicated an interest and intent to contribute as well. This fund is important not just because it indicates a multilateral commitment to the economies of Latin America and the Caribbean, but also because it will further the privatizing of government-owned industry, increased worker productivity and help small businesses gain access to capital.

The third leg of the EAI is debt relief. The EAI gives authority to reduce some official debt owed by Latin American countries to the United States. Several countries have moved already to reduce their commercial debt under the Brady plan. The EAI offers the opportunity to turn debt interest payments into local currency for environmental protection. By helping to reduce official debt owed the United States we can provide support for economic reform.

Last year, we included in the farm bill a provision permitting debt reductions from Public Law 480 loans among eligible and participating countries. Now, the Congress is poised to permit similar authority to reduce AID-related debt through a framework allowing for interest payments to be made in local currency and used for grassroots environmental purposes. I hope the Senate and the Congress can act expeditiously to authorize this provision and to pass the Enterprise for the Americas Initiative.

Finally, Mr. President I want to note that one of the most fundamental political transformations ever recorded has been taking place within the hemisphere. All countries, except for Cuba, have democratically elected governments and most are moving to liberalize their economies. This is wonderful news that, for reasons again unknown to me, does not draw the headlines and rave reviews it deserves.

Many of the new democracies are fragile, but there are great expectations that things are going to get better. It is the grand challenge before us in the hemisphere to do what we can to assist in helping provide a better and more productive life. I sincerely believe the Enterprise for the Americas Initiative can make a major contribution to that end. That would be good for our friends throughout Latin America and the Caribbean, and it would be good for the United States.

So, I want to once again express my congratulations to President Bush and his team for proposing the EAI. One year has passed; it is now time to move toward implementation of this historic proposal.•

IN MEMORY OF BALTIC VICTIMS OF COMMUNISM, 1941-91

• Mr. GORTON. Mr. President, earlier this month, Gundar King, a Latvian and dean of the Business School at Pacific Lutheran University in Tacoma, spoke in recognition of the 50th anniversary of the deportation of citizens living in Estonia, Latvia, and Lithuania to the Soviet Union.

The experience of Mr. King's family during the Soviet's incorporation of the Baltic nations details a few of the many crimes in this region that the Soviets have not acknowledged. As we push to strengthen independence movements in the Baltics, we should follow Mr. King's advice by pressuring the Soviets to recognize the victims of this deportation. With such a gesture, the Soviets could assure us of their intentions in resolving all conflicts with the Baltic States.

I ask to insert Mr. King's speech into the RECORD at this point.

The article follows:

REMARKS IN MEMORY OF BALTIC VICTIMS OF COMMUNISM 1941–91

(By Gundar J. King at the Latvian House in Seattle, June 14, 1991)

Today, is the 50th anniversary of the massive deportations when thousands of Estonians, Latvians, and Lithuanians were brutally rounded up and deported from their Baltic homes to the Soviet Union. These deportations are not the first or the last of Soviet atrocities in the Baltic states. They are neither the largest, nor are they the most brutal. Nor are these deportations especially identifiable with any particular ethnic group or political persuasion. It is commonly known that the victims of these deportations included leaders of the Baltic nations, skilled and unskilled workers, valuable experts of all professions, creative artists, outstanding farmers, students and professors, old people, school children, and even infants in their mothers' arms. It is less well known that these victims included large segments of Jewish and Russian minorities residing in the Baltic states. In short, these deportations are perhaps the best known and the best documented of Soviet international crimes in the Baltic area.

The legal and social aspects of those crimes are fascinating even today. Moreover, they are important. Spawned by the infamous Nazi-Soviet Pact of 1939, these actions escaped international public attention at the conclusion of World War II. Today, they are again remembered, researched, and discussed publicly, here, in the Baltic states, and in the Soviet Union itself. To the degree that these crimes are accepted and tolerated by the Soviet society, they are among the best indicators of change, or lack of change, in the Soviet system. In many ways, these are unresolved crimes. These are crimes that need resolution before normal life can return to the Baltic states of Estonia, Latvia, and Lithuania. They need to be resolved before Russia can be at peace with itself and others.

Indeed, I am told that there is one certain way to get the full and undivided attention at Communist gatherings today. I am told that you simply have to mention in the Soviet Union, the notion of international trials with Communist party chiefs and Soviet officialdom as the defendants on the bench. Mention Nuremberg to them, and you will hear a pin drop in the room. They know what we are talking about.

II

At this point, I would like to give a more personal perspective of these crimes. It may be educational to those who may still harbor vague notions of useful suffering in the name of progress and world revolution. It may be instructive to those who simply do not have a sense of the human cost of millions and millions of lives wasted, crippled and damaged beyond repair and rehabilitation, and lives simply snuffed out.

III

Let me quote you from an April 28, 1989 letter written by the First Deputy Attorney General of the Latvian Soviet Socialist Republic and Soviet Counsellor of Justice, Third Rank to the Chairman of the Latvian Committee for Cultural Relations Abroad. Forgive me for the style which is his, not mine:

"I inform you that in line with the January 19, 1989 decree of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics 'On supplementary tasks to be done to reestablish justice with relationship to the victims of the repressions in the 1930s, 1940s, and early 1950s' the March 8, 1941 "special meeting" verdict of the Ministry of the Interior of the USSR (to deport in 1941 from the Latvian SSR Attis, son of Kriss, Kenins, born on July 28, 1874) has been revoked. The criminal case against A. Kenins has been concluded, and he has been rehabilitated."

"The criminal case of 1951 against A. Kenins was concluded on January 24, 1955 for lack of criminal evidence. In this case, too, A. Kenins has been rehabilitated."

"We'll inform you later about Ilmars, son of Attis, Kenins."

IV

Now let me tell you more about the dramatis personae involved, and the events preceding this correspondence.

On June 13, 1941, my mother sent me from Riga to my grand-father's farm in the country. It had been a tough year. My father Attis, a signer of the Latvian Independence Declaration, a poet and a lawyer, a leader of the Latvian Democratic Center Party and the Pan-Europe, and an opponent of all dictatorships, was arrested in the previous summer even before the formalities of Latvian incorporation in the Soviet Union. He had refused an appointment of the puppet government, and had organized a national slate of candidates in the 1940 elections. Much of our property was taken. My mother, Austra, spent the year translating Soviet books for Latvian use, and I was her editorial assistant and secretary. We almost made it through the school year, when word came from my father who had been exiled to Akmolinsk in the Kazakh republic.

Having survived the horrible railroad ride with the help of a fellow exile, a Jewish doctor from Pinsk, he was in good spirits. Only in passing, he estimated that this ride shortened his life by at least ten years. Toward the end of the ride he was robbed in the Tashkent (now a sister city of Seattle) open air transit prison; he was running around Akmolinsk in his blue silk pajamas. On face value, he was behaving as a vacationer in a fashionable resort. In reality, he had nothing, not even a regular place to stay.

Compared to others, especially those ripped away from their countries on June 14, 1941 he was fortunate. When others had no support systems of any kind left, he could count on his family. We could help him. With war clouds on the horizon, we scraped together what money we could. We also sent him boxes of food, clothing and medicines.

V

True to his free spirit, my father wrote to us freely, with few restraints. He wrote of the bitter life in exile, very different from the intellectually stimulating life of a 1905 revolutionary in Western Europe. We even learned about the alleged crimes he, a citizen of Latvia, had committed against the Soviet state. Among those considered serious was the organization of the National Flag Society, a support group of the Democratic Center Party. The society was, to the Soviet mind, obviously designed to lure Latvian workers away from true class loyalty they may have felt toward the Communists. Nothing was said about my father's role in the 1940 elections, his real offense.

VI

June 13, 1941 was a beautiful day. Leaving town, I rode past long lines of trucks assembled on the outskirts of the city. War transports, I thought, even though the drivers had the blue caps of the Soviet security troops. They sat silently in their trucks, not talking to anyone. I did not suspect that these drivers and trucks would be used that night to round up thousands of victims.

VII

The next week at the farm passed quickly. Stories about the deportations drifted about the countryside, leaving almost everyone concerned, puzzled, and also unaware of the massive scale and scope of these deportations. In practice, the concerns had a focus on actions individuals had to take care of families and friends, yes, even the farm animals left behind untended. The situation was aggravated by Soviet orders for horses, wagons, and workers to be sent to the Red Army for building military air bases near the Lithuanian border. New, confusing orders marked one day after another.

War came. Three miles away, an ammunition depot was blown up, knocking out two windows of the farmhouse. Retreating Soviet troops chopped down whole new apple orchards in futile attempts to camouflage their trucks. The German air force strafed them unhindered. To make the flight easier, heavy equipment was abandoned. Artillery munitions were dumped in the highway ditches. Small arms were found in roadside bushes. No defense was evident.

The routed troops were running home toward the Russian border. An added unpleasant reminder on our Latvian status came when Soviet soldiers stopped for water. They made the children drink first from the well. The Soviets knew that they were not friends or defenders. They were the enemy in our country. The last man of the routed army I saw, ran to the East. This member of the occupation army did not want to face anyone in Latvia.

VIII

A week later we learned about my brother Ilmars. A young lawyer who earned his silver medal with his thesis on the status of Canadian dominions, was thrown out of his job by the Communists. He found temporary work in the small town of Rezekne on the Russian border.

There he was caught as a suspected guerrilla by Soviet security. No, he was not shot. He was tortured to death, slowly, by a medical doctor of the security forces. Partly skinned, he was found killed with a spike driven in his skull.

His son Jamis, now living in Vancouver, never knew his father. He was born a few months later. Without finishing high school, his sister, Maija, went to work early to help support her brother and her mother, Irma. Today, Maija is a self-taught actuarial consultant to the insurance industry in Toronto. Others were not so lucky.

IX

Eventually, my father was brought to Moscow to assist the war effort against Hitler's Germany. He returned to Riga in the fall of 1944, to find three of his sons gone. A fourth son, Margers, the oldest, an American army veteran of World War I, was rescued from a Soviet screening camp, but did not survive the fall of 1945. Given the opportunity, my father worked to salvage what he could of the Latvian teacher training tradition, and raised a great granddaughter still in Riga. I am glad to tell you that Gunta is now teaching management at the University of Latvia. Raised by my father, she is a true sister to me.

X

My parents were arrested in 1951, and deported to Kazachstan. They were released from that exile after Stalin's death, and returned to Riga. Although he was a senior researcher at the Latvian Academy of Sciences, my father's public life was severely restricted and the publication of his work

very limited. He died in 1960, concluding a long life devoted to his native country and to the best of democratic traditions anywhere. My mother finally came to visit us after she was turned down for an exit visa five times. When she came, she brought with her my father's last book of poetry. That book, had been turned down many times in Latvia. It was published here.

XI

Returning to the letter from the Soviet Attorney General's Office, I offer you some comments:

Although my father was arrested in 1940 by authorities of a nominally independent Latvia, he was sentenced for no crime. He was simply removed from Latvian society after a special meeting convened for this purpose by the Soviet Ministry of Interior. The letter indirectly confirms what was rumored for many years. He was not released, he was paroled during the war. He was used; he was never forgiven. He was not rehabilitated in the 1940s or in the 1950s. He was not rehabilitated in the 1960s or in the 1970s. He was not rehabilitated by the Soviet Ministry of Interior until 1989. The reason for this sudden generosity was the refusal by my brother Talivaldis, a noted Canadian composer, and me to work with any agency of the Soviet Latvian authorities or to accept any recognition in Riga for our work and accomplishments in the absence of major policy changes.

My father's alleged crime in 1951 was that of spreading Western ideas and propaganda. He was in fact reading, translating, and discussing the work of Verlaine, the French poet. After 1955, and his rehabilitation for the crime of reading French poetry, this work was published in Latvia. My mother's only crime was being my father's wife.

The death of my brother Ilmars by the hands of a Soviet torturer was never clarified. The Communist Party of the Soviet Union, the Soviet Ministry of Interior, and its Riga representative, the Attorney General of the Latvian Soviet Socialist Republic, cannot bring themselves to make any public statements about it. They do, of course, have all of the information about it. I really do not expect them to regret anything. Are they capable of it? I expect them to try to cling to what power they have left. But I also expect that memorials will be built to Ilmars and other victims of Communism in the Baltic states, and even in Russia.

It is not a Baltic ethnic issue. It is a profound, major international moral problem which goes beyond nationalistic concerns. It is not surprising that the prime mover for this change in Riga is an ethnic Russian, my classmate Igor. Igor also presides over the Latvian society of Soviet camp survivors and other victims.

XII

What can we learn from these brief episodes of the incomplete chronicles of one Latvian family? A few thoughts come to mind:

1. The crimes of the Communist Party and Soviet authorities are beyond modern comparisons. They are beyond any real remedy or correction. There are not enough people living in the Baltic states and in the Soviet Union to carry such burdens of restitution. The Russian people are victims themselves. They have our deepest sympathy. They also have our encouragement in their efforts to expand and to continue the changes they have undertaken by changing the leadership in Russia.

2. The present rulers of the Soviet Union have yet to own up to the full measure of crimes committed by the Communist Party and the Soviet government. They may not be able to gain the confidence of their own people or to win respect in the world as long as this position is maintained. To clear their own individual and collective consciences, they should begin by admitting the criminality of their heritage.

3. For the Baltic states, I wish them more Western support, from you, and me, and our neighbors. Although our Western friends have done much for us in keeping the flame of Baltic aspirations to freedom alive, they also have done much to prolong the life of an intolerable system. They too, owe the victims of Communism, including those of the Baltic states.

4. For the surviving victims we can pledge our support and determination to tell and document their story in both the Baltic states and in the West. Humanitarian aid served from the West should include help to these victims to achieve a small measure of equity.

5. For those no longer alive we pledge ourselves to work untiringly for the independence of Estonia, Latvia, and Lithuania. Independency may yet be very costly to the Baltic nations. But without independence there will be no Baltic nations, and life in the Baltic states will be even more costly in human lives and more miserable in Russia. Freedom must come!•

TRIBUTE TO MORT RYWECK

• Mr. DURENBERGER. Mr. President, today, I rise to pay my respects to an individual who has made a real difference in our community in the Twin Cities, to Minnesota, and to the Nation. Mort Ryweck who has been a vocal and effective force in combating anti-Semitism, is retiring as executive director of the Jewish Community Council Anti-Defamation League of Minnesota and the Dakotas. Unlike the forces of intolerance he has fought against, he has been a man of love and patience.

It has been said that all that is necessary for the triumph of evil is for good men and women to do nothing. Well, Mr. President, Mort Ryweck did his part, and he has challenged others to do theirs.

This man has been a tireless fighter for the truth that all of us are indeed created equal. "The work we're in is a never-ending job," he said recently.

I'm even more aware of that now than when I began. * * * You can never really take a full vacation from it. You can't think that because you've made advancements that people have become immune to the appeals of the bigots.

Mort Ryweck has had many accomplishments and experiences throughout his career. He graduated from New York University with a degree in journalism. In 1958, he and four others in the U.S. peace movement, led by civil rights pioneer Bayard Rustin, spent 3 weeks on the Finnish-Soviet border trying to get into the Soviet Union to protest nuclear tests. He first arrived in the Midwest when he worked for the Anti-Defamation League in Milwaukee, WI.

Today, he is a member and has been involved with the Minnesota Interreligious Committee, the Joint Religious Legislative Coalition, and the Minneapolis NAACP, and is coordinator of the Minnesota Coalition to Celebrate Our Differences, a sponsor of the World of Difference prejudice-reduction, and the National Workshop on Christian-Jewish Relations. The World of Difference project alone in Minnesota has trained more than 3,600 teachers and reached hundreds of thousands through TV and newspaper features in 1 year. Other projects include the rescue of Ethiopia's Jews, the continuing exodus of Soviet Jews, and in Minnesota, a way for reporting hate crimes and increasing penalties.

In the Minnesota Jewish Life in June 1988, Mort makes the following observation about the progress on the fight against anti-Semitism:

> The growing courage of Jews to stand up for their rights coupled with their solicitation of help from Christians and the secular community, have helped bring Jews to a more integrated place in society today, but we should never minimize the potential for increased anti-Semitic actions.

Mort leaves the Anti-Defamation League of Minnesota and the Dakotas in its 78th year, but I am sure that he will never retire from being a spokesperson for the dignity of all people. As long as racism exists to be conquered, Mort will continue the fight.

Having known Mort for many years, I can safely say that the best way we can honor him for his years of service is to take up the cause of advancing human dignity and respect in our own daily lives.•

A TRIBUTE TO GERALDINE DEFANT

• Mr. LEVIN. Mr. President, today marks the formal end of an era in Marquette, MI. The city and county of Marquette have proclaimed it Geraldine DeFant Day.

Geri DeFant has been a driving force for social justice for decades. She first arrived in Marquette as a representative of the International Ladies Garment Workers Union. Her actions on behalf of the employees of the Gossard Co. in Ishpeming helped provide a better standard of living for those workers and led to improved working conditions in the plant.

Through the years, Geri helped organize a co-op nursery school, a program to help people affected by probate court actions, was active in the passage of school bond issues and a variety of other volunteer activities, all the while raising three children. She also opened an office for Senator Phil Hart to serve constituents in northern Michigan. It was the first time a Michigan Senator had an office outside a metropolitan area.

Long active in women's rights issues, Geri helped organize the Marquette Women's Center and served with distinction on the Michigan Women's Commission. Now 74 years young, she is still active with the Women's Center and the multitude of services provided by that institution.

Geri DeFant did most of these good deeds outside the limelight. She is not a shrinking violet, by any means, but she did not seek the spotlight. That all changed in 1982 when she made the decision which has impacted the lives of every resident of Marquette County. She ran for, and was elected to, the county commission.

Geri served 8 years on the board as a tireless public servant. Her efforts led to the creation of a department of economic development in the county, significant improvements to the airport and the expansion of other vital services during a time of fiscal restraint.

Too often, Mr. Presdient, we wait until a person is gone before recognizing their accomplishments. I am pleased to say that the citizens of Marquette County have not done so in this case. A new county human services building will be dedicated tomorrow and named the Geraldine DeFant Bldg. Friends from around Michigan will gather with Geri and her family and toast her accomplishments.

Mr. President, I add my salute to Geri DeFant, a person who has made a positive difference.●

NATIONAL LITERACY DAY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 259 regarding National Literacy Day now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 259) designating July 2, 1991, as "National Literacy Day."

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

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of House Joint Resolution 259, a joint resolution to designate July 2, 1991, as "National Literacy Day". This is the companion to Senate Joint Resolution 146, which is cosponsored by 52 of my colleagues. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the services to help them escape illiteracy.

In the book "Illiterate America" by Jonathan Kozol, the author describes the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 30 million American adults cannot read. An additional 42 million read below the level needed to function successfully. The American Library Association estimates the cost of illiteracy is $225 billion, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on-the-job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes into hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

I urge my colleagues to support this joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 259) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING SENATE OPPOSITION TO THE USE OF FORCE IN YUGOSLAVIA

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 147, submitted earlier today by Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 147) to express Senate opposition to the use of force to resolve political differences in Yugoslavia.

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

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 147) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991, the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yogoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) the Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) the Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement;

(c) the Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, June 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be rseserved for their use later in the day; and that the Senate then resume consideration of S. 1241, the crime bill.

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

RECESS UNTIL 10 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as under the previous order until 10 a.m., Friday, June 28.

There being no objection, the Senate, at 1:24 a.m., recessed until Friday, June 28, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1991:

THE JUDICIARY

REBECCA F. DOHERTY, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

MICHAEL R. HOGAN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

JAMES T. TRIMBLE, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE EARL E. VERON, RETIRED.

SHELBY HIGHSMITH, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE THOMAS E. SCOTT, RESIGNED.

DENIS R. HURLEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

PAUL R. MATIA, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

HAROLD R. DEMOSS, JR., OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT VICE JERRE S. WILLIAMS, RETIRED.

BARBARA A. CAULFIELD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE WILLIAM W. SCHWARZER, RETIRED.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1994. (REAPPOINTMENT)

DEPARTMENT OF LABOR

CARI M. DOMINGUEZ, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE WILLIAM C. BROOKS, RESIGNED.

NANCY RISQUE ROHRBACH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE JENNIFER LYNN DORN, RESIGNED.

DEPARTMENT OF THE TREASURY

OLIN L. WETHINGTON, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE CHARLES H. DALLARA, RESIGNED.

DEPARTMENT OF STATE

ROBERT MICHAEL KIMMITT, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION:

To be Chairman of the Joint Chiefs of Staff

To be general

GEN. COLIN L. POWELL [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. H. NORMAN SCHWARZKOPF [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

LT. GEN. WALTER E. BOOMER [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. HENCY C. STACKPOLE III [redacted] USMC.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

BETTY J. ANDREWS [redacted]
ROSEMARY BAUER [redacted]
CLAUDIA S. BEADLE [redacted]
JOANNE M. BLACK [redacted]
DOREEN E. BROCK [redacted]
ANNA A. CALDWELL [redacted]
MINNIE L. CAMPBELL [redacted]
PATRICIA A. DAMLER [redacted]
JOELLEN DEBERG [redacted]
REBECCA A. DYLLA [redacted]
WAYNE E. ELLIS [redacted]
MARILYN C. A. FLORO [redacted]
MARY E. FORKNER [redacted]
THERESE R. GRENCHIK [redacted]
JANIE M. KELLEY [redacted]
KAREN D. KIMMEL [redacted]
GLORIA K. LAMOUREUX [redacted]
JANICE L. MARCHAND [redacted]
LINDA E. MCFARLAND [redacted]
BARBARA M. MCKENNA [redacted]
SHARON C. MOYNIHAN [redacted]
CAROLYN S. PORTER [redacted]
HELEN L. RANGEL [redacted]
KATHY J. REYNOLDS [redacted]
JANE ROE [redacted]
EMILY D. SMITH [redacted]
ROSANNE K. TOSSING [redacted]
ANDREA A. VALDEZ [redacted]
LINDA A. VANVECHTEN [redacted]
MARY C. WEGNER [redacted]
ROSLYN F. WILSON [redacted]
ALICE S. WOOD [redacted]

MEDICAL SERVICE CORPS

To be colonel

ARTHUR E. AENCHBACHER, JR [redacted]
SIDNEY BRANDLER [redacted]
NICHOLAS DIDIO, II [redacted]
ROBERT P. EDWARDS [redacted]
JAMES J. GALLMAN [redacted]
LYNN M. JONES [redacted]
PHILLIP L. MARLERT [redacted]
ROBERT H. OWENS [redacted]
LARRY J. SUTTERER [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

BARRY S. ABBOTT [redacted]
DWAYNE E. ABBOTT [redacted]
JAMES M. ABEL, JR [redacted]
ROBERTO ACOSTA [redacted]
ANTHONY J. ADAMCIK [redacted]
EMIL J. ADAMS, JR [redacted]
MICHAEL P. AEILLO [redacted]
THOMAS D. AKERS [redacted]
JERRY L. ALBRITTON [redacted]
JIMMY H. ALEXANDER [redacted]
JOHN ALFIER [redacted]
CHARLES T. ALLAN [redacted]
CRAIG R. ALLEN [redacted]
JIMMY R. ALLEN [redacted]
ANTHONY D. ALLEY [redacted]
ROBERT D. ALLISON [redacted]
CLESSON D. ALLMAN [redacted]
DENNIS A. ALMER [redacted]
JAY J. ALONIS [redacted]
GREGORY A. ALSTON [redacted]
ROBERT F. AMASON, JR [redacted]
CHARLES L. AMES [redacted]
DAVID N. ANDERSON [redacted]
WAYNE L. ANDREWS, JR [redacted]
HOWARD P. ANDRUS, JR [redacted]
DAVID A. ANHALT [redacted]
ROLAND C. ANTHONY, JR [redacted]
DANIEL G. APPEL [redacted]
THOMAS D. ARDERN [redacted]
ROBERT L. ARMOUR, JR [redacted]
WINFIELD S. ARNOTT [redacted]
JENNY L. ARTERY [redacted]
PATRICK J. ASH [redacted]
WILLIAM M. ASHFORD [redacted]
WALTER L. ATCHISON [redacted]
DANA T. ATKINS [redacted]
CALVIN S. ATKINSON, JR [redacted]
FRANK B. ATKINSON [redacted]
PAUL F. AUCLAIR [redacted]
JEFFREY S. AUSTIN [redacted]
ARTHUR E. BAER, JR [redacted]
DOUGLAS P. BAIRD [redacted]
HENRY D. BAIRD, JR [redacted]
DENNIS E. BALLEW [redacted]
CAROLYN M. BALVEN [redacted]
STRATFORD C. BANNISTER, IV [redacted]
HAROLD F. BARE, JR [redacted]
HARRY H. BARKSDALE, JR [redacted]
LARRY W. BARNETT [redacted]
JOHN D. BARROWCLOUGH [redacted]
JOHN A. BARTON [redacted]
STEPHEN F. BARZELLONE [redacted]
CARLA D. BASS [redacted]
WENDELL D. BAUMAN [redacted]
CHARLES M. BAUMANN [redacted]
RICHARD G. BEACH [redacted]
RONALD L. BEAN [redacted]
JAMES D. BEASON [redacted]
DAVID B. BEATTY [redacted]
FRANK E. BEATY [redacted]
WILLARD BEAVERS [redacted]
JOSEPH C. BEBEL [redacted]
THOMAS A. BECKETT [redacted]
PAUL A. BECKMAN [redacted]
DAVID R. BEECROFT [redacted]
VINCENT P. BEFI [redacted]
GUS BELL, JR [redacted]
OSCAR C. BELL, JR [redacted]
ERNEST K. BERAN [redacted]
WILFRED E. BERGER [redacted]
HERMAN J. BERNARDS [redacted]
SCOTT W. BERRY [redacted]
CURTIS L. BETEBENNER [redacted]
HOWARD S. BIALAS, JR [redacted]
DALE F. BIBLE [redacted]
MICHAEL H. BIEDERMANN [redacted]
GUY M. BILLARD [redacted]
FRANK G. BILOTTA [redacted]
STEVEN A. BITLER [redacted]
JERRY E. BJORNSTAD [redacted]
GREGORY D. BLACK [redacted]
STEPHEN M. BLACKBURN [redacted]
PETER J. BLAISE [redacted]
TONY L. BLAND [redacted]
JOHN D. BLANKEN [redacted]
PETER A. BLATCHLEY [redacted]
GARY L. BLEDSOE [redacted]
DAVID BLESSINGER [redacted]
JAMES A. BLISSIT, JR [redacted]
JAMES V. BLOCKWOOD [redacted]
THOMAS J. BLUME [redacted]
SAMUEL J. BOLEN [redacted]
THOMAS V. BOMA [redacted]
MICHAEL W. BOOEN [redacted]
ALBERT S. BORCHIK, III [redacted]
LOUIS H. BOTTA [redacted]
JEFFREY S. BOULWARE [redacted]
DENNIS R. BOWERS [redacted]
JOHN P. BOWLER [redacted]
THOMAS L. BOWLIN [redacted]
JOHN D. BOWMAN [redacted]
WARREN C. BOYES, JR [redacted]
PAUL D. BRADEN [redacted]
WILLIAM T. BRADEN [redacted]
WILLIAM W. BRADLEY, JR [redacted]
CARL W. BRADSHAW [redacted]
GLENN D. BRADY [redacted]
MARLENE A. BRAKE [redacted]
WILLIAM C. BRANAN, JR [redacted]
CLIFTON L. BRAY, JR [redacted]
ALVIN BREADY [redacted]
TED A. BREWER [redacted]
ROBERT B. BREWSTER [redacted]
MARK R. BRIGHTMAN [redacted]
PAUL T. BROAD [redacted]
JACK D. BROOKER [redacted]
DENNIS D. BROWN [redacted]
HENRY C. BROWN [redacted]
JEFFREY S. BROWN [redacted]
STEPHEN R. BROWN [redacted]
THOMAS D. BROWN, JR [redacted]
LINDA F. BROWNSAFFORD [redacted]
RAYMOND R. BRUNELLE, JR [redacted]

GARY D. BRUNNER xxx-xx-x...
JOSEPH C. BRYANT xxx-xx-x...
LARRY W. BRYANT xxx-xx-x...
PAUL G. BRYANT xxx-xx-x...
JOHN R. BUCK xxx-xx-x...
GERALD L. BUCKNER xxx-xx-x...
CHRISTOPHER J. BUDINSKY xxx-xx-x...
JANET V. BUECHLER xxx-xx-x...
RICHARD J. BUESGEN xxx-xx-x...
RAYMOND T. BULL xxx-xx-x...
DAVID E. BULLOCK xxx-xx-x...
JAMES C. BUNDY xxx-xx-x...
ROBERT E. BUNNELL xxx-xx-x...
MARY T. BUNYAN xxx-xx-x...
JAMES A. BUNYARD xxx-xx-x...
ELISABETH A. BURCHLEASURE xxx-xx-x...
BRUCE E. BURDA xxx-xx-x...
STEPHEN L. BURKE xxx-xx-x...
TED S. BURKE xxx-xx-x...
BOYCE B. BURLEY, III xxx-xx-x...
JAMES R. BURLING, JR xxx-xx-xx...
HARRY A. BURNS xxx-xx-x...
KEVIN P. BURNS xxx-xx-x...
RAOUL J. BURON, JR xxx-xx-x...
JAMES B. BUSHMAN xxx-xx-x...
PAUL E. BUTALLA, JR xxx-xx-x...
RICHARD S. BUTLER xxx-xx-x...
BRANDON A. BUTTRICK xxx-xx-x...
RONALD L. BUTTS xxx-xx-x...
ROBERT J. BYARD xxx-xx-x...
MICHAEL B. BYERS xxx-xx-x...
TERRENCE L. BYERS xxx-xx-x...
JOHN D. CAMERON xxx-xx-x...
JAMES D. CAMPBELL xxx-xx-x...
JOHN A. CAMPBELL xxx-xx-x...
FRANCIS M. CAMPEGGIO, JR xxx-xx-x...
MARTIN J. CANNAN xxx-xx-x...
RICHARD W. CANNATA xxx-xx-x...
JAMES R. CANNON xxx-xx-x...
JAMES D. CANTWELL xxx-xx-x...
MICHAEL T. CANTWELL xxx-xx-x...
STEVEN R. CAPENOS xxx-xx-x...
VIRGINIA L. CARDEN xxx-xx-x...
DAVID C. CARLSON xxx-xx-x...
CHARLES G. CARPENTER xxx-xx-x...
NATHANIEL L. CARR xxx-xx-x...
STEPHEN R. CARR xxx-xx-x...
PAMELA D. CARTER xxx-xx-x...
ROBERT A. CARTER xxx-xx-x...
FREDERIC T. CASE xxx-xx-x...
WALTER M. CASKEY, JR xxx-xx-x...
JOHN R. CASS, JR xxx-xx-x...
RONALD G. CATE xxx-xx-x...
CLYDE C. CAUFIELD xxx-xx-x...
BRUCE E. CAUGHMAN xxx-xx-x...
BERNARD C. W. CHANG xxx-xx-x...
RICHARD M. CHAPIN xxx-xx-x...
DIANNE E. CHAPLIN xxx-xx-x...
RANDALL W. CHAPMAN xxx-xx-x...
MATTHEW J. CHAPPELL, II xxx-xx-x...
JOHN E. CHARLTON xxx-xx-x...
CHARLES R. CHAVEZ xxx-xx-x...
ROBERT J. CHEESEMAN xxx-xx-x...
EDD P. CHENOWETH xxx-xx-x...
CARLOS O. CHERRY xxx-xx-x...
ALLAN D. CHILDERS xxx-xx-x...
CRAIG T. CHRISTENSEN xxx-xx-x...
LANCE D. CHRISTIAN xxx-xx-x...
WILLIAM H. CHRISTIAN, JR xxx-xx-x...
KURT A. CICHOWSKI xxx-xx-x...
KENNETH A. CINAL xxx-xx-x...
GARY F. CLARK xxx-xx-x...
JAY L. CLARK xxx-xx-x...
LLOYD N. CLARK xxx-xx-x...
ROY A. CLELAND xxx-xx-x...
ROBERT M. CLOWERS xxx-xx-x...
PATRICK M. CLUNE xxx-xx-x...
MARK A. CLUSKEY xxx-xx-x...
ALLEN D. COATES xxx-xx-x...
DOUGLAS R. COCHRAN xxx-xx-x...
ROBERT A. COE xxx-xx-x...
WILLIAM E. COFFER xxx-xx-x...
LEE J. COLBURN xxx-xx-x...
RICHARD W. COLE xxx-xx-x...
DONALD C. COLEMAN xxx-xx-x...
RONALD COLEMAN xxx-xx-x...
RICHARD J. COLLIANDER xxx-xx-x...
JOHN D. COLLIER xxx-xx-x...
JOHN E. COLLIER xxx-xx-x...
DANIEL L. COLLINS xxx-xx-x...
DONAL J. COLLINS xxx-xx-x...
KELLY B. COLLINS xxx-xx-x...
STANLEY J. COLLINS xxx-xx-x...
WILLIAM M. COLLINS xxx-xx-x...
WILLIE F. COLLINS xxx-xx-x...
CHRIS R. COMMEFORD xxx-xx-x...
PAUL D. CONDIT xxx-xx-x...
DENNIS A. CONNAUGHTON xxx-xx-x...
WILLIAM M. CONNER xxx-xx-x...
GARY S. CONNOR xxx-xx-x...
BRUCE A. CONWAY xxx-xx-x...
JUDITH E. COOK xxx-xx-x...
HAL J. COOKE xxx-xx-x...
DAVID F. COOMBS xxx-xx-x...
JOHN M. COPELAND xxx-xx-x...
ROGER T. CORBIN xxx-xx-x...
CHARLES E. COSTA xxx-xx-x...
MICHAEL E. COSTELLO xxx-xx-x...
CHARLES A. COTTER, JR xxx-xx-x...
STEPHEN A. COULOMBE xxx-xx-x...
JAMES S. COURTOY xxx-xx-x...
JOHN O. COWAN xxx-xx-x...

SUZANNE L. COWAN xxx-xx-x...
MARVIN D. COX xxx-xx-x...
MURRAY D. COX xxx-xx-x...
THOMAS P. COYNE, JR xxx-xx-x...
WILLIAM M. CRABBE, III xxx-xx-x...
JOSEPH B. CRAWFORD xxx-xx-x...
DANNY J. CREAGAN xxx-xx-x...
DELBERT G. CREASY xxx-xx-x...
LOUIS C. CROOKS xxx-xx-x...
MAUREEN A. CROOKS xxx-xx-x...
LEE T. CROSS xxx-xx-x...
JOHN S. CROWLEY, JR xxx-xx-x...
CHARLES G. CRUPPER, JR xxx-xx-xx...
GREGORY C. CRYSTAL xxx-xx-x...
JOHN R. CULCLASURE xxx-xx-x...
JOHN C. CULPEPPER xxx-xx-x...
DONALD L. CUNNINGHAM xxx-xx-x...
PHILIP L. CUNNINGHAM xxx-xx-x...
EUGENE M. CURRAN xxx-xx-x...
PAUL W. CURTIS xxx-xx-x...
CHARLES CZARNIECKI xxx-xx-x...
KENNETH W. DAHL xxx-xx-x...
GREGORY C. DAHLGREN xxx-xx-x...
JOHN M. DAILEY xxx-xx-x...
JEFFREY T. DAILY xxx-xx-xx...
MICHAEL C. DAMRON xxx-xx-x...
THOMAS L. DARNER xxx-xx-x...
THOMAS M. DASHIELL xxx-xx-x...
JOEL D. DAVID xxx-xx-x...
GERALD D. DAVIDSON xxx-xx-x...
WALTER G. DAVIDSON xxx-xx-x...
BRADLEY S. DAVIS xxx-xx-x...
JAMES S. DAVIS xxx-xx-x...
JEFFREY C. DAVIS xxx-xx-xx...
MICHAEL K. DAVIS xxx-xx-x...
NANCY F. P. DAVIS xxx-xx-x...
RANDALL M. DAVIS xxx-xx-x...
WILLIAM V. DAVIS xxx-xx-x...
GREGORY D. DAWSON xxx-xx-x...
JAMES L. DAY xxx-xx-x...
RICHARD L. DAY xxx-xx-x...
MICHAEL K. DEACY xxx-xx-x...
EDWARD W. DEBUSK xxx-xx-x...
ARTHUR G. DECELLES xxx-xx-x...
JAMES H. DEGARMO xxx-xx-x...
MICHAEL E. DEHART xxx-xx-x...
JOSE A. DELGADO xxx-xx-x...
WARREN B. DELKER xxx-xx-x...
CHARLES C. DEMOISY xxx-xx-x...
WAYNE M. DENESIK xxx-xx-x...
MICHAEL J. DENNIS xxx-xx-x...
WILLIAM A. DENTON xxx-xx-x...
PAUL A. DETTMER xxx-xx-x...
HARRY J. DEVAULT xxx-xx-x...
FRANK R. DEVINCENZO xxx-xx-x...
FRANTZ DEWILLIS xxx-xx-x...
GARY W. DILK xxx-xx-x...
BENJAMIN L. DILLA xxx-xx-x...
SUSAN J. DILLARD xxx-xx-x...
DANIEL R. DINKINS, JR xxx-xx-x...
JOSEPH P. DIROSARIO xxx-xx-xx...
SHARON R. DISLER xxx-xx-x...
DAVID M. A. DOCKHAM, II xxx-xx-x...
DALE E. DODD xxx-xx-x...
JONATHAN E. DOELLE xxx-xx-x...
RONALD S. DOEPPNER xxx-xx-x...
ANGELA D. DOFFONEY xxx-xx-x...
TOMMY E. DOMINEY xxx-xx-x...
ROY G. DONAHUE, JR xxx-xx-x...
MARK S. DONNELLY xxx-xx-x...
KENNETH E. DONOUGH, xxx-xx-x...
JAMES T. DONOVAN xxx-xx-x...
KEVIN F. DONOVAN xxx-xx-x...
ROBERT D. DORSEY xxx-xx-x...
WILLIAM K. DOTY, JR xxx-xx-x...
ARTHUR G. DOUGLAS xxx-xx-x...
DON R. DOUGLAS xxx-xx-x...
JAMES L. DOUGLAS, JR xxx-xx-x...
HERBERT M. DOVE, JR xxx-xx-x...
ROBERT J. DOWLING xxx-xx-x...
BRIAN W. DOYLE xxx-xx-x...
WILLIAM E. DRAKE xxx-xx-x...
FRANK E. DRESSEL xxx-xx-x...
WILLY H. DROW xxx-xx-x...
RICHARD F. DUHACHEK xxx-xx-x...
GAIL R. DUKE xxx-xx-x...
LARRY O. DUNAGAN xxx-xx-x...
MICHAEL L. DUNLAP xxx-xx-x...
MARTIN D. DUTILLY xxx-xx-x...
DAVID D. DYCHE xxx-xx-x...
DANIEL R. EAGLE xxx-xx-x...
JOHN L. EASLEY xxx-xx-x...
FRED R. EASTERLIN xxx-xx-x...
ROBERT A. EATON xxx-xx-x...
BRADLEY C. EBAUGH xxx-xx-x...
RAYMOND E. EBBS xxx-xx-x...
JEFFREY W. EBERHART xxx-xx-xx...
JOHN EBRON, JR xxx-xx-x...
STEVEN R. EDDY xxx-xx-x...
SAMUEL G. EDGAR, III xxx-xx-x...
JOHN R. EDINGER xxx-xx-x...
ROGER D. EDWARDS xxx-xx-x...
JOSEPH M. EHMER xxx-xx-x...
DAVID J. EICHHORN xxx-xx-x...
DAVID W. EIDSAUNE xxx-xx-x...
JAMES K. EKEN xxx-xx-x...
RICHARD K. ELDARD xxx-xx-x...
DANIEL E. ELDRIDGE xxx-xx-x...
JACK H. ELDRIDGE xxx-xx-x...
GUS G. ELLIOTT, JR xxx-xx-x...
DONALD S. ELLIS xxx-xx-x...
DONNIE R. ELLIS xxx-xx-x...

LARRY D. ELLIS xxx-xx-x...
STEVEN E. ELSE xxx-xx-x...
ELIZABETH A. ENAS xxx-xx-x...
THOMAS D. ENTWISTLE xxx-xx-x...
STEPHEN C. ENZWEILER xxx-xx-x...
JOHN W. ERIKSEN xxx-xx-x...
CLAUDE M. ERVING, JR xxx-xx-x...
ROBERT D. ESKRIDGE xxx-xx-x...
JERRY D. EUDY xxx-xx-x...
RICHARD A. EVANS xxx-xx-x...
RICHARD H. EVANS xxx-xx-x...
MICHAEL E. EVERSON xxx-xx-x...
JAMES W. EWING xxx-xx-x...
RICHARD L. EYESTONE xxx-xx-x...
RICHARD A. EZZELL xxx-xx-x...
DANIEL L. FALVEY xxx-xx-x...
MARK E. FANTASIA xxx-xx-x...
JOHN S. FARNHAM xxx-xx-x...
HARVEY R. FARR xxx-xx-x...
STEPHEN F. FARRY, JR xxx-xx-x...
KENNETH V. FEASTER xxx-xx-x...
JAMES D. FELS xxx-xx-x...
MICHAEL P. FENNESSY xxx-xx-x...
HAROLD FIELDS, JR xxx-xx-x...
JAMES C. FILBERT xxx-xx-xx...
MICHAEL R. FILLER xxx-xx-x...
ALVA L. FINCHER xxx-xx-x...
TIMOTHY M. FINK xxx-xx-x...
THOMAS P. FINN xxx-xx-x...
THOMAS P. FINNEGAN xxx-xx-x...
JAMES A. FISHER xxx-xx-xx...
MICHAEL S. FITZ xxx-xx-x...
KEVIN P. FLATT xxx-xx-x...
DAVID L. FLEMING xxx-xx-x...
FRANK C. FLINN, II xxx-xx-x...
LEO FLORICK xxx-xx-x...
ALFRED K. FLOWERS xxx-xx-x...
WOODROW T. T. FLOWERS xxx-xx-x...
MARY F. FLYNN xxx-xx-x...
JERALD L. FOLKERTS xxx-xx-xx...
MICHAEL R. FOOR xxx-xx-x...
JAMES P. FOREMAN xxx-xx-x...
PATRICIA M. FORNES xxx-xx-x...
FRANK L. FORSYTH xxx-xx-x...
IRA W. FORTENBERRY xxx-xx-x...
PETER C. FORTESCUE, JR xxx-xx-xx...
ROY M. FOSTER xxx-xx-x...
GUY C. FOWL xxx-xx-x...
NEAL I. FOX xxx-xx-x...
STEPHEN R. FRALEY xxx-xx-xx...
TERRY A. FRANKS xxx-xx-x...
WALTER FRANT xxx-xx-x...
JOHN H. FRAVEL xxx-xx-x...
KENNETH M. FREEMAN xxx-xx-x...
HARRISON C. FREER xxx-xx-x...
JEAN T. FREITAS xxx-xx-xx...
GREGORY B. FRICK xxx-xx-x...
MAE E. FRIEL xxx-xx-x...
BRUCE H. FRITZSCHE xxx-xx-x...
MARK W. FRY xxx-xx-x...
THOMAS C. FUGATE, SR xxx-xx-x...
MYRNA L. FULLER xxx-xx-x...
WAYNE L. FULLER xxx-xx-x...
STEVEN L. FUZZELL xxx-xx-xx...
MYKEL D. GABLE xxx-xx-x...
KARL F. GABRYS, JR xxx-xx-x...
ROBERT N. GAMACHE xxx-xx-x...
BRUCE D. GAMBLE xxx-xx-x...
ROBERT L. GAMBRELL, JR xxx-xx-xx...
ALFREDO GARCIA, JR xxx-xx-x...
PATRICK J. GARCIA xxx-xx-x...
PATRICIA D. GARLAND xxx-xx-x...
HARRY J. GARNAND, III xxx-xx-x...
BRUCE M. GARNER xxx-xx-x...
RICHARD B. GARNER xxx-xx-x...
HUGH H. GARRETT xxx-xx-x...
RAY T. GARZA xxx-xx-x...
CHRISTOPHER J. GASTON xxx-xx-x...
ADRIEN L. GAUDREAU, JR xxx-xx-x...
JOHN F. GAUGHAN, II xxx-xx-x...
ROBERT D. GEDDES xxx-xx-x...
CHARLES O. GENSLER xxx-xx-x...
GILES D. GENTRY, JR xxx-xx-xx...
PETER W. GEURTZ xxx-xx-x...
KRIS D. GIANAKOS xxx-xx-x...
RICHARD M. GIBALDI xxx-xx-x...
CURTIS R. GIBBS xxx-xx-x...
JAMES H. GIBBS xxx-xx-x...
DEBORAH S. GIBSON xxx-xx-x...
FREDERICK C. GILBERT xxx-xx-x...
SILVANUS T. GILBERT, III xxx-xx-x...
TOMMIE L. GILLISPIE xxx-xx-xx...
ANDREW G. GILMORE xxx-xx-x...
ROBERT W. GINN xxx-xx-x...
WILLIE J. GLADDEN xxx-xx-x...
LEE GLASER xxx-xx-x...
MICHAEL R. GLASPY xxx-xx-x...
EUGENE GLOVER xxx-xx-x...
EDWARD O. GOEHEL, JR xxx-xx-x...
RAYMOND D. GOMES xxx-xx-x...
ADRIAN GOMEZ xxx-xx-x...
RAFAEL GONZALEZ xxx-xx-x...
DALE L. GOODELL xxx-xx-x...
JOHN C. GOODMAN xxx-xx-x...
CRAIG A. GORDON xxx-xx-x...
HUGH L. GORDON xxx-xx-x...
MICHAEL V. GOYDEN xxx-xx-x...
LANCE C. GRACE xxx-xx-x...
KEVIN M. GRADY xxx-xx-x...
KEMIT S. GRAFTON xxx-xx-x...
DOUGLAS U. GRAHAM xxx-xx-x...
THOMAS E. GRAVES xxx-xx-x...

DAVID S. GRAY, [redacted]
HUGH G. GRAY, [redacted]
ALLEN M. GREEN, [redacted]
ANTIONETTE L. GREEN, [redacted]
MARK L. GREENWOOD, [redacted]
SANDRA A. GREGORY, [redacted]
JAMES W. GREIG, II, [redacted]
PATRICK A. GRIECO, [redacted]
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THURMAN R. HAAS, [redacted]
MERVILLE G. HAERTER, [redacted]
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MICHAEL G. KOLLER, [redacted]
WALTER KOOZIN, [redacted]
MARSHA S. KOROSE, [redacted]
PER A. KORSLUND, [redacted]
EDWARD S. KOSZYKOWSKI, [redacted]
BRUCE F. KREYCIK, [redacted]
MICHAEL C. KROTCHIE, [redacted]
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JOSEPH E. KUBACKI, [redacted]
JOHN E. KUHN, [redacted]
JOSEPH C. KULASH, [redacted]
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JEFFREY A. KWALLEK, [redacted]
GLENN C. KWEDER, [redacted]
MARK D. LACERENZA, [redacted]
DAVID A. LAFAVE, [redacted]
TY M. LAGERBERG, [redacted]
STEVEN E. LAMBERSON, [redacted]
ROBERT H. LAMONTAGNE, [redacted]
GREGG E. LANDOLT, [redacted]
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WILL LANGSTAFF, JR., [redacted]
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RONALD S. LASSONDE, [redacted]
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JAMES W. LAYCOCK, [redacted]
STUART W. LEACH, [redacted]
CHARLES L. LECHER, [redacted]
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NADINE E. LEVINE, [redacted]
ERIC C. LEWALLEN, [redacted]
DONALD O. LEWIS, [redacted]
NEAL B. LEWIS, [redacted]
JEFFREY L. LIBAIRE, [redacted]
DAVID E. LIEBERGOTT, [redacted]
KATHRYN J. LILLETHUN, [redacted]
DOUGLAS R. LINCOLN, JR., [redacted]
LYONEL R. LINDBECK, [redacted]
BRUCE G. LINSTER, [redacted]
BARRY G. LITHERLAND, [redacted]
JOSEPH R. LITKO, [redacted]
LAURENCE J. R. LITTLE, [redacted]
HORACE C. LITTLEJOHN, JR., [redacted]
DAVID L. LOCKETT, [redacted]
DAVID C. LOEWER, [redacted]
JAMES P. LOHMAN, [redacted]
LISA B. LONG, [redacted]
TERRENCE P. LONG, [redacted]
ROY LONGSTAFFE, [redacted]
OLIVER E. LORENZ, [redacted]
JAY L. LORENZEN, [redacted]
THOMAS C. LORIMER, [redacted]
DOUGLAS L. LOVERRO, [redacted]
MICHAEL S. LUCCHESI, [redacted]
EARLE L. LUND, III, [redacted]
LLOYD E. LUTZ, JR., [redacted]
SCOTT W. LYON, [redacted]
ROBERT L. MABRY, [redacted]
MICHAEL MACHUZAK, [redacted]
JOHN D. MACKAY, [redacted]
JEROME S. MACKEN, [redacted]
GEORGE J. MAGER, [redacted]
MICHAEL T. MAHAR, [redacted]
DANIEL MAHRER, [redacted]
RANDALL S. MAINQUIST, [redacted]
LOUIS L. MALIPSEY, [redacted]
KENNETH C. MALOKOFSKY, JR., [redacted]
MICHAEL B. MALONEY, [redacted]
DONALD M. MARCO, JR., [redacted]
STEPHEN P. MARINO, [redacted]
TERRY L. MARKOVICH, [redacted]
JOSEPH P. MARKSTEINER, [redacted]
LEMUEL F. MARLOW, [redacted]
ROBERT K. MARR, JR., [redacted]
MICHAEL C. MARRO, [redacted]
RITA A. MARSHALL, [redacted]
THOMAS A. MARSHALL, [redacted]
DAVID C. MARTIN, [redacted]
DENNIS C. MARTIN, [redacted]
RAMON MARTINEZ, [redacted]
BRUCE MASON, [redacted]
RANDOLPH J. MASON, [redacted]
JOHN W. B. MASOTTI, [redacted]
CALVIN L. MASSIE, [redacted]
BOBBY GRAHAM MATHIS, [redacted]
CRAIG P. MATT, [redacted]
DENNIS M. MATTHEWS, [redacted]
KEITH E. MATTHEWS, [redacted]
MARK T. MATTHEWS, [redacted]
WILLIAM H. MAXWELL, [redacted]
JOSEPH A. MAY, [redacted]
EDWARD D. MAYFIELD, [redacted]
HUBERT N. MAYHEW, JR., [redacted]
JOHN E. MAZUROWSKI, [redacted]
LEWIS E. MCBRIDE, III, [redacted]
MICHELANGELO MCCALLISTER, [redacted]
DENNIS M. MCCARTHY, [redacted]
THOMAS W. MCCARTHY, [redacted]
WILLIAM N. MCCASLAND, [redacted]
JEFFREY A. MCCHESNEY, [redacted]
MICHAEL A. MCCLEARY, [redacted]
THOMAS M. MCCLOGHRY, [redacted]
DAVID A. MCCLURKIN, [redacted]
BARBARA J. MCCOLGAN, [redacted]
MARK D. MCCONNELL, [redacted]
MARK R. MCCONNELL, [redacted]
ROBERT S. MCDANIEL, II, [redacted]
RICHARD T. MCDONALD, [redacted]
FAYNE A. MCDOWELL, [redacted]
WILLIAM B. MCFADDEN, [redacted]
ROBERT S. MCGEE, [redacted]
WILLIAM L. MCGILL, [redacted]
LAWRENCE R. MCGIRR, III, [redacted]
FRANCIS X. MCGOVERN, [redacted]
JAMES F. MCGOVERN, JR., [redacted]
WARNER R. MCGRAW, [redacted]
KEITH A. MCGUIRE, [redacted]
RICHARD A. MCINTOSH, [redacted]
MICHAEL E. MCINTYRE, [redacted]
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CRAIG R. MCPHERSON, [redacted]
ROBERT A. MCREYNOLDS, JR., [redacted]

MICHAEL W. MCWILLIAMS xxx-xx-x...
GEORGE E. MEGGERS xxx-xx-x...
MICHAEL S. MELE xxx-xx-x...
JOHN M. MELIN xxx-xx-x...
MARLO D. MELLUM xxx-xx-x...
DOUGLAS C. MELROSE, JR xxx-xx-x...
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RICKY A. MENKING xxx-xx-x...
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RONNE G. MERCER xxx-xx-x...
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CARMEN M. MEZZACAPPA xxx-xx-x...
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EDDIE R. MIMS, JR xxx-xx-x...
RICHARD S. MITCHELL xxx-xx-x...
ALBERT U. MITCHUM, JR xxx-xx-x...
LESTER H. MIYAOKA xxx-xx-x...
DAVID L. MIZE xxx-xx-x...
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THOMAS C. MOE xxx-xx-x...
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KELLY MOSELY xxx-xx-x...
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CARY A. NIEHANS xxx-xx-x...
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ANDREW E. NOTESTINE, II xxx-xx-x...
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GREGORY J. OBRIEN xxx-xx-x...
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JOHN W. PASSEY xxx-xx-x...
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BRUCE L. PATERSON xxx-xx-x...
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DAVID J. PERELLA xxx-xx-x...
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MICHAEL S. PETERS xxx-xx-x...
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THOMAS L. PETERSON xxx-xx-x...
POLLY A. PEYER xxx-xx-x...
KERMIT S. PHELPS xxx-xx-x...
HERBERT N. PHILLIPS xxx-xx-x...
ROBERT D. PIERCE xxx-xx-x...
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HUGO G. POSEY xxx-xx-x...
JOHN M. POUTIER xxx-xx-x...
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CHARLES J. PRECOURT xxx-xx-x...
SIDNEY J. PREJEAN xxx-xx-x...
RODNEY C. PRESSLEY xxx-xx-x...
JOHN P. PRIOR xxx-xx-x...
RAFAEL PUBILLONES xxx-xx-x...
DAVID V. PULLIAM xxx-xx-x...
JAMES W. PZINSKI xxx-xx-x...
THOMAS J. QUELLY xxx-xx-x...
BARTHOLOMEW J. QUINN xxx-xx-x...
WILLIAM R. QUINN xxx-xx-x...
DANNY E. RACHEL xxx-xx-x...
WILLIAM J. RADIGAN, JR xxx-xx-x...
KATHY A. RAFFERTY xxx-xx-x...
JAMES C. RAINEY xxx-xx-x...
KURT A. RAMSTINE xxx-xx-x...
RAYMOND R. RANDALL xxx-xx-x...
WALTER J. RANDALL, JR xxx-xx-x...
STEVEN W. RAPP xxx-xx-x...
HARLAN W. RAY xxx-xx-x...
CHARLOTTE L. REA xxx-xx-x...
RODERICK D. REAY xxx-xx-x...
MICHAEL D. REDDIG xxx-xx-x...
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DAWN M. REED xxx-xx-x...
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WILLIAM S. REED xxx-xx-x...
HAROLD L. REEM xxx-xx-x...
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WILLIAM E. REID xxx-xx-x...
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JOHN A. RESEN xxx-xx-x...
JAVIER A. REYES xxx-xx-x...
JAMES C. REYNOLDS xxx-xx-x...
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WALTER E. RHOADS xxx-xx-x...
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DALE G. SHIVELY xxx-xx-x...
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MARK T. SMITH xxx-xx-x...
SCOTT M. SMITH xxx-xx-x...
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STEPHEN J. SNOW xxx-xx-x...
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JOSEPH M. SOUSARIS xxx-xx-x...
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KATHLEEN M. SPATOLA xxx-xx-x...
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ROMAIN PATRICK M. ST xxx-xx-x...
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FRANK C. STELLAR xxx-xx-x...
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CARLTON E. YOUNG xxx-xx-x...
JERRY M. YOUNG xxx-xx-x...
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ROGER YOUNG xxx-xx-x...
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ROSS A. ZIEGENHORN xxx-xx-x...
STEVEN J. ZUFFOLETTI xxx-xx-xx...
NICHOLAS F. ZUNIC, III xxx-xx-x...

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be lieutenant colonel

ROSS C. BROWN xxx-xx-x...
THOMAS O. BROWN xxx-xx-x...
DONALD T. BURNET xxx-xx-x...
DON J. CHRISTENSON xxx-xx-x...
DAVID H. CYR xxx-xx-x...
JAMES W. DANIELS xxx-xx-x...
RICHARD B. DAVENPORT xxx-xx-x...
MICHAEL J. DIRENZO xxx-xx-x...
JAMES R. DIXON xxx-xx-x...
PHILIP J. FAIN xxx-xx-xx...
CLARENCE B. GOODWIN xxx-xx-x...
RANDON N. HESGARD xxx-xx-x...
DWIGHT D. JOHNSON xxx-xx-x...
CURTIS D. LINGE xxx-xx-x...
BOB C. LYNCH xxx-xx-x...
GREGORY J. MALINSKY xxx-xx-x...
JAMES D. PATRICK xxx-xx-x...
GARY A. PIEPKORN xxx-xx-x...
JEROLD L. PRESTON xxx-xx-x...
JAMES D. SAUNDERS xxx-xx-x...
JAMES A. SCHIFFER xxx-xx-xx...
JOHN J. SECRET xxx-xx-x...
JOHN C. SIMMONS xxx-xx-x...
JAMES A. SNYDER xxx-xx-x...
JOHN W. STEFERO xxx-xx-x...
LEE M. THOMPSON xxx-xx-x...
JOSEPH R. WAGNER xxx-xx-x...
JOHN G. WHITLEY xxx-xx-x...
MICHAEL C. WHITTINGTON xxx-xx-x...

JUDGE ADVOCATE

To be lieutenant colonel

HOWARD R. ALTSCHWAGER xxx-xx-x...
SAMUEL S. BAGLEY xxx-xx-x...
MARILYN D. BARTON xxx-xx-x...
MARY M. BOONE xxx-xx-x...
BRUCE T. BROWN xxx-xx-x...
WILLIAM M. BURD xxx-xx-x...
DWIGHT D. CREASY xxx-xx-x...
ROBERT G. CURIONE xxx-xx-x...
MARILYN H. DAVID xxx-xx-x...
DAVID G. EHRHART xxx-xx-x...
WILLIAM J. FABER xxx-xx-x...
DAVID A. FAHEY xxx-xx-x...
THEODORE J. FINK xxx-xx-x...
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BRADLEY P. GRANT xxx-xx-x...
EVAN L. HABERMAN xxx-xx-x...
HARRY L. HEINTZELMAN, IV xxx-xx-x...
WILLIAM J. HOLLMANN xxx-xx-x...
SHERRI W. JOHNSON xxx-xx-x...
DONALD R. LANGFORD xxx-xx-x...
CHARLES E. LATIMER xxx-xx-x...
JOHN C. MANTINI xxx-xx-x...
CHERYL L. NILSSON xxx-xx-x...
DONALD A. PLUDE xxx-xx-x...
LARRY W. PRICE xxx-xx-x...
RICHARD E. SARVER xxx-xx-x...
DAVID F. SHUTLER xxx-xx-x...
RICHARD B. SORENSON xxx-xx-x...
JOYCE I. SPISAK xxx-xx-x...
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DONALD E. WALSH xxx-xx-x...
RODNEY A. WOLTHOFF xxx-xx-x...
DAVID S. YASTISHOCK xxx-xx-x...

NURSE CORPS

To be lieutenant colonel

MARILYN S. ABUGHUSSON xxx-xx-x...
GERALD R. ADLER xxx-xx-x...
CONSTANCE M. ALGER xxx-xx-x...
PHYLLIS E. ALLEN xxx-xx-x...
SARAH L. ALLEN xxx-xx-x...
LAUREL M. ANDERSON xxx-xx-x...
ALEXIS J. ARAMINI xxx-xx-x...
JILL V. BAKER xxx-xx-x...
KATHLEEN M. BARR xxx-xx-x...
MARY H. BEHR xxx-xx-x...
LINDA J. BISHOP xxx-xx-x...
SANDRA D. BOTTEMILLER xxx-xx-x...
DANE A. BRENNO xxx-xx-x...
ANNETTE BROWNSTEIN xxx-xx-x...
JAMES R. BROYLES xxx-xx-x...
PATRICIA A. BUCK xxx-xx-x...
ELLEN J. CARSON xxx-xx-x...
KATHY A. CASSAGNOL xxx-xx-x...
LESLIE A. CHAPMAN xxx-xx-x...
ALICE M. CHATLEY xxx-xx-x...
COLLEEN A. CHRISTENSEN xxx-xx-x...
JANICE C. COLLINGS xxx-xx-x...
KATHLEEN P. COLLINS xxx-xx-x...
GAILYN J. CONSER xxx-xx-x...
ALICE N. COX xxx-xx-x...
CHARLES A. CROSS xxx-xx-x...
GUY R. DALRYMPLE xxx-xx-x...
MARY J. DISTEL xxx-xx-x...
FRED D. DOKES, III xxx-xx-x...
CYNTHIA A. EBELACKER xxx-xx-x...
ROGER D. EMMICK xxx-xx-x...
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FREDERICK FESEL xxx-xx-x...
CYNTHIA M. FUEGER xxx-xx-x...
MARY E. FUSCO xxx-xx-x...
WILLIAM F. GAMETT xxx-xx-x...
NANCY O. GENTRY xxx-xx-x...
GABRIEL A. GIGLIOTTI xxx-xx-x...
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NANCY L. GRELLA xxx-xx-x...
COLLEEN L. GUTIERREZ xxx-xx-x...
KENNETH R. HAINES xxx-xx-x...
JACQUELINE D. HALE xxx-xx-x...
PAUL P. HALL, JR. xxx-xx-xx...
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JANE M. HOLTZ xxx-xx-x...
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STEVEN E. LEARY xxx-xx-x...

MARY E. LIEBERMANN [redacted]
BENNIE D. LITTLE [redacted]
DIANA M. LOMBARDO [redacted]
CAROLE A. LYONS [redacted]
MARY L. MAXIN [redacted]
GWENDA A. MCCLURE [redacted]
CAROL D. MCDOWELL [redacted]
LLOYD A. MILLER [redacted]
SHIRLEY A. MILLER [redacted]
MARY E. MORAN [redacted]
DANA R. MORRILL [redacted]
DOROTHEA L. MORRIS [redacted]
DEBORAH J. MOSS [redacted]
RUTH O. MOSS [redacted]
ERIC C. MURDOCK [redacted]
BRIAN M. NEMETH [redacted]
JOHN C. NICHOLS [redacted]
MARY E. NOVAK [redacted]
JANELLA G. PETERS [redacted]
PATRICIA A. PETERS [redacted]
JANET C. PLACE [redacted]
ALAN G. PYSHER [redacted]
CAROL V. RAWLINS [redacted]
WANDA L. RED [redacted]
PAMELA J. REIDY [redacted]
MARIAN S. RODGERS [redacted]
ROBIN E. ROGERS [redacted]
SHIRLEY A. ROGERS [redacted]
MICHELLE C. SABREE [redacted]
JANINE M. SAULPAUGH [redacted]
JUDITH M. SCHWARTZ [redacted]
LORETA S. SEWALL [redacted]
DONNA L. SIMPSON [redacted]
HOLLY A. SLATER [redacted]
LYNDA K. SMITH [redacted]
JEANETTE M. SPLONSKOWSKI [redacted]
ROBERT C. STOLAR [redacted]
MARGARITA D. VASQUEZ [redacted]
GRETCHEN WESTON [redacted]
MARGARET J. WILLIAMS [redacted]
GILBERT W. WOLFE [redacted]
ROBERTA A. WOLFE [redacted]
SARAH A. WRIGHT, 048-38-9822

MEDICAL SERVICE CORPS

To be lieutenant colonel

DAVID L. AYCOTH [redacted]
BRUCE N. BOSSART [redacted]
PAUL A. BUCCERI [redacted]
WILLIAM M. CARROLL [redacted]
DEBRA A. CERHA [redacted]
DOUGLAS C. DAVIS [redacted]
DONALD C. EDGELL [redacted]
BARBARA B. ERICKSON [redacted]
MICHAEL J. FITZWATER [redacted]
JAMES F. GEIGER [redacted]
STEPHAN A. GIESECKE [redacted]
RONALD M. GILLIARD [redacted]
BRUCE P. HESELTINE [redacted]
PAUL R. LEMMINGS [redacted]
STEPHEN L. MEIGS [redacted]
MICKEY J. MELTON [redacted]
RAYMOND L. MOUSE [redacted]
CARLETON L. MURPHY [redacted]
PAUL W. NICE [redacted]
RICHARD D. PLEASANTS [redacted]
STEPHEN J. PRIBYL [redacted]
WILLIAM R. RENWICK [redacted]
FRANK L. RUBINO [redacted]
JAMES D. SHEPARD [redacted]
JONATHAN S. STAPLEY [redacted]
ROY U. TWEEDLE [redacted]
DOUGLAS J. VANCE [redacted]
PETER D. VROOM [redacted]
RONALD E. WILDMAN [redacted]
RICHARD E. WILLIS [redacted]

BIOMEDICAL CORPS

To be lieutenant colonel

DENNIS R. ARMSTRONG [redacted]
CAROL L. AYCOTH [redacted]
GEORGE L. BERBERICH [redacted]
WILLIAM G. BLACK, JR [redacted]
DANIEL R. BROWN [redacted]
ROCKY D. CALCOTE [redacted]
DARREL R. CORNELL [redacted]
YANGCHA P. CRABB [redacted]
WILLIAM J. CURRAN, JR [redacted]
JAMES G. DALEY [redacted]
JIM A. DAVIS [redacted]
JOSEPH R. DURIO [redacted]
EVA M. ECKBURG [redacted]
LANCE H. EDWARDS [redacted]
ROBERT W. FOULKS [redacted]
JAMES D. FRASER [redacted]
GARY D. GACKSTETTER [redacted]
EDWIN L. GERWELL [redacted]
WILLIAM A. GRADWELL [redacted]
FRANK E. GRAF [redacted]
GARY A. GURITZ [redacted]
WILLIAM R. HALLMARK [redacted]
MARK A. HAMILTON [redacted]
ALBERT A. HARTZELL [redacted]
NELSON L. HENNING [redacted]
DANNY L. HOLT [redacted]
MOHAMMAD A. HOSSAIN [redacted]
STEPHEN H. HOUGH [redacted]
HARRY P. HOWITT [redacted]
TIMOTHY C. IHRY [redacted]
DENEICE L. JACKSON [redacted]
LINDA D. JENKINS [redacted]
JOHN B. JESSEN [redacted]
BRENDA L. JONES [redacted]
JOHN F. KENT [redacted]
THERESA S. KENT [redacted]
PAUL E. KERCH [redacted]
JO LONGLEY [redacted]
DAVID C. LULL [redacted]
ROBERT E. MATHIS [redacted]
RUSSELL H. MATTERN [redacted]
JAMES N. MCDOUGAL [redacted]
KENNETH L. MEYER [redacted]
WILLARD W. MOLLERSTROM [redacted]
ESTHER F. MYERS [redacted]
RICHARD D. NEWSOME [redacted]
DONALD E. PULCIFER [redacted]
GARY L. PULVERMACHER [redacted]
JOHN N. QUIRK [redacted]
DENNIS L. RAY [redacted]
ROBERT W. SADOWSKI [redacted]
ROBERT J. SARVAIDEO [redacted]
BARRY L. SAVORY [redacted]
MICHAEL L. SHELLEY [redacted]
LORRAINE SHELTONGAINES [redacted]
PAUL J. SHONEBARGER [redacted]
LOWELL L. SNITCHLER [redacted]
FORREST R. SPRESTER [redacted]
TERRY L. STODDART [redacted]
REBECCA J. SUTAY [redacted]
STEVEN H. TALLANT [redacted]
JOYCE E. TETERS [redacted]
PHILIP F. THORNTON [redacted]
LEO J. WARD, JR [redacted]
KATHY L. WARE [redacted]
RANDOLPH S. WOLF [redacted]
DAVID S. WOLPERT [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1991:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997.

THE JUDICIARY

Warren Roger King, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

DEPARTMENT OF THE TREASURY

Desiree Tucker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Robert T. Guiney, of Massachusetts, to be U.S. Marshal for the District of Massachusetts for the term of 4 years.

John H. Robinson, of Nevada, to be U.S. Marshal for the District of Nevada for the term of 4 years.

THE JUDICIARY

Jane R. Roth, of Delaware, to be U.S. Circuit Judge for the Third Circuit.

Sterling Johnson, Jr., of New York, to be U.S. District Judge for the Eastern District of New York.

Harvey E. Schlesinger, of Florida, to be U.S. District Judge for the Middle District of Florida.

Ralph W. Nimmons, Jr., of Florida, to be U.S. District Judge for the Middle District of Florida.