HOUSE OF REPRESENTATIVES—*Monday, July 15, 1991*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. BONIOR).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 15, 1991.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for the warmth and support we can experience when we know the love of those near and dear to us. For families and friends and for all those for whom we care, we express our joy and our appreciation. And just as we think of ourselves, we remember others who are separated from those they love. We specially recall in this our prayer the hostages and their families as we think about the anxiety and separation they face each day. May Your blessing that is with us in all the moments of life surround them and keep them this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida [Mr. HUTTO] please come forward and lead the House in the Pledge of Allegiance.

Mr. HUTTO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

APPOINTMENT AS MEMBER OF NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

The SPEAKER pro tempore. Pursuant to the provisions of section 406(a) of Public Law 102-62, the Chair announces the Speaker's appointment of Ms. Eva L. Baker of Sherman Oaks, CA, to the National Council of Education Standards and Testing on the part of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 11, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:00 p.m. on Thursday, July 11, 1991 and said to contain a message from the President, whereby he transmits the First and Second Reports on Employee Sanctions.

With great respect, I am
Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

IMPLEMENTATION AND IMPACT OF EMPLOYER SANCTIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Judiciary and the Committee on Education and Labor:

(For message see proceedings of the Senate of Thursday, July 11, 1991, at page 18085.)

THE PSYCHOLOGY OF RECYCLING

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, from its inception, my office, both here in Washington and back home in Kentucky, has cooperated with the recycling program in which we in the office separate our newspapers and aluminum and plastic bottles and glass bottles. I am proud to say that my community, my district in Louisville, Jefferson County, has instituted and is implementing a voluntary program of recycling at the curbside in which we place our material for recycling out front and it is separated and collected.

I am also pleased to note that while we will, as a community, move toward a garbage-to-steam program for getting rid of our garbage, that program is not incompatible with curbside recycling.

In the last analysis, Mr. Speaker, the success in recycling is a matter of psychology. To the extent that we can psychologically reach the point of guilt, if one wants to call it that, at throwing material away which can be recycled, then I think we will have a successful program. I have already noted in my own situation and that of my family that there is a little bit of guilt now if we tend to throw something away that we could save.

So I think, Mr. Speaker, we are on the verge of a nationwide program that will save our planet much of the degradation which it has experienced in the recent past.

PEOPLE OF BURMA SUFFER TYRANNICAL GOVERNMENT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the people of Burma continue to languish under one of the world's worst tyrannies. They are murdering their people. They are hunting down their opposition. They torture innocent citizens who do nothing more than speak up, as is every citizen's right to do, in complaining about government policies.

This military dictatorship in Burma is selling off the resources of the Na-

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tion, robbing future generations of Burmese their rightful legacy, the gems, the oil, and most importantly, the beautiful rain forests of Burma are being destroyed and being sold off to foreign exploiters for a quick profit for this gangster regime in Rangoon.

This is indeed the quintessential gangster regime of the world. We as the people of the United States, as freedom-loving Americans, should be unmistakably on the side of democracy and reform in Burma and against this horrible oppressive tyranny.

We should make sure that the United States stands for economic, political, and military isolation of this gangster regime. The regime in Burma should be made the pariah among all free nations and decent people. We should, instead of cooperating with the Burmese regime on areas like drug interdiction and drug enforcement, we should instead be seeking to install and to support the democratic reformers in Burma who will be on the side of decent people because we can trust that they will indeed be trying to stamp out the drug menace that flows from the triangle in the northern part of Burma.

Today, Mr. Speaker, let us not forget those people who languish under tyranny in Burma. Let us always be on the side of democratic reform and let the people of Burma know that they are not alone and they are not forgotten.

PHILIPPINE MILITARY BASES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the Pentagon is closing domestic military bases and reducing its active and civilian work force. Within this context, it's becoming difficult to justify sinking billions of dollars into a blackhole that could literally go up in smoke and ash at anytime. The eruptions of Mount Pinatubo have clouded the already uncertain issue of our military bases in the Philippines since previous negotiations with the Filipino Government, which asked for unreasonably high payments to renew the leases for Clark Air Base and Subic Bay Naval Base, failed to reach a settlement. Now, with the volcanic damage so extensive, I believe it's time for the United States to begin contemplating other options. There's no doubt about the strategic power projection value of the Philippines. But in these times of scarce resources, we have to ask ourselves if it's in our best interest to keep the bases open or move them elsewhere. The attitude of the Filipino Government and the cost to repair our bases could mean that we need another location as a place to project American security interests and influence in that region of the world. Clearly, now is the time to consider other possibilities.

□ 1210

INTRODUCTION OF LEGISLATION ESTABLISHING COLORADO METROPOLITAN WILDLIFE REFUGE

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, today I have introduced an important piece of legislation for the State of Colorado and for the Federal Government.

Today I have introduced legislation which will establish the Colorado Metropolitan National Wildlife Refuge. This legislation proposes to create a National Wildlife Refuge at the site of the Rocky Mountain Arsenal.

As many of my colleagues may know, this is a Superfund cleanup site. Due to years of toxic waste and chemical waste disposal at the arsenal, small portions of this site are considered to be among the most polluted spots on earth. Yet, on most of this 27 square mile site there is a thriving, unique wildlife system. More than 130 different species of wildlife are found here, including the winter nesting grounds for several pairs of bald eagles.

What I and many other members of the Colorado delegation propose is to make the very best of a bad situation. We propose to mitigate the environmental damage done these many years at the Rocky Mountain Arsenal by protecting and showcasing the ample wildlife that exists at the site.

The Rocky Mountain Arsenal can become symbolic of how we can proactively offset the negativism associated with a Superfund site. The Rocky Mountain Arsenal can become the largest and perhaps only urban wildlife refuge.

The legislation Congress is considering proposes to convert some 16,500 acres of the existing arsenal, 95 percent, and converting its use to a wildlife refuge; allowing for habitat for eagles, burrowing owls, prairie dogs, coyotes, migratory water fowl, and many other species of fish and wildlife.

We have the chance to do something special for an area that has, and will, suffer from the stigma associated with our former ignorance of proper chemical disposal techniques. Together we have the chance to change the negative image and create a "pearl on the prairie."

By establishing a wildlife refuge next to a metropolitan area we will create an educational emphasis both on wildlife and our environment. It will become, as it already has, a prime educational and research tool for us to teach visitors about the natural habitat on the Great Plains and its ecological evolution.

We will also be able to teach something else. Unfortunately, but perhaps most importantly, we will also be able to teach the consequences of man's ability to negatively impact the environment. The evidence of the contamination and subsequent cleanup will never be erased and will serve as a reminder to all who visit this wildlife refuge of what once was and can be again if we do not use our knowledge and foresight.

There are many people who deserve credit for this proposal. All more so than me, who was simply fortunate to be the vehicle by which this proposal is delivered for your consideration. I cannot begin to thank all those who helped in making this legislation possible. But in advance of the first hearing on this proposal I would especially like to thank the other members of the Colorado delegation who are helping further this proposal. The commitment and cooperation of Congresswoman SCHROEDER and Congressmen HEFLEY, SCHAEFER, and CAMPBELL is deeply appreciated.

I am also happy to report that the same bill is being introduced in the Senate, and will be jointly sponsored by Senators BROWN and WIRTH.

In summary, I am extremely excited about this particular piece of legislation. It has strong local support. It has the support of the Colorado delegation, it has the support of many citizens of the State of Colorado.

I hope and believe that it will earn the support of Congress as well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 16, 1991.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2014) to designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

The Clerk read as follows:

H.R. 2014

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

SECTION 1. DESIGNATION OF UNITED STATES POST OFFICE BUILDING LOCATED AT 153 EAST 110TH STREET, NEW YORK, NEW YORK.

The United States Post Office Building located at 153 East 110th Street, New York,

New York, is designated as the "Oscar Garcia Rivera Post Office Building". Any reference to such building in any law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Oscar Garcia Rivera Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

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

Mr. Speaker, H.R. 2014 will designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

There are a few of us here today who might remember the unexpected difficulties we experienced in the 100th Congress after we passed a similar bill, which was introduced by former Congressman Garcia. This bill was derailed by an unrelated amendment in the other body. I want to thank my colleague from New York [Mr. SERRANO] for pursuing this very worthwhile matter.

Oscar Garcia Rivera carved a place in history as the first Puerto Rican elected to public office in the continental United States. As a representative in the New York State Legislature from Harlem, NY, Mr. Rivera quickly gained the reputation as a Latino civil rights activist, and was instrumental in the passage of the New York antidiscrimination legislation which prohibited discrimination on the basis of national origin, race, or creed, against persons who applied for State jobs.

It seems quite appropriate to honor Mr. Rivera by naming a post office after him in the district where he first started as a labor organizer with the U.S. postal clerks union. He will be remembered for having spent a successful career fighting for and protecting the rights of the underprivileged and minorities in the State of New York.

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

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 2014 to designate a postal facility in New York, NY, as the Oscar Garcia Rivera Post Office Building. I am pleased that my good friend, a member of the New York delegation, the gentleman from New York [Mr. SERRANO], has introduced this measure to pay tribute to Oscar Garcia Rivera, a dedicated public servant.

Mr. Rivera was elected to the New York State Assembly in 1937 and became the first Puerto Rican elected in the United States.

Mr. Rivera was also a successful union organizer and practiced law in New York until 1967. Oscar Garcia Rivera was an outstanding individual who championed many issues long before they were politically popular and, I might add, in the early 1930's was an active organizer for the Postal Clerks Union.

I urge my colleagues to support this designation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, I rise today to urge my colleagues' support of H.R. 2014, a bill that would designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

Mr. Oscar Garcia Rivera, Esquire, was elected assemblyman in the State of New York by the 14th District, at that time Harlem, on March 7, 1937.

Born in Mayaguez, PR, November 6, 1900, Oscar Garcia Rivera was raised on a coffee plantation. After graduation from high school, Garcia came to the mainland and began working part time in a factory in Brooklyn, while he continued to take courses to reach his goal of becoming a lawyer. He applied for a job at the U.S. Postal Service, obtained high recommendations, and was assigned to the post office in city hall. He quickly became very involved in union issues, and later encouraged the establishment of the Association of Puerto Rican and Hispanic Employees within the U.S. Postal Service.

Garcia Rivera attended law school at St. John's University, and he graduated in 1930. Dedicated and committed to the struggles of pioneer Puerto Ricans and Hispanics in East Harlem, he announced publicly in 1937 that he would seek a seat in the New York State Assembly.

In March of the same year, he made history by becoming the first Puerto Rican elected to public office in the continental United States. He won reelection the following year and continued in this post until 1940.

During the short time that he served in the assembly, Oscar Garcia Rivera initiated legislation that offered valuable and lasting contributions to his Puerto Rican community, the labor movement, and to the working class. He introduced a bill guaranteeing safeguards against unemployment; this revolutionary piece of legislation was enacted into law in February of 1939. Garcia Rivera defended minimum wage laws, fought for regulated hours of labor, worked to establish tariff agreements, and most importantly, he was committeed to protecting the rights of manual laborers and encouraged workers to organize themselves into active unions. He also supported the campaign which established a law which punished lynching throughout the United States.

The anniversary of Oscar Garcia Rivera's election as the first Puerto Rican who attained a public office marks a proud moment in our history. Despite his brief career as assemblyman, Oscar Garcia Rivera became a great leader in his community, creating a role model for young people, and establishing hope for his people that they could achieve their dreams in the United States. His actions transformed the Puerto Rican community, and improved working conditions in the State of New York.

Mr. Speaker, I believe the passage of this bill and the dedication of this building to this great leader would serve as an inspiration to the future generations of Puerto Rican and Hispanic leaders in New York, and throughout the United States. Please join me in strong support of H.R. 2014.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2014.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CARL O. HYDE GENERAL MAIL FACILITY

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2347) to redesignate the Midland General Mail Facility in Midland, TX, as the "Carl O. Hyde General Mail Facility," as amended.

The Clerk read as follows:

H.R. 2347

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

SECTION 1. REDESIGNATION OF MAIL FACILITY.

(a) IN GENERAL.—The Midland General Mail Facility, located at 10000 Sloan Field Boulevard, in Midland, Texas, is redesignated as the "Carl O. Hyde General Mail Facility".

(b) REFERENCES.—Any reference in a law, rule, map, document, record, or other paper of the United States to the Midland General Mail Facility in Midland, Texas, is deemed to be a reference to the "Carl O. Hyde General Mail Facility".

SEC. 2. AMENDMENT TO TITLE 5, UNITED STATES CODE.

Section 5307 of title 5, United States Code, is amended—

(1) by redesignating subsection (a) as subsection (a)(1);

(2) in subsection (a)(1) (as so redesignated) by striking "cause to the" and inserting "cause the";

(3) by inserting after subsection (a)(1) (as so redesignated) the following:

"(2) This section shall not apply to any payment under—

"(A) subchapter III or VII of chapter 55 or section 5596;

"(B) chapter 57 (other than section 5753, 5754, or 5755); or

"(C) chapter 59 (other than section 5925, 5928, 5941(a)(2), or 5948)."; and

(4) in subsection (b) by striking paragraph (3).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

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

Mr. Speaker, today I ask for your support for H.R. 2347, a bill to redesignate the Midland General Mail Facility in Midland, TX, in honor of a distinguished 46-year employee of the U.S. Postal Service, Carl O. Hyde.

Many of you might remember back to the 101st Congress when this House passed a similar bill, introduced by our colleague from Texas [Mr. SMITH]. The Senate added some unrelated amendments to the House-passed version and that bill was not enacted.

During Mr. Hyde's service with the Postal Service he oversaw the construction and maintenance requirements for 63 postal facilities. One of his last projects in his 46-year tenure with the U.S. Postal Service was to oversee the construction of the new Midland General Mail Facility, the postal facility the Midland community would now like to bear his name.

Section 2 of the bill amends section 5307 of title 5, United States Code, which was enacted last year as part of the Federal Employees Pay Comparability Act of 1990. This amendment, suggested by the Office of Personnel Management, merely clarifies the types of payments that are subject to the aggregate limitation on compensation payable to a Federal employee during any calendar year. As a general rule, reimbursements for necessary expenses are not subject to the aggregate limitation.

□ 1220

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 2347 to designate a postal facility in Midland, TX, as the Carl O. Hyde General Mail Facility.

This legislation was introduced by the gentleman from Texas, Mr. LAMAR SMITH, and will designate the General Mail Facility in Midland, TX, for a dedicated and respected former postal employee, Carl O. Hyde.

Carl Hyde served as an employee of the Postal Service for 46 years. I am informed that this change is supported by the Midland City Council, the chamber of commerce, and many of Mr. Hyde's friends and coworkers in Midland, TX.

As a senior postal operations specialist, he oversaw the construction and maintenance requirements for 63 west Texas post offices. One of the last projects that he worked on is the one we are renaming here today. I believe it is a fitting tribute to Carl O. Hyde for his years of service.

The second part of this bill is the amendment which includes technical changes to the Federal Employee Pay Comparability Act of 1990 and is supported by the Office of Personnel Management. The amendment is necessary as a number of agencies in the executive branch have interpreted the pay cap of executive level 1 as applying to nonemployee pay items such as expenses, allowances, travel, and other necessary reimbursement items. This amendment merely indicates congressional intent that these items should not be considered when determining whether an employee's salary exceeds the applicable pay cap.

I urge the adoption of H.R. 2347.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2347, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to redesignate the Midland General Mail Facility in Midland, TX, as the 'Carl O. Hyde General Mail Facility,' and for other purposes."

A motion to reconsider was laid on the table.

JOHN RICHARD HAYDEL POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 998) to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the John Richard Haydel Post Office, as amended.

The Clerk read as follows:

H.R. 998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "John Richard Haydel Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the John Richard Haydel Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

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

Mr. Speaker, I thank my colleague, the gentleman from Louisiana [Mr. HOLLOWAY], for bringing this matter to our attention.

Mr. Haydel began his service with the U.S. Postal Service in 1934, at the age of 18, and 6 short years later worked his way up to become the postmaster of the Vacherie postal facility in Vacherie, LA.

During his 47 years with the Postal Service, Mr. Haydel was credited with the renovation and building of three post offices and was presented the superior accomplishment award for his contribution to outstanding economy, efficiency, and improved service in the Postal Service.

I think my colleagues would agree that after 47 years of dedicated service to the Postal Service, a fitting tribute to a valued employee would be for the new post office in the community, where Mr. Haydel spent so many dedicated years, to bear his name.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 998, to redesignate a postal facility in Vacherie, LA, as the John Richard Haydel Post Office.

This legislation was introduced by the gentleman from Louisiana [Mr. HOLLOWAY]. H.R. 998 would designate a post office in Vacherie, LA, as the John Richard Haydel Post Office.

Mr. Haydel began employment with the Postal Service at the age of 18. In 1961 Mr. Haydel was selected to serve as a postmaster counselor for the Dallas region, which included Texas and Louisiana. In 1967 Mr. Haydel received the superior accomplishment award in recognition for notable performance contributing to outstanding economy, efficiency, and improved services.

Mr. Haydel also served his country in the Navy during World War II. He was honored with many awards during his services including the American Campaign Medal.

Mr. Haydel retired from the Postal Service in 1981 following 47 years of service. I urge the adoption of this legislation as a tribute to John Richard Haydel, his family, and the citizens of Vacherie, LA.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 998, as amended.

The question was taken, and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the building in Vacherie, LA, which houses the primary operations of the United States Postal Service as the 'John Richard Haydel Post Office Building'."

A motion to reconsider was laid on the table.

CLIFFORD G. WATTS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 157) to name the Post Office building located at 200 3d Street, SW., in Taylorsville, NC, as the "Clifford G. Watts Post Office," as amended.

The Clerk read as follows:

H.R. 157

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

SECTION 1. DESIGNATION.

The Post Office building located at 200 3d Street, S.W., in Taylorsville, North Carolina, shall be known and designated as the "Clifford G. Watts Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Post Office building referred to in section 1 shall be deemed to be a reference to the "Clifford G. Watts Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

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

Mr. Speaker, I rise in support of H.R. 157, a bill to name the post office building located at 200 3d Street SW., in Taylorsville, NC, as the "Clifford G. Watts Post Office."

Mr. Watts served 17 years as postmaster of the Taylorsville, NC, postal facility until his death in 1978.

"The chewing gum man," as he was commonly referred to by local children in the community, spent most of his life in the Taylorsville area. He is remembered as a member of the first football team at Taylorsville High School, deacon of the First Baptist Church, and manager of his family's department store. The distinguished sponsor of this bill, Mr. NEAL, along with the town of Taylorsville which he represents, would now like to honor this cherished friend by naming the new postal facility in Taylorsville, NC, after Mr. Watts.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 157, to designate the post office in Taylorsville, NC, as the "Clifford G. Watts Post Office."

Mr. Watts served as postmaster in Taylorsville for 18 years until his death in 1978 and was an active member of his community. He was a veteran of World War II, a deacon in the First Baptist Church, a member of the American Legion, the VFW, Rotary Club, and the Chamber of Commerce.

I urge my colleagues to support the passage of this measure.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 157, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended to read: "A bill to name the post office building located at 200 3d Street SW., in Taylorsville, NC, as the 'Clifford G. Watts Post Office Building'."

A motion to reconsider was laid on the table.

ZORA LEAH S. THOMAS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 158) to designate the facility of the U.S. Postal Service located on Highway 64 East in Hiddenite, NC, as the "Zora Leah S. Thomas Post Office," as amended.

The Clerk read as follows:

H.R. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service (as designated by the Postmaster General) shall be known and designated as the "Zora Leah S. Thomas Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the Zora Leah S. Thomas Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

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

Mr. Speaker, I want to thank my colleague, the gentleman from North Carolina [Mr. NEAL] for bringing this matter to our attention.

Mrs. Thomas was born on August 15, 1907, on a farm just north of Hiddenite, NC, into a family with a long history of service with the U.S. Post Office.

At the age of 28, she left her career in education and started working as a clerk for the post office. Two short years later she succeeded her father as postmaster for the Hiddenite Post Office, a position she would hold for the next 42 years.

The town of Hiddenite remembers Mrs. Thomas as a community leader and life-long public servant and would like to pay tribute to her by having the postal facility located on Highway 64 east in Hiddenite, NC, bear her name. I urge my colleagues to support this bill.

□ 1230

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of this legislation. The bill would designate the post office in Hiddenite, NC, as the "Zora Leah S. Thomas Post Office."

Mrs. Thomas served as postmaster in Hiddenite for 42 years, succeeding her father in that position in 1935. She retired as postmaster in 1977. A lifelong resident of the community she was a valued and active citizen.

Mrs. Thomas passed away in 1990 and I believe that this designation is fitting to recognize her extraordinary 42 years of service to the Postal Service and the people of North Carolina.

I urge my colleagues to support passage of H.R. 158, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 158, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the building in Hiddenite, NC, which houses the primary operations of the United States Postal Service as the 'Zora Leah S. Thomas Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2014, H.R. 157, H.R. 158, H.R. 2347, and H.R. 998, the bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

INDIANA DUNES NATIONAL LAKESHORE ACCESS AND ENHANCEMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1216) to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1216

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 "Indiana Dunes National Lakeshore Access and Enhancement Act."

SEC. 2. BOUNDARIES.

The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "October 1986, and numbered 626-80,033-B" and inserting in lieu thereof "March 1991, and numbered 80,039".

SEC. 3. CRESCENT DUNE.

Section 12 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-12), is amended to read as follows:

"SEC. 12. The Secretary is authorized to acquire the area on the map referred to in the first section of this Act as area III-B.".

SEC. 4. STUDIES AND PLANS.

Section 2 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-1), is amended by adding the following new subsection at the end thereof:

"(c)(1) Within 2 years following the date of enactment of this section, the Secretary shall complete a study of the Deep River Corridor. The area to be studied shall include (A) the segment from the abandoned Chesapeake and Ohio Railroad right-of-way south of the existing Deep River County Park to the confluence of Deep River, (B) that portion of the Little Calumet River from Lake Michigan west to Martin Luther King Drive in Gary, Indiana, and (C) the Lake George Segment of the Deep River Corridor, including an area known as the Hobart Prairie Grove on the northwest side of Lake George. The study shall include an inventory of the area's natural, cultural and recreational values and features; recommendations for the provisions of public access for the purposes of fishing, canoeing, hiking and other public activities; and recommendations regarding the State, local, or Federal agencies or jurisdictions recommended to administer these lands.

"(2) The Secretary shall submit the results of the studies prepared under this subsection to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.".

SEC. 5. COOPERATIVE AGREEMENT.

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding the following new section after section 25:

"SEC. 26. COOPERATIVE AGREEMENT.

"In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.".

SEC. 6. GREENBELT.

Section 18 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-18), is amended—

(1) by inserting "(a)" after SEC. 18."; and

(2) by adding at the end the following:

"(b) The Secretary shall enter into a memorandum of agreement with Northern Indiana Public Service Company (hereafter in this section referred to as NIPSCO) which shall provide for the following with respect to the area referred to as Unit II-A on the map referenced in the first section of this Act:

"(1) NIPSCO will provide the National Park Service with access through the Greenbelt and across the dike for purposes of a public hiking trail.

"(2) The National Park Service shall continue to have rights of assessment, resource management, and interpretation of the Greenbelt area.

"(3) NIPSCO will continue to preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for projects involving pollution mitigation or construction on its adjacent facilities, it will continue to restore the utilized area to its natural state.

"(4) NIPSCO will notify the National Park Service, the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate if NIPSCO proposes a different use for this property. No changes in the use of the property will take place for three years following such notification.".

SEC. 7. IMPROVED PROPERTY; RETENTION OF RIGHTS.

(a) ADDITIONAL AREAS.—The table in section 4 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-3), is amended to read as follows:

"Property Within Boundaries of Map	Construction Began Before
Dated March 1990, #80,038A.	March 1, 1991
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965.".

(b) RETENTION OF RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5) is amended—

(1) in paragraph (2)(B), by striking "subparagraph (A)" and inserting "subparagraph (A)(ii)"; and

(2) by adding at the end the following:

"(3)(A) In the case of improved property included within the boundaries of the lakeshore after March 1, 1991, which was not included within such boundaries before that date, any individual who is an owner of record of such property as of that date may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to exceed March 1, 2020, or

"(ii) A term ending at the death of such owner or of the owner's spouse, whichever occurs last.

The owner or owners shall elect the term to be reserved.

"(B) The provisions of subparagraph (A)(ii) shall apply only to improved property owned by an individual who (i) was an owner of record of the property as of March 1, 1991, (ii) had attained the age of majority as of that date, and (iii) makes a bona fide written offer not later than July 1, 1994, to sell such property to the Secretary.".

(c) CLERICAL AMENDMENT.—Section 5(a)(1) of such Act is amended by striking the period after "626-91014" and inserting a comma.

SEC. 8. VISITOR CENTER.

In order to commemorate the vision, dedication, and work of Dorothy Buell in saving the Indiana Dunes, the National Park Service visitor center at the Indiana Dunes National Lakeshore is hereby designated as the "Dorothy Buell Memorial Visitor Center".

SEC. 9. UNIT VII-D

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding the following new section after section 26:

"SEC. 27. UNIT I-M AND VII-D.

"(a) UNIT I-M.—Before acquiring lands or interests in lands in Unit I-M (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to State Road 49 and reconstruction and relocation of the interchange with State Road 49 and U.S. 20 so that the acquisition by the Secretary of lands or interests in lands in Unit I-M will not interfere with planned improvements to such interchange and State Road 49 in the area.

"(b) UNIT VII-D.—Before acquiring lands or interests in lands in Unit VII-D (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to Old Hobart Road and reconstruction and relocation of the intersection of Old Hobart Road and State Road 51 so that the acquisition by the Secretary of lands or interests in lands in Unit VII-D will not interfere with planned improvements to such interchange and Old Hobart Road in the area.".

SEC. 10. ROAD RIGHTS-OF-WAY.

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding at the end the following new section:

"SEC. 25. (a) Within 180 days after the date of enactment of this section, the Secretary

shall prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying road rights-of-way within the boundaries of the lakeshore that have been abandoned and could be relinquished to the National Park Service, as well as any actions taken to date to effectuate the relinquishment of such rights-of-way and a summary of any impediments there may be to each relinquishment. The Secretary shall take such action as he deems necessary to notify Federal, State, and local transportation authorities of road rights-of-way so identified.

"(b) The Secretary is authorized to reimburse the appropriate political subdivision for reasonable administrative costs associated with vacating each road right-of-way within the boundaries of the lakeshore.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-9), is amended—

(1) by inserting "(a)" after "SEC. 9.";

(2) by striking so much of the first sentence as precedes the proviso and inserting "There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in lands and for development:"; and

(3) by striking the last sentence and inserting:

"(b) Except as otherwise provided in subsection (a), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1216, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

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

Mr. Speaker, H.R. 1216, introduced by Representative PETER VISCLOSKY, is a bill to expand the boundaries of Indiana Dunes National Lakeshore.

First proposed as a national park 75 years ago, Indiana Dunes National Lakeshore was authorized by Congress in 1966 and established in 1972. The lakeshore contains approximately 12,800 acres and includes 15 miles of shoreline along Lake Michigan. Extensive sand beaches, dunes, marshes, woodlands, and prairie vegetation are found in the National Lakeshore. This unique national area is located just 35 miles east of Chicago in the middle of one of our Nation's most populated and industrialized areas. Because of the park's close proximity to major population centers, the lakeshore is visited extensively, with nearly 2 million people visiting the park last year.

H.R. 1216 would add 10 parcels totaling 1,034 acres to the existing Indiana Dunes National Lakeshore in order to enhance park resources, improve access and promote efficient management while minimizing potential conflicts with adjacent landowners. It would also authorize several cooperative agreements and a study on lands related to the National Lakeshore. It is a scaled back version of legislation which passed the House of Representatives last year.

The Subcommittee on National Parks and Public Lands held a hearing on H.R. 1216 and on a related measure in late May. At this hearing, the subcommittee received extensive testimony on present and past management and resource protection issues associated with Indiana Dunes National Lakeshore. At the hearing and subcommittee markup, concerns were raised about the need for protection of the Salt Creek corridor, a stream which flows into the lakeshore. Although H.R. 1216 does not contain provisions relating to the Salt Creek corridor, the committee report does state the importance of the corridor to the dunes ecosystem and the expectation that the stream can and should be protected by local efforts.

During consideration of the bill, the Interior Committee adopted an amendment which makes several technical changes to the bill. These changes were developed in consultation with the author of the bill and the administration and reflect changes sought by the administration.

H.R. 1216 is a meritorious bill which represents what every measure ever enacted relating to Indiana Dunes has represented: Compromise. Undoubtedly this bill contains too much for some and too little for others. On the whole, it is a balanced bill which adds some significant parcels to the lakeshore while being mindful of needs and concerns of landowners of the area. I urge the passage of the bill as amended.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 1216, a bill to expand Indiana Dunes National Lakeshore along the southern shore of Lake Michigan. I know that the gentleman from Indiana has worked long and hard on this measure and attempted to bring a responsible measure to the floor, but the measure we have before us today is not one which deserves the support of this body.

Indiana Dunes National Lakeshore was one of the first urban park areas designated as a unit of the National Park System. Overall this is a good concept and one which I support. A major problem at this park is the unplanned park expansion which has resulted in a very disjointed and difficult to manage park area. Twenty-five years ago, Congress passed a measure to ensure that persons from the northern Indiana area would have public access to the beach and that the shoreline would be preserved. Originally, the American public was told that Indiana Dunes National Lakeshore would be an 8,000-acre park consisting of lands along the Lake Michigan shoreline which would cost about $28 million.

Due to the continual pressure of local environmental groups, the park has grown into a 13,000-acre park and cost the taxpayer over $70 million. Along the way, over 700 private homes have been taken. The park now consist of isolated tracts of land as far as 10 miles from the lakeshore.

As can be expected, this continual threat of park expansion, evidenced by the introduction of Indiana Dunes expansion bills in 7 of the last 10 Congresses, has deeply divided local persons into fierce park protagonists and antagonists. The bill before us only exacerbates that situation and continues the controversy. The measure contains many tracts of land owned by the environmental groups who are the main supporters of this bill. We heard testimony at our hearing how these groups intend to recycle their profits from Federal acquisition of their lands to acquire other lands for future addition to the park. In one case, one of these groups acquired a tract for about $2,000 which they later sold to the Federal Government for over $100,000.

If the bill before us really lived up to its title of providing for increased access to the lakeshore, it would deserve support from Members of this body. Beach access is a major problem which needs to be addressed by the NPS [National Park System]. However, only 2 of the 11 tracts in this bill are related to beach access. The rest are isolated tracts which are unrelated to the primary purposes for which the area was established, have limited resource values or little or no visitor use potential.

I would just like to illustrate my concerns by describing one of the more costly and unnecessary acquisitions proposed in this bill. The Inland Manor tract consists of about 95 relatively low cost housing units which are proposed for acquisition at a total cost of $4.5 million. This area has no known resource value, no visitor development potential, and is strongly opposed by the administration. Proponents of this provision state that these houses should be acquired because they will be an island of development within the park and that their existing septic systems are polluting park resources.

However, this park, like all other NPS urban parks, already has a number of islands of development, includ-

ing everything from housing areas to steel mills. I don't believe we should purchase these steel mills just because they are impacting the park.

It is time to set aside the piecemeal approach which has characterized expansion proposals for Indiana Dunes. We need a comprehensive and final solution to boundary and management problems faced by this park. This bill is destined to lead to future legislative proposals for expansion at Indiana Dunes. Congressional micromanagement will not be successful in resolution of these difficult boundary issues, Congress must instead depend on locally developed solutions.

Mr. Speaker, because this bill will result in millions of dollars of unnecessary park acquisitions for an area which is clearly unable to manage all the lands and visitors it has today, I urge my colleagues to oppose this bill.

□ 1240

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana, Mr. PETER VISCLOSKY, a gentleman who has worked very hard on this matter for the last 4 years.

Mr. VISCLOSKY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I must take this opportunity to thank Chairman MILLER, Subcommittee Chairman VENTO and the other members of the Committee on Interior for their assistance with H.R. 1216. Many of the issues addressed in the legislation have not been without controversy and, as a result, have occupied much of their time over the past several years. I also extend my gratitude to both Richard Healy and Sandy Scott of the Subcommittee on National Parks and Public Lands staff for their invaluable assistance and advice, as well as Diane Newberg of my staff.

H.R. 1216, the Indiana Dunes National Lakeshore Access and Enhancement Act, will recapture over 1,030 acres of Indiana's dunelands for the people of the United States of America. The legislation, much smaller in scope than a similar bill passed by the House of Representatives in the last Congress, strikes a delicate balance between differing local interests and the needs of the National Park Service and the American public.

I began to formulate this legislation in December 1988 due to my concern about the growing demands placed on the Indiana Dunes National Lakeshore. Park visitorship grew from 264,000 in 1977 to nearly 1.9 million in 1990. The National Park Service reports that, to date, 1991 visitation figures suggest that more than 2 million people will come to enjoy the national lakeshore this year. All signs indicate that this growth trend will not subside. As visitor demand grows, internal and external challenges on the park also grow—these challenges must be met. The Indiana Dunes National Lakeshore Access and Enhancement Act addresses many of these challenges.

Throughout the process of drafting this bill, I have been in constant contact with community leaders, concerned individuals and property owners as well as local environmental groups. I am pleased that most of the controversy surrounding the legislation has dissipated as a result of compromise on the part of all involved. I believe that we bring to the floor today, the best possible bill for the Indiana Dunes National Lakeshore.

In a State where only 3 percent of all land is in public ownership, very little land is available for outdoor recreation. We must take great care of public lands we have. The Indiana Dunes National Lakeshore Access and Enhancement Act does just that. It offers visitors new opportunities and provides the park with additional room to maneuver. Now is the time to accept the challenges faced by this national park. For as the national lakeshore has improved the lives of park visitors and local residents, so too must we continue to improve the lakeshore.

I would like to take this opportunity to briefly describe the various parcels and provisions of the bill and state my reasoning behind their inclusion.

The lakeview facility parking addition: This 1 acre parcel along the northeast side of Broadway will allow for a small scale parking lot to alleviate pressure at the park's lakeview facility. The Federal Government invested over $500,000 in this beautiful facility on Lake Michigan's lakefront. The facility is underutilized, however, because of inadequate parking. It is a shame that this asset is unavailable to the public. The 1 acre addition would allow for 40 new spaces to accommodate visitors—without overloading the facility.

As an aside, I do not support inclusion of this parcel for use as a sewage treatment plant, nor do I support the construction of a septic system on the land. I have included it in my bill with the understanding that the National Park Service has no intention of putting either on the site.

The old University of Chicago property: Strategically located, these 13 acres will be advantageous to the lakeshore for purposes of both preservation and increasing options for connecting the east and west units of the park. In his testimony before the Subcommittee on National Parks and Public Lands on May 28, 1991, James Ridenour, Director of the National Park Service, described this parcel as "a critical link in the trail route now being planned * * * to facilitate the connection of the east and west units of the National Lakeshore."

The State Road 49 green corridor: This stretch of roadway is often referred to as the most frequently used entrance and exist to the State and national parks. In an effort to maintain the attractive and natural status of this entrance, a 33-acre corridor surrounding the area is designated in the legislation. In recent years, the corridor has been threatened by development. Development proposals have ranged from a hotel to a "mini-Mayo" medical clinic with lodging for patient's families. While current zoning boards have not supported these proposals, I am extremely concerned that future boards may not be able to resist the pressures to develop the corridor.

Language regarding this plat allows the State to enhance and upgrade the antiquated interchange of State Road 49 and U.S. 20.

The Cohen property: This parcel abuts the entrance to the national lakeshore's heavily visited west beach. The lands, which are currently vacant, are slated for multifamily residential development. Acquisition would serve both to enhance road and trail access to west beach as well as protect the values of the existing lakeshore setting.

Inland Manor/Woodlake Dune Savannah: The western portion of this parcel contains a residential community of approximately 90 homes—several of which are abandoned. The area's high water table has contributed to sanitation problems associated with poor drainage. The eastern portion of the unit, known as the Woodlake Dunes, is a phenomenal natural area containing a mixture of wooded stabilized dunes, open savannah and extensive wetlands of considerable resource value. The Woodlake Dune Savannah is of significant natural value and would constitute a worthy addition to the lakeshore.

The Fadell Dune: This elongated parcel on the north side of U.S. Highway 20 contains five species of special vegetation, three of which are listed by the State of Indiana as rare and two of which are considered threatened. While the dune has been degraded by illegal use of three wheel all terrain vehicles, it is expected to regenerate over a short time. Furthermore, the dune has been zoned for sandmining, which is planned if it is not procured by the national lakeshore.

Located along the general management plan's preferred west unit access route, the flat eastern end of the Fadell parcel could easily be used for satellite parking for west beach—where parking is inadequate during the summer months.

Gaylord Butterfly Prairie: Providing a habitat unlike any other in either the national lakeshore or the Indiana State park system, this 173-acre dry sand prairie is home to several unusual plants and rare butterflies. The little

blue stem and Indiana grasses, blazing stars, and sweet fern provide food for several butterflies found at no other location in Indiana. While the Gaylord Butterfly parcel is proposed for inclusion in the national lakeshore, in the future, the parcel will be transferred to Indiana's Department of Natural Resources.

The Calumet Prairie: 140 acres of this 173 acre plat are currently managed by the Indiana Department of Natural Resources. It contains a high quality example of wet sand prairie, unlike any found within the lakeshore's current boundaries. The prairie provides a habitat for several rare plant and animal species. In addition, the significant stretch of the Little Calumet riverbank within the parcel will be a great asset to the national lakeshore. This addition will provide many recreational opportunities, including fishing and canoeing.

The Hobart Prairie Grove: This is a high quality natural area adjacent to Lake George along Deep River. It is composed of a tallgrass savannah—an open hickory woodland with many prairie plants—a habitat that is nearly extinct today. The parcel is home to many rare plant species and extensive wetlands.

The legislation also contains several studies and cooperative agreements as well as directives for the treatment of homeowners affected by the bill. I would like to take this opportunity to explain the remaining provisions of the legislation.

Homeowner provisions: Section VII of the legislation provides two options for those homeowners whose lands are placed within the lakeshore after February 1, 1991. The first option would permit the homeowner to enter into a 29-year leaseback agreement with the National Park Service to retain noncommercial use of their home through the year 2020.

The second option would allow the homeowner to enter into a "life estate" agreement with the National Park Service to retain the noncommercial use of their home until both the primary owner and his or her spouse die.

Crescent Dune: Section III of the bill will remove all restrictions in the existing law which prevent the National Park Service from acquiring this 33-acre parcel. Crescent Dune is one of the few remaining areas of undeveloped shoreline. It is currently slated for development of an exclusive 200 unit townhouse development. To lose this rare parcel, which is already located within the authorized boundary of the national lakeshore, to development would be a tragedy.

Studies: Section IV of the legislation directs the National Park Service to perform two studies. The first study, of the Deep River corridor, would focus on the river corridor's recreational and natural values. The study will provide specific recommendations for improving public access, fishing, canoeing, and hiking within the corridor. It is to be completed within 2 years and will recommend the most appropriate governmental agency or agencies to administer these areas—with an emphasis on local government. The study does not authorize any acquisition by the Federal Government.

The second study, found in section X, mandates that the national lakeshore inventory abandoned roadways located within the park's boundaries. These roadways have been causing problems for some time. In terms of preservation, the unused roads spoil the natural characteristics of the landscape. However, they also pose management problems. Young people have been found drinking on the secluded roadways which are difficult to monitor. Illegal dumping has also been a problem. This provision would authorize the Park Service to study the problems associated with abandoned roads and recommended solutions.

Under existing law, the Federal Government cannot purchase publicly owned roadways. This deters local governments from reverting the right-of-way to the park. As written, section X would permit the National Park Service to reimburse the affected local government for the cost of transferring the rights-of-way of abandoned roads located within the boundaries of the national lakeshore.

Cooperative agreement—Gary's Marquette Park: Section V of H.R. 1216 would permit the Park Service and the city of Gary to enter into a cooperative agreement to improve Gary's Marquette Park. The proposed agreement would allow the Park Service to provide Gary with technical assistance for park improvements. The national lakeshore will benefit from the agreement because Marquette Park is designed to handle much larger crowds than the national lakeshore's nearby west beach. West beach often suffers from over crowding during the summer months. Through the proposed agreement, Gary's lakefront usage can be better coordinated with the national lakeshore.

NIPSCO greenbelt: Section VI of the legislation would require the Northern Indiana Public Service Co. [NIPSCO] to maintain the natural state of the existing greenbelt which serves as a buffer zone between the park and the powerplant. This provision would call upon NIPSCO to warn Congress 3 years prior to changing any characteristics of the property. Furthermore, NISPCO would continue to allow the National Park Service to manage the natural resources of the land. Trails within the greenbelt that are now open to visitors are to remain open.,

Dorothy Buell Visitor Center: In commemoration and celebration of Dorothy Buell, founder and first president of the Save the Dunes Council, section VIII of H.R. 1216 would rename the lakeshore's visitor center in her honor. Ms. Buell dedicated her life to preserving the natural beauty of Indiana's lakeshore. She worked diligently for years to ensure that the Indiana dunes were protected and played a crucial role in the national lakeshore's establishment in 1966.

Roadway improvements: Section IX permits the Indiana Department of Transportation to make roadway improvements affecting the Calumet Prairie and the 49 corridor.

Authorization of appropriations: The legislation would authorize "such sums as are necessary" to carry out its directives. Annual funding would still be subject to strict scrutiny by relevant Appropriations Committees.

In conclusion, I reiterate the need for increased public access to the Indiana Dunes National Lakeshore. Approximately 8 million people live within easy commuting distance of the park. The national lakeshore provides them, and many national visitors, with greatly needed beaches, picnic areas, trails for biking and hiking, seasonal festivals and educational facilities.

The Indiana Dunes National Lakeshore Access and Enhancement Act represents the best policy for this national park. I urge my colleagues to support H.R. 1216. For, as the national lakeshore has improved the lives of its many visitors, so too must we continue to improve the national lakeshore.

H.R. 1216 represents the best policy for the national park, and I would urge its adoption.

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

Mr. Speaker, this is one of the most extensively used national park units in the system. That, as I said, is an important consideration.

It was late in development, there was a 75-year history in which it was proposed for development. So, clearly, it is not everything that everyone would want to make it and it is really, I think, the subject of a great deal of compromise.

But nevertheless, it does and has been recognized as being nationally significant and having the various characteristics that are associated with national lakeshores.

It is a very important recreational resource, not just for the people of northern Indiana but for people in the Midwest, especially in the Chicago region. In fact, the leading advocates of this at various times have been the Senators. Senator PAUL DOUGLAS from Illinois is one, so this is part of his work. I do not know who else should get credit for it, but I do know that I have heard his name associated with it so often that his name springs to mind whenever we look at it.

Insofar as the additions to this park in this measure before us, I have re-

viewed those recommendations from the administration. Frankly, out of the 11 recommendations for additions here, they support 8 of them. They sort of support the ninth, and then there are two that they do not favor. One, of course, is the parking area to provide access. They did not favor that, and inasmuch as the gentleman from Wyoming I note stated his concern about the access question, a very important question; they did not support the type of solution proposed here, as a solution.

The other one the gentleman mentioned, of course, is the Inland Manor, which has some 90 homes. They do support the Woodland Dune Savannah. With that added, the 90 homes become completely surrounded by National Park Service land.

Not only that, but these 90 homes are a willing-seller/willing-buyer basis. The majority of the residents in that area strongly support this because they are in really what is the marsh or water area. The homes are older; they have been there for a long time.

So I would be happy to point out on the map to the gentleman how it is completely surrounded by that.

Most of these homes, all of them are contiguous to the national seashore. There are several large areas which are not. The administration was strongly supportive because based on professional study and judgment of the Park Service, these were key areas that add to the enhancement and enjoyment of the public which uses this particular resource.

So I want the gentleman to understand that the chairman, the members of the committee—and I know the gentleman works very hard on the committee—but there may be just a few points here I would like to emphasize on why we did what we did. It did not take, and I do not take these issues lightly, as the gentleman must be aware now from his service with me on the subcommittee. I would just say the gentleman's summary comment—and I would be happy to the gentleman because I know that he has yielded back his time—was to the effect that with the additional units, of course, comes the sort of stretching of resources beyond where they should be stretched. In fact, I think the director of the Park Service has taken to referring to this as the "thinning of the blood" of the Park Service.

While I would just say to the gentleman from Wyoming and to the director of the Park Service and others that might get that notion that if we had taken that advice initially when it was offered in 1916, we would have approximately some 70 units in the National Park System today, we would have about 70 units. The gentleman knows we have in excess of 350 to 360 units by the time we get done with this congressional year and perhaps many more beyond that.

That is simply, I think, a recognition to some extent of the expanded mission of the Park Service in terms of its preservation of cultural resources and some of the resources that were demanded by the Department of Defense, monuments, memorials, and many additions to the new parks, some of which I have had a hand in working on.

The national lakeshore concept was not even in place in 1916.

So I would just suggest that as we grow as a population and look to the reduced numbers of recreational natural resources preservation and conservation that takes place in our Nation, it becomes fitting, I think, to address the question of expansion of the Park System because there is de facto areas that exist in the great State of Wyoming that the gentleman hails from and in my great State of Minnesota that are, frankly, under siege, they are disappearing. I think we have to look at which properly can be cared for and placed in the mission of the National Park Service because of the natural qualities that justify their preservation for recreational resources, cultural resources, that the Park Service is so eminently and, I think, ideally suited to execute.

The thining of the blood, the lack of too many resources, you know, anemia, the lack of sufficient blood can come from a lot of different factors. It can come from a lack of food, that is the dollars that we put in the system.

I think during the decades of the seventies and eighties we have denied the proper care, the proper resources to the National Park Service to carry out their mission.

□ 1250

It can come from a lack of direction in terms of how we care for the professionals in the Park Service, given the authority to do their job.

All I am pointing out to the gentleman is we certainly need to be mindful, was we add units, to also add resources and let the professionals do the job that we expect them to carry out written into law.

But I just think that to begin to terminate, to say that the Park System is filled out, I know that the administration, while they kindly give us these recommendations against or for things, and in this case clearly they are in favor of this particular measure on a broad basis, they are in favor of this measure, as I have indicated, not perfectly.

I mean, we do think in Congress that from time to time that we have something to add to this system, as I know my colleague, the gentleman from Indiana [Mr. VISCLOSKY] has worked mightly hard on this bill.

So, I think we have a responsibility to show some direction in terms of policy, but I would just point out further that the administration, even in all its concerns about expanding the system and the effect of that, has any number of proposals before the subcommittee in which they are asking for expansion, asking for resources, asking for dollars, and that apparently is what we will do. We will do it when we think it is appropriate.

For instance, they have a recommendation for the Forest Service to add, and we passed it in this session; I hope it passed the Senate, a thousand miles of wild and scenic river in the upper Peninsula of Michigan. I think that was a very significant action, and I am proud that the Forest Service and administration supported that type of designation, although in a different agency. They have any number of proposals to add studies and other work, and we are going to act on those things on professional basis and a nonpartisan basis.

So, I would hope that we would look at that. We can always look to where we may have differences where something is not in our area or district, and of course we fight often about differences in policy. But I would hope we would recognize and try to do the best we can, but not, I think, to terminate. I do not think the answer is putting the Park Service out of business because of these particular issues.

So, I hope that we would respond.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO].

Mr. Speaker, certainly I recognize, and I think most everyone else in this Congress recognizes, the work that the chairman of the subcommittee has done with regard to parks and scenic rivers, and I congratulate him. No one is a more effective advocate for that point of view than the chairman, and I appreciate that, and most everyone would agree with his observations, I think, and his theology with respect to these kinds of issues, the expansion of opportunities for recreation.

However, Mr. Speaker, there are some facts of life. One of them is the administration. The Park Service has indicated they are nearly $400 million short this year in operating funds.

I happen to live next to a park, and I do not know that my park is not the only park in the world, but it is the Yellowstone Park, and I can tell the gentleman from Minnesota [Mr. VENTO] that it is desparately in need of some funds for things as basic as highways, and how one is going to get there.

I spoke with someone yesterday in Wyoming who had recently been to Poland, and he thought the Polish roads were better than those in Yellowstone Park. Well, that is a reality of life.

The theology of doing more and more parks is a great one, and I appreciate that. But there is indeed some realism involved here, and one of them is dollars, and one of them is that it does take upkeep to keep these parks going, particularly the ones visited heavily.

The fact of the matter is that the Dunes Park is a disjointed venture. It is one that, when one looks at the map, they find pieces that are way out that have nothing to do with access to the lake.

So, those are the kinds of tough choices I think this Congress needs to make, and it is clear that we all urge to have projects in our own area, and I understand that, and that is how advocacy is part of this business. But we have to have also a certain amount of judgment in where we spend the dough we have, and I am suggesting to the gentleman from Minnesota [Mr. VENTO] that there are places that perhaps could be developed and be more effective then the one that is here.

But let me tell the gentleman from Minnesota [Mr. VENTO] that I appreciate very much what he is saying. I certainly agree with it in general, and I appreciate his efforts. I also disagree with him on this particular issue.

Mr. VENTO. Mr. Speaker, the gentleman from Wyoming [Mr. THOMAS] is a key member of the committee, and he obviously provides a lot of good, positive, critical thinking in terms of this.

I just want to point out that, as the gentleman knows, Wyoming, Montana, and the other Western States of Yellowstone; obviously it is a great resource for all Americans, and it was really the first park that was established even before the park system was set up, and I appreciate what he is saying. We want to work with him and others to make sure the Park Service has adequate resources so it can address roads. I know road construction is important, but this is to the people of northern Indiana in the Midwest, this is one of their parks. This is their Yellowstone. This is the Yellowstone that the people from Chicago maybe have a chance to get over there and get introduced to that great concept and recreate.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. I was just going to say that a week ago I happened to be—well, I did not happen to be there. I went specifically for the 100th birthday of the Forest Service, which, of course, is a similar kind of thing, and it was a wonderful experience, and I say to the gentleman from Minnesota [Mr. VENTO] that we have all gained a great deal from the thoughtfulness that took place. Wyoming had the first park, Wyoming also had the first forest reserve, Wyoming has the first monument, and so we are particular—we also have 50 percent of our State in Federal ownership, as the gentleman knows.

So, we do have to find some ways in which, I think, to transfer some of these resources so that they will be most useful to the most people and the most effective use of our bucks, so I thank the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman from Wyoming [Mr. THOMAS] for his insight and for attending those important events in Wyoming.

Wyoming got in very early in the process. Indiana continues to try to improve its resources and its park, and I commend the gentleman from Indiana [Mr. VISCLOSKY] for doing so, and the Park Service for by and large supporting this measure before us, and I would ask my colleagues to do the same.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE REPUBLIC OF HUNGARY CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-114)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Hungary Concerning Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 10, 1991, by representatives of the United States of America and the Republic of Hungary. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991.*

PROPOSED AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-113)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement Between the Government of the United States of America and the Government of the Czech and Slovak Federal Republic on Cooperation in Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed amendment, signed in Vienna, Austria, on June 13, 1991, by representatives of the United States of America and the Czech and Slovak Federal Republic. I

also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

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Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991.*

BILL TO DIRECT MILITARY ASSISTANCE IN ENFORCEMENT AGAINST ILLEGAL HIGH SEAS DRIFT NETTING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. UNSOELD] is recognized for 5 minutes.

Mrs. UNSOELD. Mr. Speaker, we have just received astounding evidence of the lengths to which drift-net pirates will go to pilfer United States and Soviet fish. Some 50 Taiwanese drift-net vessels have sailed for forbidden areas of the North Pacific, lied about their whereabouts, and snared enough salmon and steelhead to reap a $750,000 profit per boat trip, about $37.5 million in profit for the fleet.

□ 1300

Mr. Speaker, I am herewith attaching a translation from news stories:

For the fishermen who have watched a glut of salmon drastically drive down the world market price, let's hope so, but the fact is that the Taiwanese government seems to have no control over a group of fishermen that is making a mockery out of our current enforcement efforts! And Taiwanese officials don't deny it! The existence of these pirates is why we need more observers—not fewer, as our own negotiations requested.

For more than a year President Bush has had the authority to place sanctions on Taiwan. For more than a year, the administration has been sitting on its hands, watching the destruction of our marine environment and our economic base continue unabated. We have no excuse for not sanctioning Taiwan now. We have no excuse for not giving our Navy and our military the chance to assist the one—yes, one—high-endurance Coast Guard cutter that is responsible for enforcement of the vast North Pacific.

While our fishermen watch a glut of salmon drive down prices and while Northwest lawmakers fight the administration tooth and nail to get funding for hatcheries, Taiwanese drift-net pirates make a mockery out of our enforcement efforts, their own government, and the United States negotiators who actually suggested we could get by with fewer observers this year than we had a year ago.

I am introducing a bill to give our Coast Guard some military assistance in combatting these drift-net pirates, and I am hoping this administration will realize the time for sanctions, action, and a ban on this destructive fishing practice is now.

Mr. Speaker, getting our military involved in drift-net enforcement is not some luxury; it is a necessity.

TRANSLATED SUMMARIES OF TAIWANESE NEWSPAPER STORIES DETAILING DRIFT-NET PIRACY ON THE HIGH SEAS (OBTAINED BY THE AMERICAN INSTITUTE OF TAIWAN)

(United Daily News, Kaohsiung edition, by Tsao Min-Chi, "Fifty Taiwan Driftnet Fishing Boats Operate in Off-Limits Areas to Make More Money"—July 2, 1991.)

Local fisheries businessmen pointed out that some fifty Taiwan driftnet fishing vessels have sailed for the North Pacific and operated in areas where fishing is forbidden in order to make more money this year. Some fishing boats have returned to Taiwan with salmon and trout on board. Fresh salmon can even be bought in the markets of Kaohsiung.

Reportedly, in view of the global ban on driftnetting in July 1992, fishermen belonging to the same group plan to make a great deal of money first and have ordered their driftnet fishing boats to catch salmon and trout in the North Pacific off-limits areas. These 50 fishing boats, the highest number ever, applied to operate in the Indian Ocean and have lied about their operating locations since they sailed for the North Pacific in an attempt to evade the control and examination of the fisheries administration.

Because the U.S. Coast Guard would usually appear east of the fishing-forbidden areas, the Taiwan fishing boats tried to keep themselves operating in the west side near Soviet waters. The Soviet Navy reportedly has taken the drastic actions (sic) of detaining these fishing boats. It has been confirmed that three local fishing boats were detained and one of them has been released.

Local fishermen said a fishing vessel can earn a net value of NTD20 million (approximately $750,000) from one trip catching salmon and trout. No wonder local fishermen take such risks.

Most of the salmon caught by these fishing boats was sold to canneries in Thailand, and some of it was taken back and sold in Taiwan. Reportedly, several days ago, some fishing boats unloaded salmon caught in the North Pacific at Kaohsiung's Chin Cheng Fishing Harbor, but the government did not know about it.

(United Daily News, Kaohsiung edition, July 2.)

Kaohsiung Fisheries Administration Director Huang Sheng-wei said yesterday that it is unfortunate that some local fishing boats have been illegally catching salmon and trout with driftnets. It is a shame to hear that some local fishing boats even flew mainland (Peoples Republic of China) flags when catching salmon and trout, Huang added.

According to Huang, the government has repeatedly demanded that the fishermen abide by fisheries regulation and not illegally catch salmon and trout. The three major countries which use driftnets, Taiwan, Korea and Japan, have also tried to collect information and improve their driftnets in order to prove that such devices are not walls of death. But the illegal acts of some fishermen have totally ruined the efforts of the three countries' scientists.

Huang noted that the government originally hoped we could still retain the right to catch squid with driftnets next year. But the illegal conduct of our fishing boats have (sic) made this impossible. Owners of the offending driftnet vessels ought to be held responsible for this, Huang said.

AUTOMOBILE INDUSTRY RECOVERY IS KEY TO ECONOMIC REBOUND

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the auto industry plays an important role in our economy. As of 1987, nearly 12.7 million American workers were employed in motor vehicle and related industries. This figure represents nearly 15 percent of total U.S. employment. A significant sector, with significant influence on our economy.

Before 1987, personal interest on car loans was fully deductible on individual income taxes. The Tax Reform Act of 1986 phased out the deductibility of consumer interest on car loans and removed an incentive for consumers to take out a loan to finance a car purchase. Although it was designed to accomplish certain savings rate objectives, a side effect has been the subsequent collapse of the automobile industry.

Cars have become more expensive for the consumer. Automobile companies have experienced far fewer sales. From 1982 to 1986, automobile sales grew 41.8 percent. From 1987 to 1990 automobile sales grew only 9.2 percent.

Fewer sales have hurt auto company profits and decreased tax revenues for the Federal Government. From 1984 to 1986 automobile manufacturers made an average of $7.1 billion in taxable income. From 1987 to 1989, directly after the Tax Reform Act, their taxable income had dropped to an average of $1.4 billion. In 1991, first quarter losses for the big three of General Motors, Ford, and Chrysler were $2.75 billion.

Although actual tax figures for automobile companies are closely guarded secrets, a simple illustration using approximate figures shows how the Government has lost money after the tax change in 1986. General Motors, for instance, had domestic sales of $5.2 billion in 1985. With the Federal Government's corporate tax rate of 46 percent, such sales result

in $2.4 billion in tax revenue for the Government. In 1987, the year after the tax change, GM had domestic sales of $2.5 billion. Taxed at the 46-percent rate, such sales result in $1.2 billion in tax revenue for the Government, a decrease of $1.2 billion for the Government. Last year, GM lost some $6.5 billion in domestic sales. The Government is not expected to get much tax revenue from such a loss.

The trend is clear. After the change in consumer interest deductibility, auto sales dropped sharply and Government tax revenues showed a similar decline.

As we all know, the economy runs in cycles, and these cycles are consumer driven. If a consumer buys a car, a chain reaction begins that affects many individuals and corporations. The car dealer receives money to support his family, pay his taxes, maintain his dealership, purchases necessities, and pay his employees. His dealership, purchase necessities, and pay his employees. His employees have money to support their families, pay their taxes, purchase necessities and so on. A great deal of economic activity is generated from a single purchase. Along the way jobs are created and many people benefit.

By effectively reducing the ability of consumers to buy a car, this chain reaction has broken down, negatively impacting millions of Americans. Clearly we are now in a recession. In 1989, when consumer spending on new cars dropped by $100 billion, not only were the 12.7 million American workers in the motor vehicle industry affected, but so was the rest of the economy. Over 108,000 automobile workers lost their jobs in 1 week in March of this year. One thousand automobile dealerships closed in the past year. The effect is not only felt on the families of the workers, but on the local grocery store, convenience store, retail store, and so on. The community loses and the American standard of living drops.

Mr. Speaker, because of the importance of the automobile sector in our economy, the car industry must improve if our economy is to rebound. By restoring the consumer deductibility of personal interest on car loans, we will increase automobile purchases and start the chain reaction back in the proper direction.

The increased economic activity will increase Government revenues because of gains in consumer and corporate taxes from sales, profits, and property. As the automobile companies recover, they will rehire their laid off workers. Greater employment will increase Government revenues by decreasing Government expenditures to unemployment compensation recipients.

Therefore, today I am introducing a bill which will correct the entire situation. My bill will amend the Internal Revenue Code of 1986 to restore the deduction of personal interest on consumer car loans. It will provide the impetus necessary to get the economy moving again. Mr. Speaker, with this bill, the economy will improve.

LEGISLATION NEEDED TO REVERSE UNREASONABLE DRUG PRICE HIKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 30 minutes.

Mr. MONTGOMERY. Mr. Speaker, in October of 1990, Congress passed and the President signed into law the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. Section 4401 of that act, reimbursement for prescribed drugs, established as of January 1, 1991, a mechanism aimed at providing State Medicaid programs with the same discounts for prescription drugs as negotiated by other purchasers. This provision was an outgrowth of legislation proposed earlier in the session to control skyrocketing Medicaid pharmaceutical expenditures. The law requires that manufacturers either discount the drug to the Medicaid buyer by a stated percentage or be required to match the best price, that is, lowest price, on the market. The legislation was anticipated to save the Federal Government $3.4 billion over the next 5 years.

IMPACT ON VA

The effect of this law, however, has been harsh. Since the law did not anchor the best prices it hoped to transport to Medicaid, pharmaceutical manufacturers moved defensively to increase those prices. While Medicaid has not benefited to the extent intended, other Federal programs have been hurt. The Department of Veterans Affairs [VA] has taken the deepest hits. This is ironic and tragic since VA had been among the most successful and innovative in negotiating low costs with pharmaceutical manufacturers. The approximately $700 million VA spent on pharmaceuticals in fiscal year 1990 is indicative of its stature in the market as the largest single purchaser of certain pharmaceuticals. As such, VA traditionally has used the leverage of high volume buying and centralized negotiating to obtain the lowest or among the lowest prices in the marketplace.

VA uses several different avenues to procure and distribute pharmaceuticals to its medical centers. The first, the depot system, is primarily for high-use pharmaceuticals. When VA chooses products for depot purchase and distribution, it negotiates a price, guaranteeing a nationwide purchase volume, and the product is delivered to VA-owned and operated depot sites. From there, VA is responsibile for distribution to VA medical centers. The second, single award contracts, are contracts entered into by VA and a manufacturer, for the manufacturer to become VA's single supplier of an extensively used pharmaceutical product. In this way, VA, using the competitive bidding process, is able to obtain dramatically lowered prices for selected pharmaceutical products. A third avenue by which VA medical centers purchase pharmaceuticals is through the Federal supply schedule [FSS]. This is a published price list of all drugs available to VA medical centers from manufacturers, as negotiated by VA authorities. In addition to VA, the Department of Defense [DOD], Public Health Service, and Indian Health Service all have authority to purchase through FSS contracts and regularly do so, since the negotiated prices have been significantly lower than are available elsewhere. In addition to VA's purchases in excess of $300 million of its pharmaceutical products through the FSS contracts annually, sales of FSS pharmaceuticals to DOD total approximately $225 million annually. Last, for select drugs not available to them through any of the usual sources, VA medical centers are permitted to purchase items on the open market. As would be expected, the cost of purchasing low volumes on the open market is significantly higher than purchasing through one of VA's prenegotiated avenues.

Some of the VA-negotiated prices—those associated with their depot distribution system and with their single award contracts—are exempted from the best price formula to which Medicaid rebates are tied. However, VA-negotiated prices published on the Federal supply schedule, which represent nearly 50 percent of VA's annual pharmaceutical procurement volume, are subject to the best price formula and thus have been a target for industry price hikes.

Once OBRA was enacted, drug manufacturers imposed sweeping price increases on an array of FSS pharmaceuticals which, prior to OBRA, VA had procured at substantial discounts based on high volume. These price hikes to VA, DOD and other Federal entities, which amount to cost shifting, have resulted in sudden, unbudgeted increases in those Department's pharmaceutical costs. Despite a temporary grace period for VA in which some manufacturers voluntarily maintained last year's prices for the first quarter of 1991, the FSS contract pharmaceutical prices that VA, DOD, and other Federal agencies are reportedly now paying average an unprecedented 40 percent more this year than last. While inflation in drug prices has historically been high and could account for some 8 percent of these price increases, it is inescapable that the enactment of OBRA has been the primary catalyst to the shocking price increases VA is facing.

EFFORTS TO RESOLVE THE PROBLEM ADMINISTRATIVELY

Efforts to resolve the dilemma VA is facing have not borne fruit. By way of example, early this year, the Committee on Veterans' Affairs wrote to the Secretary of the Department of Health and Human Services asking that he exercise his authority to exclude FSS from the definitions of best price in writing the regulations for the new law. The Secretary responded, in essence, that under the Department's reading of the law, he lacked authority to do so. The committee also appealed to the Office of Management and Budget [OMB], predicting the sweeping price increases. In so writing, the committee assumed that surely OMB would not support, nor was it Congress' intent to attempt to achieve, Medicaid savings at the expense of VA, DOD, and other Federal agencies. OMB's response, 4 months later offered no solution.

NEED FOR LEGISLATION

OBRA 90 was clearly not intended to penalize VA for its success in the pharmaceutical marketplace. An unforeseen effect of OBRA, however, has been a dramatic increase in costs for pharmaceuticals to Federal agencies, primarily VA and DOD. It is apparent that industry is engaged in cost shifting in a deliberate attempt to maintain its profit margins. It is doing so at the expense of its Federal customers, and thus at the expense of the taxpayers. VA can convert some of its drug purchases from the FSS system to other avenues and avoid extraordinary price increases. But in

many cases, VA will have no alternative but to absorb the higher prices being passed along by pharmaceutical manufacturers. In light of the OBRA-stimulated FSS price hikes which VA has sustained to date and cannot escape, the Department has projected that it will incur unavoidable, significant cost increases.

How will VA absorb those increased costs? It is important to appreciate that the VA's appropriation for fiscal year 1991 could not conceivably have foreseen the impact of a law passed in October 1990. Further, the President's budget for fiscal year 1992 did not take OBRA into account and did not provide for any increase in drug costs beyond the 6.1 percent inflation factor. In the absence of a supplemental appropriation for fiscal year 1991, and appropriations substantially above the President's request for fiscal year 1992, VA will simply have to absorb those costs.

The House Veterans' Affairs Committee's March 1991 report to the Committee on the Budget detailed graphically the significance of imposing new costs onto the VA health care system. A decade-long pattern has seen VA hospitals absorb cost increases and new program obligations in the face of virtually straight-lined health care budgets. The result has been a decline in service to the veteran—in the form of ever-thinner staff to patient ratios, increased waiting times for needed treatment, delays or denials of care, and inability to replace needed medical equipment or hire needed clinicians. In that connection, we identified shortcomings in the President's fiscal year 1992 budget request. Despite an apparently meaningful increase, that budget—after adjusting for illusory OMB manufactured savings—would only have covered fixed costs, and left an already strained system with no relief. As we warned in March, however, that budget's failure to anticipate the impact of OBRA meant that veterans would suffer still further cuts in service by virtue of the drug price increases which industry had already signaled lay ahead. The appropriations process offers no assurance that Congress will add sufficient moneys to the amount requested by the President for VA medical care to offset these drug price hikes as well as other unfunded, but unavoidable costs.

Congress, in enacting OBRA, anticipated the possibility of such price increases, and specifically provided a mechanism to monitor price changes and warn it accordingly. Thus, the law calls on the Comptroller General to report annually by not later than May 1, on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, and others.

Apparently, the Comptroller General has not yet met the law's reporting requirement. At my request, members of Committee staff initiated a meeting with General Accounting Office [GAO] staff to ascertain what progress they were making. GAO has been looking into the subject. I was disturbed to learn, however, that despite growing and widespread evidence that VA had been experiencing substantial pharmaceutical price increases, GAO officials appear to be taking a studied show me attitude. The job may be too big for the staff GAO has assigned to it. But I am concerned that this staff seems too ready to dismiss the issue, because it can't find the smoking gun or because its methodology has obscured it.

VA has been conducting a cost impact analysis of its own, and has shared cost data with GAO. While the Department continues to enlarge its data collection and refine its analysis, it has become increasingly clear that pharmaceutical manufacturers are circumventing OBRA and hiking VA prices. VA and other Federal providers—and thus the taxpayer—have unquestionably been hit by dramatically higher costs for critically needed medications.

VA officials have advised us that the Department is creating a complete, automated data base for all FSS drugs. That data base will include pre- and post-OBRA prices, as well as drugs which are no longer available through a contract and which VA may therefore have to purchase on the open market. It is our understanding that VA has conducted a preliminary cost analysis based on the data it has already compiled. VA reportedly analyzed some 158 of the approximately 1,500 pharmaceutical inventory items routinely used by its pharmacies. Considering just this limited list, which represents only about 10 percent of the items VA uses routinely, VA's Chief Medical Director reportedly found that the cost impact from pre- to post-OBRA already exceeds $46 million. These cost increases—far more substantial than can be attributed to any reasonable inflation factor—have been experienced both in products purchased from FSS contract or open market sources, as well as in proprietary drug items available through VA depots. VA has yet to measure the total impact of manufacturer's effectively eliminating products from the Federal supply schedule since OBRA's enactment. On an item by item basis, those losses from the FSS have caused VA to sustain price increases ranging from 20 percent to 800 percent.

Whether or not the pharmaceutical industry's response to OBRA is as high as the $150 million figure which one VA official projected earlier this year, or higher, its impact has been felt, and will be felt with increasing force in the months ahead. One loses sight of the significance of these dollar figures in a system as large as the VA's. It is more telling ultimately to gauge that impact at the level of the individual facility and its patients. By way of example, our committee became aware this week of pharmacy budget shortfalls at one of VA's medical centers. Specifically, the director advised that the pharmacy budget will not be sufficient to meet the demands of our patients for the remainder of this fiscal year. Among the reasons cited was the response of pharmaceutical manufacturers to OBRA. The result? The hospital wrote to its patients to advise them that until the budget for medications becomes adequate it would no longer fill prescriptions for certain medications and diagnostic supplies. Right now the problem is most acute at hospitals which have limited inventory capacity. But it will become increasingly acute throughout the VA system.

SUMMARY OF THE BILL

It is apparent, therefore, that legislation is needed. We must reverse the unintended, but nonetheless pernicious effects of loopholes in OBRA. We must undo the effects of industry gaming and related efforts to circumvent that law. And we must establish a mechanism to restore the bargaining position VA had achieved and to reinstate a level playing field on which VA can negotiate appropriate discounts.

I am introducing a bill today which will achieve those goals. This legislation has several elements. Its major provisions would: Exclude all Federal prices from the calculations of best price, thereby eliminating a loophole which had the effect of encouraging manufacturers to escalate Federal prices; and expand the current law—which requires that manufacturers must enter into rebate agreements in order to participate in the Medicaid program—to require that manufacturers must also agree to provide drugs to VA through the Federal supply schedule and its drug depot system at pre-OBRA prices adjusted by an inflation factor, or pursuant to renegotiated contracts.

Some may question the need to roll back prices. They may urge that simply exempting Federal prices from the best price benchmark will solve the problem. Such thinking is at best naive. It ignores recent history and it ignores economics. Earlier this year, drug companies dramatically raised Federal prices not only of drugs which are subject to best price calculation but VA depot prices as well, which OBRA specifically excludes from best price. Clearly, an exemption from the definition of best price alone is no solution. While the existence of a comprehensive exemption for Federal providers might in some instances have removed what was a stimulus for companies to raise prices, creating an exemption now, without more, provides no economic incentive for companies to lower prices.

Given the need to roll back prices, is this a price-fixing bill? No more so than OBRA is! OBRA has the effect of distorting the market and passing artificially increased drug costs on to the taxpayer through drastically higher prices to VA. This bill would set up a mechanism to stimulate even-handed contract negotiations between VA and pharmaceutical manufacturers. Manufacturers would be freed from being penalized economically for providing reasonable contract prices to the Federal Government. The bill would create the incentive for negotiations by requiring that, in the absence of a renegotiated contract, prices for drugs which had been procured through the Federal supply schedule or through VA's drug depot system—and including drugs which manufacturers had deleted from the Federal supply schedule in anticipation of, or after OBRA's enactment—would be rolled back to pre-OBRA levels and adjusted by an inflation factor on a quarterly basis, beginning on April 1, 1991.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 5 minutes, on July 16, 17, and 18.

Mr. EDWARDS of Oklahoma, for 60 minutes, on July 16.

Mr. BOEHNER, for 60 minutes, on July 16.

Mr. GUNDERSON, for 60 minutes, on July 16.

Mr. BALLENGER, for 60 minutes, on July 16.

(The following Members (at the request of Mr. VISCLOSKY) to revise and extend their remarks and include extraneous material:)

Mrs. UNSOELD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. BROOMFIELD.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. VISCLOSKY) and to include extraneous matter:)

Mr. LAROCCO.

Mr. HOYER.

Mr. SERRANO.

Mr. ASPIN.

Mr. TORRES.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROYBAL.

Mr. DOWNEY.

Mr. EDWARDS of California.

Mr. BONIOR in two instances.

ADJOURNMENT

Mrs. UNSOELD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 16, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1714. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to enter into challenge cost-share agreement, and for other purposes; to the Committee on Agriculture.

1715. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the Rural Electrification Act of 1936; to the Committee on Agriculture.

1716. A letter from the Assistant Secretary (Acquisition), Department of the Air Force, transmitting notification of the plan to study the conversion to contract performance the Strategic Air Command's Education Services Centers at various installations, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1717. A letter from the Deputy Secretary of Defense transmitting the combined annual report on standardization of equipment with NATO members and cooperative research and development projects with allied countries, pursuant to 10 U.S.C. 2457(d)(1); to the Committee on Armed Services.

1718. A letter from the Secretary of Energy transmitting a report on plans for a program to relocate the operations of the Rocky Flats Plant at Golden, CO, pursuant to Public Law 102-25, Section 804(b) (105 Stat. 122); to the Committee on Armed Services.

1719. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize revisions to current legislation that will improve the acquisition reporting process for major defense acquisition programs; to the Committee on Armed Services.

1720. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase the age at which a member of the Senior Reserve Officers' Training Corps receiving financial assistance may be appointed as a commissioned officer if the member is enrolled in a baccalaureate nursing program; to the Committee on Armed Services.

1721. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the tied-aid and partially untied-aid credits offers by the Bank, pursuant to Public Law 99-472, section 19 (100 Stat. 1207); to the Committee on Banking, Finance and Urban Affairs.

1722. A letter from the Secretary of Housing and Urban Development transmitting the report of the Advisory Commission on Regulatory Barriers to Affordable Housing entitled, "'Not In My Back Yard': Removing Barriers to Affordable Housing"; to the Committee on Banking, Finance and Urban Affairs.

1723. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-52, "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1724. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-53, "Redistricting Procedures Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1725. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-54, "Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1726. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-55, "Day Care Policy Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1727. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-56, "District of Columbia Public School Nurse Assignment Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1728. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-57, "District of Columbia Motor Vehicle Services Fees Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1729. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-58, "Cigarette Tax Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1730. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-59, "District of Columbia Election Code of 1955 Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1731. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-60, District of Columbia Housing Bonus Repealer Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1732. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-61, "District of Columbia Gross Receipts and Toll Telecommunications Service Tax Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1733. A letter from the District of Columbia Board of Elections and Ethics, transmitting notifications that on July 12, 1991, Albert Gallmon, Jr., the proponent, submitted a referendum petition for filing with the District of Columbia Board of Elections and Ethics; to the Committee on the District of Columbia.

1734. A letter from the Secretary of Health and Human Services, transmitting the 11th annual report on the implementation of the Age Discrimination Act of 1975 by departments and agencies which administer programs of Federal financial assistance, pursuant to 42 U.S.C. 6106a(b); to the Committee on Education and Labor.

1735. A letter from the Secretary of Education, transmitting a draft of proposed legislation to alleviate burdens imposed upon educational agencies and institutions by the Family Education Rights and Privacy Act of 1974 with respect to the maintenances of records by campus law enforcement units; to the Committee on Education and Labor.

1736. A letter from the Secretary, Department of Transportation, transmitting a report regarding the implementation of the "Imported Vehicle Safety Compliance Act of 1988," pursuant to 15 U.S.C. 1397 note; to the Committee on Energy and Commerce.

1737. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Robert S. Strauss, of Texas, to be Ambassador to the Union of Soviet Socialist Republics, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1738. A letter from the Administrator, General Services Administration, transmitting the first report on the utilization and donation of Federal personal property for fiscal years 1988, 1989, and 1990, pursuant to 40 U.S.C. 484(o)(2); to the Committee on Government Operations.

1739. A letter from the Deputy Associate Director for the Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1740. A letter from the Deputy Associate Director for Collection and Disbursement,

Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1741. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1742. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's notice on leasing systems for the western Gulf of Mexico, sale 135, scheduled to be held in August 1991, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

1743. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting a biennial report on the quality of water in the Colorado River Basin, pursuant to 43 U.S.C. 1596; to the Committee on Interior and Insular Affairs.

1744. A letter from the Administrator, Small Business Administration, transmitting the annual report for fiscal year 1990, pursuant to 15 U.S.C. 639(b); to the Committee on Small Business.

1745. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses; and for other purposes; to the Committee on Veterans' Affairs.

1746. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

1747. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans' Affairs.

1748. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the Health Professional Scholarship Program operated by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

1749. A letter from the Acting Chairman, International Trade Commission, transmitting the 42d report for 1990 on the operation of trade agreements program, pursuant to 19 U.S.C. 2213(a); to the Committee on Ways and Means.

1750. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; jointly, to the Committees on Veterans' Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2031. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for equal treatment of telephone and electric cooperative welfare plans for the purposes of preemption; with an amendment (Rept. 102–150). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1216. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes; with amendments (Rept. 102–151). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 12, 1991]

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 2130. The Committee on Interior and Insular Affairs discharged from further consideration of H.R. 2130.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLARD (for himself, Mrs. SCHROEDER, Mr. HEFLEY, Mr. SCHAEFER, and Mr. CAMPBELL of Colorado):

H.R. 2883. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, to authorize the Secretary of the Interior to sell a portion of the property comprising the Rocky Mountain Arsenal for public or commerical uses, and for other purposes; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. ANNUNZIO:

H.R. 2884. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on automobile loans; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 2885. A bill to permit the District of Columbia to issue general obligation bonds to finance the accumulated operating deficit of the general fund of the District; to the Committee on the District of Columbia.

H.R. 2886. A bill to permit the Mayor of the District of Columbia to carry out reductions to the budgets of independent agencies of the District of Columbia; to the Committee on the District of Columbia.

H.R. 2887. A bill to permit the District of Columbia to carry out a separation program for employees of the District government; to the Committee on the District of Columbia.

By Mr. DOOLEY:

H.R. 2888. A bill to modify the flood control project for the Success Reservoir, Tule River, Tulare County, CA, to authorize the Secretary of the Army to enlarge the Success Reservior, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota (for himself and Mr. OBEY):

H.R. 2889. A bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. STUMP, and Mr. HAMMERSCHMIDT):

H.R. 2890. A bill to establish limits on the prices of drugs procured by the Department of Veterans Affairs, and for other purposes; jointly, to the Committees on Veterans' Affairs and Energy and Commerce.

By Mr. TORRICELLI:

H.R. 2891. A bill to establish national centers for plastics recycling research and development and to establish a national clearinghouse on plastics recycling; to the Committee on Science, Space, and Technology.

By Mr. SOLOMON:

H.R. 2892. A bill to amend the Immigration and Nationality Act with respect to the exclusion and departure of aliens engaged in terrorist activities; to the Committee on the Judiciary.

By Mr. RAHALL:

H.J. Res. 299. Joint resolution designating the week beginning September 2, 1991, as "Buy American Week"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. LANTOS, and Mr. GEJDENSON):

H. Con. Res. 181. Concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

226. By the SPEAKER: Memorials of the General Assembly of the State of New Jersey, relative to the 50th Armored Division of the Army National Guard; to the Committee on Armed Services.

227. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to autism; to the Committee on Energy and Commerce.

228. Also memorial of the Legislature of the Territory of the Virgin Islands, relative to section 16 of the Virgin Islands Revised Organic Act of 1954 relating to the Confirmation of Heads of Executive Departments; to the Committee on Interior and Insular Affairs.

229. Also, memorial of the Senate of the State of Illinois, relative to disabled veterans; to the Committee on Post Office and Civil Service.

230. Also, memorial of the Assembly of the State of New York, relative to veterans' benefits; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 500: Mr. GILLMOR.

H.R. 552: Mr. WYLIE.

H.R. 582: Mr. MONTGOMERY.

H.R. 872: Mr. CARPER, Mr. CHAPMAN, Mr. DUNCAN, and Ms. HORN.

H.R. 917: Mr. ANDREWS of New Jersey, Mr. ESPY, Mr. LEWIS of Georgia, Mr. HAYES of Louisiana, Mrs. BYRON, Ms. WATERS, Mr. SOLARZ, Mr. HUNTER, Mr. GEREN of Texas, Mr. GILLMOR, Mr. WALSH, Mr. NUSSLE, Mr. BURTON of Indiana, Mr. EMERSON, Mr. ORTON, Mrs. COLLINS of Michigan, Mr. TANNER, Mr. JEFFERSON, Mr. ZELIFF, and Mr. LAUGHLIN.

H.R. 1155: Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. TAYLOR of North Carolina, and Mr. WOLF.

H.R. 1277: Mr. HOCHBRUECKNER, Mr. OWENS of Utah, Mr. CONYERS, and Mr. SWETT.

H.R. 1405: Ms. NORTON, Mrs. BOXER, Mr. ROE, and Mr. HANSEN.

H.R. 1515: Mr. MAZZOLI, Mr. SAWYER, Mr. SKEEN, Mr. HENRY, Mr. KOSTMAYER, and Mr. ROE.

H.R. 1531: Mr. DOOLITTLE, Mr. BATEMAN, Mrs. MINK, Mr. BILIRAKIS, Mr. MCDADE, Mr. BURTON of Indiana, and Mr. AUCOIN.

H.R. 1539: Mr. SANGMEISTER, Mr. AUCOIN, Mr. ABERCROMBIE, Ms. SLAUGHTER of New York, Mr. JOHNSON of South Dakota, and Mr. FAWELL.

H.R. 1584: Mr. MARLENEE.

H.R. 1774: Mr. JOHNSON of South Dakota.

H.R. 1820: Ms. NORTON.

H.R. 2037: Ms. MOLINARI, Mr. HOBSON, Mr. DYMALLY, and Mr. ANTHONY.

H.R. 2081: Mr. FUSTER.

H.R. 2141: Mr. OWENS of Utah, Mr. KLUG, Mr. DELLUMS, Mr. LANCASTER, Mr. LIPINSKI, Mr. SKAGGS, Mr. JOHNSON of South Dakota, Mr. CAMPBELL of Colorado, and Mr. DARDEN.

H.R. 2254: Mr. TORRES, Mr. MATSUI, Mr. ARMEY, Mr. OWENS of Utah, Mr. BILBRAY, Mr. SAXTON, and Mr. GOODLING.

H.R. 2336: Mr. FROST, Ms. DELAURO, Mr. ZELIFF, Mr. WALSH, and Mr. PETERSON of Minnesota.

H.R. 2530: Mr. SCHEUER, Mr. OWENS of New York, Mr. WASHINGTON, Mr. ABERCROMBIE, Mr. TRAFICANT, Ms. NORTON, and Mr. SAVAGE.

H.R. 2579: Mr. FAZIO.

H.R. 2603: Mr. HOCHBRUECKNER.

H.R. 2672: Mr. WOLF, Mr. ANNUNZIO, Mr. SAXTON, Mr. TRAFICANT, Mr. STUMP, Mr. BEREUTER, Mr. IRELAND, Mrs. BYRON, Mr. HEFLEY, Mr. ROGERS, Mr. INHOFE, Mr. MCCRERY, Mr. RAVENEL, Mr. ARMEY, Mr. GOSS, Mr. SHUSTER, Mrs. BENTLEY, Mr. CRAMER, Mrs. COLLINS of Michigan, Mr. DOOLITTLE, Mr. WALSH, Mr. MCNULTY, Mr. DICKINSON and Mr. SOLOMON.

H.R. 2818: Mr. EARLY.

H.J. Res. 83: Mr. FIELDS, Mr. SAXTON, Mr. LIPINSKI, Mr. GORDON, Mr. LENT, Mr. MCGRATH, Mr. COMBEST, Mr. HASTERT, Mr. ROEMER, Mr. SANTORUM, and Mr. CAMP.

H.J. Res. 217: Mr. MCMILLEN of Maryland, Mr. COX of California, Mrs. BENTLEY, Mr. GEREN of Texas, Mr. GINGRICH, Mr. HUNTER, Ms. PELOSI, Mr. MCCRERY, Mr. WEISS, Mr. MORRISON, Mr. VISCLOSKY, Mr. BUSTAMANTE, Mr. ANDERSON, Mr. THOMAS of Wyoming, Mr. ROWLAND, Mr. ZELIFF, Mr. HALL of Texas, Mr. RITTER, Mrs. COLLINS of Illinois, Mr. PANETTA, Mr. HUBBARD, Mr. CHAPMAN, and Mr. ACKERMAN.

H.J. Res. 253: Mr. CLEMENT, Mr. MCMILLEN of Maryland, Mr. HORTON, Mr. LIPINSKI, Mr. ASPIN, Mr. EMERSON, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. TOWNS, Mr. HAMILTON, Mr. ROBERTS, Mr. SPRATT, Mr. TRAFICANT, Mr. WALSH, Mr. TALLON, Mr. WAXMAN, Mrs. UNSOELD, Mr. NATCHER, Mr. FROST, Mr. SPENCE, Mr. HAYES of Illinois, Mr. SLATTERY, Mr. SMITH of Florida, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mrs. MORELLA, Mr. JONES of North Carolina, Mr. ROE, Mr. DELLUMS, Mr. DE LUGO, Mr. KLECZKA, Mr. GORDON, and Mr. SERRANO.

H.J. Res. 257: Mr. BATEMAN, Mr. BENNETT, Mr. CALLAHAN, Mr. CARPER, Mr. DWYER of New Jersey, Mr. GILLMOR, Mr. HARRIS, Mr. HOYER, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. LENT, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MCGRATH, Mr. MILLER of Washington, Mr. MOAKLEY, Mr. MRAZEK, Mr. MYERS of Indiana, Mr. RAHALL, Mr. SAVAGE, Mr. TANNER, Mr. UPTON, Mr. WAXMAN, and Mr. WOLF.

H.J. Res. 274: Mr. BROWDER.

H.J. Res. 285: Mr. KASICH, Mr. FIELDS, Mr. RIGGS, Mr. HERGER, and Mr. DOOLITTLE.

H.J. Res. 294: Mr. ERDREICH, Mr. FROST, and Mr. HORTON.

H. Con. Res. 163: Mr. JONTZ, Mr. ANDERSON, Mr. DEFAZIO, Mr. MCNULTY, and Mr. TOWNS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

102. The SPEAKER presented a petition of the City Council, Lakewood, OH, relative to the Violence Against Women Act of 1991; which was referred to the Committee on the Judiciary.

SENATE—*Monday, July 15, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable PAUL SIMON, a Senator from the State of Illinois.

PRAYER

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

Let us pray:

The Lord God hath given me the tongue of the learned, that I should know how to speak a word in season to him that is weary * * *— Isaiah 50:4.

Lord God in Heaven, these are difficult days in the Senate. There is not enough time, there is too much business, there are too many angles to every issue, and there are too many to please. But we are committed to make democracy work and democracy is neither simple nor efficient and does not work in a hurry. In the words of one, "the hurrier we go, the behinder we get."

Gracious Father in Heaven, help the Senators in their frustration to remember that they represent a political system "of people, by people, for people"; and there are as many differences as there are people. Help them to be patient with themselves, with each other, and with the system. Grant them grace to control their tongues that they will not say that which later they will wish they had not said. Lead them through these days to a productive and profitable legislative session.

In His name, who is love incarnate. 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, July 15, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing rules of the senate, I hereby appoint the Honorable PAUL SIMON, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADERSHIP 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 3:30 p.m., with Senators permitted to speak therein.

The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

SADDAM HUSSEIN AND THE BOMB

Mr. LIEBERMAN. Mr. President, as the leaders of the industrialized nations begin their meetings today, we have had some encouraging news about cooperation among our allies regarding how to deal with the continuing problem of Saddam Hussein. It appears that France and Britain are ready to join with us in military action against Iraq, if Saddam violates the cease-fire agreement, and embarks anew on an effort to acquire weapons of mass destruction.

In recent weeks, we have learned a lot of disturbing news about Saddam's nuclear potential. The people of the world have reason to ask themselves, "How long before Saddam Hussein has a nuclear bomb?"

It was not so many months ago, Mr. President, that some voices expressed doubt that Saddam posed a serious nuclear threat to the world. Before the gulf war, some said the administration's claim about Saddam and nuclear power was a red herring, a diversion designed to win support for a war against Iraq.

For example, one expert said last November that the administration's claims about Iraq's nuclear potential were exaggerated. Another former Government official dismissed fears of Saddam's bomb, saying they were politically motivated. "We are dealing with a threat down the road," he said.

Well, we now know, from the lips of Saddam himself, that he is considerably further down that road than even the pessimists believed; if anything, the administration might even have underestimated Saddam's ability to produce fuel for nuclear weapons.

It now appears that Iraq was pursuing a three-track approach to accumulate weapons-grade uranium, including a primitive but indigenous effort involving calutrons. And no one should be fooled by the term "primitive": Consider the devastation wrought by the primitive bomb that destroyed Hiroshima.

One report indicates that Iraq was intent on building 20 to 40 nuclear weapons, an arsenal capable of annihilating millions of people in the Middle East and throughout the world.

The gulf war, frankly, set back that effort. But it did not end it. If American intelligence sources could be unaware of such a major weapons project, involving hundreds of technicians and large machinery, one must wonder what else we may be missing, even now. That is what is truly alarming. Where there is a will, there is usually a way. And in Saddam Hussein, we have an enemy who still—even after millions of pounds of bombs rained down on his head—possesses the will to become a nuclear power. Perhaps, now that he is deprived of so much of his million-man army; perhaps, now that he no longer possesses the world's fourth strongest force; perhaps his will to possess the bomb is even greater than it was before the gulf war. Of course, it may even prove more facile for him to build the bomb than rebuild the army.

It is also likely that Saddam will continue to hide his chemical and biological facilities, and may begin anew to build those weapons of mass destruction. He has also attempted to hide the missiles with which such weapons can be delivered to their targets.

And so, Mr. President, I fear that, if Saddam Hussein is not removed from power in Iraq, we will one day see death and destruction from chemical or biological weapons originating from Iraq, or even mushroom clouds rising over the horizon in the Middle East, or elsewhere in the world. A nuclear conflagration, radioactive fallout, all the horrors associated with atomic war.

I have no special knowledge, no privileged information that tells me how and when Saddam will produce a nuclear bomb. But I do have an understanding of this man and what kind of international criminal he is.

It is my understanding of Saddam that led me to conclude we must use force to eject his forces from Kuwait.

It is my understanding of Saddam that led me to urge the President to do more to protect the Kurds and the Shi 'ites after the war was over.

It is my understanding of Saddam that leads me today to say we must

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

achieve our goal of deposing Saddam Hussein from power in Iraq and—I hope—bring him to justice before an international war crimes tribunal to face charges for his crimes against humanity, the environment, and our civilized world.

If the President decides that it is necessary to order air strikes against Saddam's military machine because of his continued violation of the cease-fire agreement, I will certainly support that decision, as I am confident will an overwhelming majority of the Members of Congress.

But I fear that all the smart bombs in our arsenal will not be able to destroy every shred of Saddam's nuclear potential. As President Bush said recently, he can hide much of this kind of equipment in attics, in the desert, in ordinary buildings, hidden from the view of our intelligence resources, and protected from the power of our Air Force.

No number of bombs will ever be able to destroy Saddam's will, his desire to be a nuclear power, to dominate the gulf region, to threaten the fabric of international law and peace in the world.

Mr. President, the final chapter of the gulf war has yet to be written. The revelations about Saddam's nuclear potential should impel us toward his ultimate defeat. For it is not just the people of Iraq who will suffer at the hand of Saddam, if he fullfills his dream of nuclear power. Saddam, with the bomb, makes Kurds of us all.

Given that fact, we must do everything in our power to keep the attention of the world on Saddam Hussein. We must not give him an inch. President Reagan once said of the Soviets, "Trust, but verify." With Saddam, we must not even trust. We must keep increasing the pressure, turning the screws on his rule.

Toward that end, I support any and every effort by the President to isolate Saddam, to destroy his ability to fight, to end his rule.

We are entering an era when radical villains, armed with weapons of mass destruction, can emerge as primary threats to the security of the American people. Saddam Hussein may, unfortunately, represent a harbinger of the future.

It is important that we make him an example of how we will respond to such threats. All the more important that we bring down Saddam, before he acts to bring the bomb down on anyone.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The President pro tempore is recognized.

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD pertaining to the introduction of Senate Joint Resolution 177 and Senate Joint Resolution 178 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

NOMINATION OF JUDGE CLARENCE THOMAS

Mr. HATCH. Mr. President, I am concerned that a subterranean campaign of innuendoes, distortions, half-truths, selective commentary, and erroneous anecdotes is being revved up to tear down Judge Clarence Thomas.

Let me address a couple of matters that have drawn some comment to set the record straight.

Some in the news media and others have drawn attention to criticisms Judge Thomas has made of some in the civil rights movement. This one-sided recitation of some of the judge's remarks left such an unfair impression of his views of the civil rights movement that he felt constrained to praise that movement during one of his courtesy calls last week. Let no one think that this is belated praise designed to answer current critics. Indeed, Judge Thomas has, over the years, had plenty of praise for the civil rights movement.

In an October 23, 1982, speech before the Maryland Conference of the NAACP, as the then newly installed Chairman of the EEOC, here is part of what Judge Thomas said:

> I would like to talk with you about why I believe that you are the group that can truly make a difference for blacks in this country, what I think the challenges will be in the future, and what we are doing at the Federal level to address the problems of discrimination. * * * The pervasive problem of racial discrimination and prejudice has defied short-term solution. The struggle against discrimination is more a marathon than short sprint. Political parties have come and gone, leaving behind them the failures of their quick fixes. Promises have been made and broken. But one group, the NAACP, has remained steadfast in the fight against this awful social cancer called racial discrimination.
>
> The NAACP has a history of which we can all be proud. From its inception in 1909 until today, the work this organization has done in the area of civil rights is unmatched by any other such group. At each turn in the development of blacks in this country, the NAACP has been there to meet the many challenges. * * *

Mr. President, I note that the judge has often acknowledged the significant role of the civil rights movement and how he, personally, has benefited from it.

In volume 21 of Integrated Education, in 1983, the judge wrote, "Many of us have walked through doors opened by the civil rights leaders, now you must see that others do the same." In a January 18, 1983, speech at the Wharton School of Business in Philadelphia, Judge Thomas said:

> As a child growing up in the rural South during the 1950's, I felt the pain of racial discrimination. I will never forget that pain. Coming of age in the 1960's, I also experienced the progress brought about as a result of the civil rights movement. Without that movement, and the laws it inspired, I am certain that I would not be here tonight.

In an October 21, 1982, speech at the Third Annual Metropolitan Washington Board of Trade, EEO Conference, Judge Thomas described himself as "a beneficiary of the civil rights movement."

In an April 7, 1984, speech at the Yale Law School Black Law Students Association Conference, Judge Thomas noted that the freedom movement of black Americans was not a sudden development, but "had been like a flame smoldering in the brush, igniting here, catching there, burning for a long, long time before someone had finally shouted 'Fire!' "

He asked, in effect, who was responsible for this. The judge then went through a litany of people and events that helped fan the flames of freedom. He asked, in part, whether it was—

> * * * The founders of the NAACP * * * or the surge of pride which black folks felt as they huddled around their ghetto radios to hear Joe Louis preaching equality with his fists, or hear Jesse Owens humbling Hitler with his feet?
>
> Was it A. Philip Randolph, mobilizing 100,000 blacks ready to march on Washington in 1941—and FDR hurriedly signing Executive Order 8802 banning discrimination in war industries and apprenticeship programs?
>
> Or the 99th Pursuit Squadron, trained in segregated units at Tuskegee, flying like demons in the death struggle high over Italy?
>
> Was it Rosa Parks who said "No" she wouldn't move; and Daisy Banks who said "Yes," black children would go to Central High School?
>
> Or the three men who had been the black man's embodiment of blitzkrieg—the most phenomenal legal brains ever combined in one century for the onslaught against injustice—Charles Houston, William Hastie, Thurgood Marshall?
>
> Or a group of students who said, "We've had enough. I mean, what's so sacred about a sandwich, Jack?"
>
> Or men named Warren, Frankfurter, Black, Douglas who read the Bill of Rights and believed?

Mr. President, I realize it may seem more newsworthy to report the judge's remarks only when they have been critical of the traditional civil rights leadership. Realize his critics, who object to his expressed views against reverse discrimination, wish to make him look ungrateful. But it is a false portrait—a caricature—being drawn. These remarks I have quoted are readily available and I hope they will be given their fair dues.

Next, it has been widely reported that in 1983, Judge Thomas had some words of praise for minister Louis Farrakhan. The initial radio reports I heard pretty much left it at that, a deft piece of guilt by association. The reference to Farrakhan in the two speeches in question were apparently drafted by others and may not even have been delivered, according to our colleague, Senator DANFORTH. Here is

what Judge Thomas may have said in one or two speeches in 1983:

In the words of Minister Louis Farrakhan of the Nation of Islam—a man I have admired for more than a decade: "And so, I say to you, whether America overcomes or not, we the poor, we the oppressed, we the blacks, we the Hispanics, we the disinherited, we the rejected and most despised, we will overcome and then together we will be able to say in the words of Dr. Martin Luther King: Free at last, free at last, thank God Almighty, we have united and made freedom a reality at last."

Thus, the judge was expressing agreement with a self-help philosophy. This was in 1983, before minister Farrakhan's anti-Semitic views became well known during the 1984 Presidential campaign. Those who closely track such matters may have been aware of Farrakhan's earlier anti-Semitic remarks, but most people were not aware of them.

I have known Judge Thomas for some 10 years. I have spoken with others who have known him, including Jewish friends of his and mine. There is not a prejudiced bone in the man's body. Any suggestion by anyone—by anyone—that the judge harbored any prejudicial views about Jews is simply and emphatically untrue.

Judge Thomas issued a statement July 12 in which he said:

I cannot leave standing any suggestion that I am antisemitic. I am and have always been unalterably and adamantly opposed to antisemitism and bigotry of any kind, including by Louis Farrakhan. I repudiate the antisemitism of Lousis Farrakhan or anyone else. While I support the concept of economic self-help, I have never supported or tolerated bigotry of any kind.

Indeed, Mr. President, in reviewing some of the judge's earlier public remarks, I came across an item from the January 26, 1987, Daily Labor Report. I will quote an entire paragraph of the judge's remarks, which include a reference to Jews, so that the full context is understood:

People have assigned a lot of different motives to what I do, but it's really simple. I don't see how any race policy other than neutrality can be good. I can see absolutely no benefit from them. Segregation was wrong. Apartheid [is] wrong. The policies toward Jews in the Soviet Union are wrong. It used to be the morally good thing to say you're not bigoted against anybody. Now, it's like I'm not in favor of black if I'm not bigoted against anybody. If I'm not for preferences, then I'm against blacks. But I'm not for prefernces for whites either. I just think everybody should be treated fairly. That's it.

I was pleased to read the fairminded comments of Kenneth Stern, described in the July 13, 1991, Washington Post as "as specialist on antisemitism and extremism at the American Jewish Committee." The Post wrote that Mr. Stern "said that Thomas' statement about Farrakhan came," and now I am quoting Mr. Stern in the Post, "before Farrakhan was generally known to be a rabid antisemite. * * * Somebody who was not following Farrakahan very closely might not have known that about him."

The Post story continues:

Stern said the American Jewish Committee did not have a problem with Thomas' speech because, "Farrakhan has also said other things that Thomas might have been referring to and Farrakhan's antisemitism was not that generally well-reported" at that time.

Rabbi Marvin Hier, dean of the Simon Wiesenthal Center, a Jewish human rights group based in Los Angeles, was quoted in the New York Times on July 13, 1991, as saying:

We accept Judge Thomas at his word, that he has never been antisemitic and repudiates Louis Farrakhan.

Anti-Semitism has no place in our public or private lives. Judge Thomas has always agreed with that position.

Finally, some reports have had it that Judge Thomas, in an earlier job in Missouri in the mid-1970's, had a Confederate flag in his office. This has touched off a small amount of speculation. Some of it has been small-minded psychobabble. Indeed, one critic, perhaps facetiously, cited this alleged fact for the proposition that Judge Thomas "has appropriated the values and philosophy of those responsible for the vertical relationship of white over black, rich over poor," if you can believe that one, Mr. President. [Haywood Burns, July 9, 1991, New York Times]. Others have guessed that hoisting the Stars and Bars was just another contrary way for the judge to express his well-known independence.

Mr. President, Judge Thomas mentioned this report to me in our visit Thursday. He said he had spoken with some of his colleagues from the period in question. I can now report to the Senate and the American people: Apparently, the flag in Judge Thomas' office was the flag of his home State of Georgia.

I realize this startling revelation may touch off a new round of incisive commentary and analysis of the judge's psyche. Did he also have an American flag in his office? If not, why not? Does the display of the Georgia State flag, a Deep South State, evince a devotion to the doctrine of States rights? I cannot wait to read the next round of speculation to find out. I suspect, however, that it simply reflected the judge's pride in his home State.

Mr. President, nominations of Supreme Court Justices are always interesting. They always create a lot of heat. They always create a lot of interest. But fair is fair. I believe it is time to start treating Clarence Thomas as the decent, honorable man of integrity that he really is.

Mr. President, I have known him for a little over 10 years. I know the man. I know what kind of a person he is. I know where he is coming from. I know that this man does not have a prejudiced bone in his body. I know he is not on the far right or the far left. Therefore, he is not going to please either of the extremes. But I can tell you that he is going to please an awful lot of people, to the left of center from time to time and to the right of center from time to time, if given the chance to serve on the Supreme Court. I believe he will be given that chance.

Mr. President, I hope we will all be fair to Judge Thomas and give him every opportunity we can. I hope the media will be fair to him and not cite things out of context. And I hope that the media and commentators will tell the Judge Thomas full story—and treat him with the dignity he deserves and treat his nomination with the dignity it deserves.

I yield the floor.

TRIBUTE TO FRANK PASQUALE III

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today to bring to the attention of my colleagues a significant accomplishment of one of my young constituents, Frank Pasquale III. Frank, a student at Paradise Valley High School, is the winner of the sixth annual national Citizen Bee competition conducted by the Close Up Foundation. The Citizen Bee national final is a 2-day competition which puts high school students through grueling written and oral exams on current world events, American history, geography, government, and economics.

In total, more than 140,000 students from 3,700 high schools throughout 45 States, the District of Columbia, Guam, and the Department of Defense Dependent Schools competed this year. One hundred and nine other students joined Frank in Washington for the national final answering questions that would baffle even most Members of Congress. Mr. President, I would like to offer congratulations to each of the finalists for this dedication to the countless hours of study and preparation which this competition demands. I will ask unanimous consent that the list of all of the finalists to be printed at the end of my statement.

At a time when our focus is on the troubled spots in our Nation's educational system, it is refreshing to bring to your attention the work of the Close Up Foundation's Citizen Bee competition which has been successful in getting students excited about civic education. The Citizen Bee combines the talents and hard work of the student participants with the encouragement and dedication of their teachers, parents, and community sponsors. I would like to express my gratitude to those parents who have taken an active role in their children's education, as well as the dedicated teachers. I would also like to recognize the commitment of the local, State, and national sponsors who helped make this educational

opportunity possible, particularly the Burger King Corp., the Milken Family Foundation, American Honda Foundation, KPMG Peat Marwick, and Kraft General Foods, and the Arizona sponsors—Arizona Department of Education, Arizona Study for Law-Related Studies, Arizona Council for the Social Studies, Northern Arizona University, and the Paradise Valley Public Schools.

Please join me in expressing congratulations to Frank Pasquale III. He and his parents should be very proud of his outstanding accomplishment. I know my colleagues join me in wishing him and the other Citizen Bee finalists continued success in their educational and civic pursuits. They are our hope for the future.

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

CITIZEN BEE NATIONAL FINALISTS

Alabama: Sam Spencer, Auburn; Terry W. Jenks, Sylacauga; Mary A. Mitchem, Montgomery.

Alaska: John Fish, Fairbanks; Diane Bagley, Soldotna.

Arizona: Frank Pasquale III, Phoenix; Mike Garrabrants, Glendale.

Arkansas: Rocky Tsai, Fayetteville; Christopher Brazell, Pine Bluffs.

California: Steve Kapper, Hayward; Everett Chun, San Gabriel; Tri M. Nguyen, Santa Ana; Maureen Wan, Los Angeles.

Colorado: Fred Thomas, Littleton; Jonathon Leggett, Littleton.

Delaware: Joseph Rachinsky, Claymont; Eric Pusey, Dover.

Department of Defense Dependents Schools: Micah Cheatham, Kaiserslautern, Germany.

District of Columbia: Randall A. Fine.

Florida: Christopher Handr, Jacksonville; Kerry Van Voorhis, Tampa; James Wynne, Daytona Beach.

Georgia: John W. Reynolds, Stone Mountain; James E. Cox, Augusta.

Guam: MariAntonette Sablan, Barrigada.

Hawaii: Ryan Oyama, Honolulu; Margaret Britsch, Kahuku.

Idaho: Isaac Eddington, Blackfoot; C. Everett Lilya, Blackfoot.

Illinois: Christopher Perez, Chicago; Margaret Mueller, Belleville.

Indiana: Ethan Sharp, Evansville.

Iowa: Nathan Smith, Mt. Ayr; Ryan Roenfeld, Glenwood; Philip Oliver, Anamosa.

Kansas: Matthew J. Strong, Towanda; Jennifer I. Gassman, Grainfield.

Kentucky: Paul W. Puckett, Winchester; Rebbeca M. Boggs, Louisville.

Louisiana: Johnny Calcagno, New Orleans; John Ranken, Baton Rouge.

Maine: Chris Strand, South Portland; Curt Cheslog, Limestone.

Maryland: Narayanan Kannappan, Greenbelt; Vishnumohan Jejjala, Frederick.

Massachusetts: Johnny G. Su, Northborough; Seth L. Theriault, Lexington.

Michigan: Ati Tislerics, Redford; Joseph Patt, Birmingham; Joseph Ligon, Almont; Brian Burtt, Sparta.

Minnesota: B.J. Priester, St. Paul; Mike Lammers, Albert Lea; Dana Bacon, Staples.

Mississippi: Phillandas T. Thompson, Oxford; Thomas D. Goodwin, Brandon.

Missouri: Tim Boyles, Holden; Jeffrey T. Wilson, Jefferson City.

Nebraska: Jeffrey T. Shafer, Exeter; Matt Kessinger, Laurel.

Nevada: Dan Edwards, Carson City; Mike Nakamoto, Reno.

New Hampshire: Corin Meehan, Dover; Travis Blais, Manchester.

New Mexico: Paul A. Jones II, Clovis; Matthew Chrisman, Lordsburg.

New York: John Van DeWeert, Dryden; Andrew D. Hopkins, Penfield; Jeremy I. Senderowicz, Cedarhurst; Steven L. Gilbert, Rushford.

North Carolina: Justin D. Jones, Rockingham; Cosmos N. George II, Warrenton, William J. Lucas, Chapel Hill.

North Dakota: Carlton F.W. Larson, Dickinson; Max M. Schanzenback, Jamestown.

Ohio: Matthew Shepard, Tiffin; Brett H. Baker, Hanoverton; Christopher Marshall, Cincinnati; Robert Hemp, Sidney; Harry Marks Murry IV, Westerville.

Oklahoma: Nathanial Hobbs, Norman; Jay Porter, Oklahoma City; Michael Cress, Choctaw; Jessica Robinson, Fort Gibson.

Oregon: James Bettles, Chiloquin; Shreeyash Palshikar, Portland.

Pennsylvania: Faisal Chaudhry, Stroudsburg; Meredith A. Fritz, Denver; William L. Tressler, Sunbury.

Rhode Island: Brain Blais, Woonsocket; Anthony Marciano, Providence.

South Dakota: Lisa Wiesler, Miller; Shawn Jacob, Beresford.

Tennessee: Benjamin Sanders, Memphis; Robert Quillin II, Knoxville.

Texas: Chris Kratovil, Irving; Gil Zilkha, Pflugerville; Ashish Acharya, Ft. Worth; Anand Patel, San Antonio.

Utah: Jeremy C. Pope, Provo; Christopher G. Bown, Midvale.

Vermont: David Katz, Bennington; William Kuehn, Fair Haven.

Virginia: Erik Meyer, Lynchburg; George Smaragdis, Arlington.

Washington: Tyler Mickey, Wenatchee; Andrew Schwebke, Puyallup.

Wisconsin: Christopher Miles, Milwaukee; Andy Lamping, Wales.

Wyoming: Katherine Peterson, Pine Bluffs; Laurie Lewis, Rock Springs.

RECYCLYING—REVERSE VENDING MACHINE

Mr. HATFIELD. Mr. President, I come to the floor today to make my colleagues aware of an important recycling demonstration that is being conducted in the Senate Dirksen basement cafeteria. The demonstration involves a device called a reverse vending machine. This machine accepts empty aluminum beverage containers from consumers. Instead of throwing a recyclable container in the trash can, a consumer can deposit it in a reverse vending machine, where it will be crushed and stored until it is picked up for recycling. Many of my colleagues, and certainly many staff members, have noticed this machine. In fact, Mr. President, according to my information, those of us who work here have deposited over 4,800 aluminum cans in this can-crushing machine during the few weeks that it has been in service.

An estimated 7,000 containers were sold during the same period.

To translate, over 4,800 cans avoided the Senate trash bins and avoided our teeming landfills because of this demonstration project. That is a return rate of nearly 70 percent.

According to a recent GAO report, beverage containers account for 4.1 percent of the waste stream. Mr. President, this additional 4.1 percent is simply unnecessary. It represents 4.1 percent that we know we can recycle. We know that we can siphon off this portion of the river of waste that is rapidly filling our landfills.

Like many of my colleagues, I too am alarmed by the EPA's recent prediction that 80 percent of this Nation's landfills will fill up and close within the next 20 years. If we can somehow stop heaping this additional 4.1 percent of easily recyclable material onto the trash heap, we will have taken an important first step toward addressing our solid waste crisis.

Senators PACKWOOD, JEFFORDS, and I recently introduced legislation that would establish national recycling standard of 70 percent for beverage containers. Our legislation, which is numbered Senate bill 1318, mandates this standard and gives States incentives to establish their own beverage container deposit programs. These programs have worked extremely well in the 10 States that now have them in place, including Oregon.

Mr. President, not too many weeks ago, during our debate on the Surface Transportation Act, this body repeatedly reaffirmed the importance of maintaining and improving this Nation's transportation infrastructure. Recycling programs are not less dependent upon the quality of the recycling infrastructure in place to support them. I hope as the Senate begins to more actively focus on the topic of reuse and recycling, that the importance of a recycling infrastructure will be given serious attention.

Reverse vending machines of the sort we have on display in the Dirksen cafeteria could play an important role in this recycling infrastructure. These machines increase the efficiency and decrease the handling costs of container deposit programs.

Because I know that many of my colleagues are as interested in recycling as I am, I have come to the floor today to insert into the RECORD an article that recently appeared in the Washington Post that discusses the merits of the reverse vending machine. I hope my colleagues will review this article and will take time to become better acquainted with the machine while it is here.

Mr. President, I ask unanimous consent that the article be inserted in the RECORD in its entirety.

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

[From the Washington Post]

TURNING CANS INTO COLD CASH

(By Martha M. Hamilton)

They are vending machines with a difference. Instead of dispensing junk, they take it back.

The reverse vending machines manufactured by Environmental Products Corp. of Fairfax accept aluminum cans, glass or plastic bottles, and they dispense vouchers for money.

They are showing up in a number of places—locally only in the Dirksen Senate Office Building, and in the 10 states that have some type of container deposit legislation.

But the outcome of lobbying on renewal of the federal Resource Conservation and Recovery Act may determine how truly widespread the use of Evipco's reverse vending machines and similar products becomes.

The company has about 4,000 machines operating in states with bottle bills. "We took back more than 1 billion containers last year," said Bruce H. DeWoolfson, the company's president and chairman. "That's a little more than 1 percent of the beverage containers sold. One percent isn't a big number, but 1 billion is."

DeWoolfson, who founded the business in 1979 and who specialized in logistics, distribution, equipment maintenance and materials reclamation in the Marine Corps until he resigned in 1982, is the inventor of the can-crushing machine. The latest version has evolved in a more sophisticated recycling center that shreds aluminum, which results in 20 pounds to a cubic foot versus 7 pounds when the cans were only crushed. Other Evipco vending machines separate different types of plastics and shred them, or separate clear from colored glass and crush it. The materials can be stored in tanks and picked up by vacuum trucks that deliver them to recyclers.

After dropping a can or bottle into the machine, the consumer is offered supermarket coupons in addition to vouchers for cash. By pushing another button, the consumer may opt to donate the cash to the "charity of the week" and get a voucher to use for an income tax deduction instead.

The cash vouchers can be redeemed at food stores. The amount the consumer is paid for each bottle or can depends on the local deposit law; in this area it's 5 cents.

It is economics, not the elegance of the devices, that will dictate the development of the market for reverse vending. "We've pretty well exploited our existing market," said DeWoolfson, noting that the only bottle-bill state the company hasn't yet penetrated is Michigan. No new "bottle bills" requiring consumer deposits on containers have been passed since 1983, although the California legislature adopted a hybrid approach in 1987.

Absent a change in the federal law that would either require beverage container deposits or mandate recycling in a way that would encourage the states to adopt such laws, "our growth prospects are rather limited," DeWoolfson said.

Voluntary recycling and even municipal programs that require residents to separate recyclable materials simply don't produce a large enough and reliable enough stream of materials to make the economics of reverse vending and recycling work, he said.

A coalition of environmental groups supports federal legislation to expand beverage container deposit programs and measures that would increase the use of recycled materials. "That would certainly widen the market by orders of magnitude for the Evipco vending machines," said Allen Hershkowitz, a solid waste expert with the National Resources Defense Council, an environmental group. "What they are doing is in the environmental interest, and we want to see it developed," he said.

However, a powerful coalition of manufacturers and local and state officials are opposed to such measures. Giant Food Inc. spokesman Barry Scher said local curb-side collection and programs that require commercial recycling offer a better opportunity for recovering more material.

Scher said he has visited Evipco several times to look at the equipment, but Giant is no longer considering acquiring such machines. "There are a number of companies in the U.S. that make reverse vending machines. . . . They have probably the Cadillac of reverse vending machines."

Notwithstanding the uncertain outlook for federal mandates for recycling, Evipco is moving forward. Last year, the company made a consolidated profit of $528,000 on revenue of $33 million, DeWoolfson said. This year, he anticipates revenue of $38 million to $40 million. Depending on the market for public offerings, the company may go public either this summer or next. The company is owned by about 250 investors, including former National Bank of Washington chairman Luther Hodges and Coleman Raphael, former chairman of Atlantic Research Corp. and dean of George Mason University's business school.

The company has 250 employees nationally, including 70 in the Washington area.

DeWoolfson is optimistic that public policy eventually will create the market for his product. "Society's insistence on achieving certain levels of recovery of certain types of materials is going to drive the adoption of deposit laws," he said. "Because they work."

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

Mr. COCHRAN. Mr. President, while many recent changes in the U.S.S.R. are encouraging, the world should not forget that many Soviet citizens are still denied basic human freedoms. This is particularly true of many Jews, who suffer discrimination in housing, education, and employment, and are often denied permission to emigrate to live in another country. We must continue to call attention to the plight of these people and to press for greater religious tolerance, freedom of travel, and fundamental human rights.

The Congressional Call to Conscience Vigil is an annual opportunity for Members of Congress to speak out on the denial of basic freedoms to Soviet Jews. Since 1978, Members participating in the vigil have made statements for the RECORD to heighten public awareness of cases of special need. I rise in this year's Call to Conscience to bring to the attention of the Senate the case of the Pisarevsky family of Leningrad.

Evgeny Pisarevsky and his wife Irina were both born in 1945, and their son Vladimir was born in 1969. Evgeny is a computer engineer who until 1978 was employed in a classified occupation. After waiting 10 years, his wife Irina and their son Vladimir applied for permission to emigrate in 1988 but were refused. Vladimir's application to emigrate independently was also rejected. In protest, Irina joined a group called Jewish Women Against Refusal and participated in a 3-day hunger strike in March 1989, to mark International Women's Day.

In August 1989, Vladimir was given permission to emigrate, but in October he was told his parents could not go with him until 1995. He then used his exit visa and left for Rome en route to the United States, leaving behind not only his parents, but also his fiancee, Inna Nemtchinsky, who had hoped to emigrate with him. Vladimir now lives in New York.

In December 1989, yet another Pisarevsky request to emigrate was refused. In November 1990, while visiting Vladimir in New York on a tourist visa, Irina heard from Evgeny that his former employer, Impulse Scientific Production Association, on orders from the Ministry of Defense, had once again refused to lift his secrecy classification, a rating used repeatedly by authorities to keep him from leaving the U.S.S.R.

Mr. President, Evgeny and Irina Pisarevsky are still waiting for the opportunity to pursue their lives outside the Soviet Union. We want them to know—and we want the Soviet Government to know—that we are concerned about the Pisarevskys and others who suffer denial of basic human rights. We call their case to the conscience of free men and women everywhere, and we urge our Government to continue to seek effective means to persuade Soviet authorities to relent in this situation and in similar cases.

CONTROLLING THE TRANSFER OF ARMS TO COUNTRIES THAT THREATEN WORLD PEACE

Mr. MCCAIN. Mr. President, while the United Nations continues to spar with Saddam Hussein over the extent of Iraq's nuclear capability, the proliferation of arms to other countries who would threaten world peace goes on unabated. The traffic in nuclear, biological, chemical, and particularly conventional technology and weapons flourishes in spite of various arms control initiatives and the end to the cold war.

Third, World and developing countries are assaulted by arms merchants from both the East and West. The arms races between countries such as Pakistan and India, and by regional terrorists such as Libya and Iraq threaten the peace of their neighbors, and have a growing potential to drag the United States into costly conflicts. Where we once feared merchants of death, we must now fear merchants of mass destruction.

I am hopeful that the various arms control agreements now being negotiated will reduce the pace of the arms races and the proliferation of weapons of mass destruction. These agreements and common sense may even halt the arms race and proliferation in some

countries. Perhaps the regimes that have already violated the letter or spirt of so many arms control agreements in the past will not treat them as scraps of paper in the future.

Hope, however, is not enough, nor are the international agreements currently under discussion. Important as multilateral efforts are, past experience has shown that they must be backed with strong unilateral action. Unless the United States uses its political and economic power, even far better arms control agreements than the world is currently contemplating would lack the teeth to check the actions of many buyers and sellers. We have a national responsibility to take an active role in making the world a safer place.

During the last few years we have tried to exercise this role with a wide range of actions by the Bush administration and Congress. Some have been successful, particularly in regard to the proliferation of long-range missiles. Others affecting nuclear, chemical, and biological weapons have not. There have been a long series of legislative efforts which have failed to produce either an integrated or coherent approach to arms control. Worse, in many areas there is no effective legislation at all.

By introducting Senate bill S. 309 I have taken steps to both place the United States in a leadership role in the area of controlling the transfer of arms to countries that threaten world peace, and provide a single bill that contains all the critical elements of arms control. I have also proposed legislation targeted toward the buyers and sellers of mass destruction rather than all nations without regard for their actions and intentions.

While I recognize the right of all nations to defend themselves, I believe the interests of this country and our friends in the world community mandate that we attempt to limit arms proliferation to countries with agendas hostile to our interests. S. 309 includes compelling considerations, which both buying and selling individuals and nations would have to weigh very carefully before transferring weapons or technology.

In support of my arms control initiative and S. 309 in particular, I have asked the Congressional Research Service to conduct and analysis and comparison of U.S. laws, treaty commitments, and policies regarding arms control and proliferation and the impact which would result from related legislation currently before Congress.

I believe that this report provides dramatic and important evidence of the need for the approach to arms control that I advoacte in S. 309. I believe it is a warning about the inadequacy of existing and contemplated arms control agreements, the risks inherent in a piecemeal approach, and the cost of further legislative delay.

I ask unanimous consent that the excellent CRS report "Weapons Nonproliferation Policy and Legislation" dated July 3, 1991, be inserted at this point in the RECORD.

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

WEAPONS NONPROLIFERATION POLICY AND LEGISLATION

(Foreign Affairs and National Defense Division, July 3, 1991)

SUMMARY

Members of Congress have introduced more than thirty legislative proposals in reaction to dangerous trends in international armaments—the proliferation in the Third World of nuclear, biological, and chemical weapons and technology; missiles; conventional weapons; and dual-use equipment and technology. Some bills focus on a single issue or a single country while other bills would establish controls on the spread of most types of weapons, equipment, and related technology throughout the world or throughout the Middle East. This report summarizes the basic provisions of existing laws, policy, and legislative proposals to help the reader make comparisons among them.

NOTE

This report is based on the Congressional Research Service response to a request by Senator John McCain for an analysis and comparison of U.S. laws, treaty commitments, and policies regarding the proliferation of advanced weapons systems and the effect on these laws, commitments, and policies by legislation currently before Congress. The report is made available for general congressional use with the Senator's permission.

Robert Shuey served as overall project coordinator. Robert Shuey, Zachary Davis, Steve Bowman, Theodor Galdi, Kirk Campbell, and Kemper Vest of the Foreign Affairs and National Defense Division wrote the summaries. Terrence Lisbeth gathered information on the status of legislation and prepared the report for publication. The authors appreciate the constructive comments of Larry Nowels, Foreign Affairs and National Defense Division; Raymond Celada, Senior Specialist in American Public Law; and Glennon Harrison, Economics Division, Congressional Research Service.

The authors welcome your suggestions of additional bills, or additional provisions of these bills, for inclusion in a later edition of this report (phone 707-5050).

INTRODUCTION

More than 30 bills have been introduced in the 102nd Congress that would affect U.S. laws or policies regarding international proliferation of weapons and related goods and technology. The bills vary widely in their coverage of proliferation issues and their approach to the issues. Some bills address one particular type of weapon or technology or restrict exports to a particular country. One bill focuses on nuclear nonproliferation; other bills focus on arms transfers to Jordan, South Africa, or El Salvador; and some bills would impose sanctions on China partly because of its activities in spreading weapons. A few bills address a broad spectrum of proliferation issues and would affect U.S. policies toward several vehicles of proliferation control. They would establish penalties for individuals or countries that transfer weapons irresponsibly and would support the establishment of international regimes to control proliferation and to promote arms control in the Third World. These bill have been introduced in response to dangerous trends in international armaments and the apparent need for strong new policies to reverse these trends.

Sophisticated weapons are becoming standard equipment in armed forces throughout the world. Many of the complex, expensive, and very lethal weapon systems that had been the exclusive property of the major military and industrial powers are now in the inventories of Third World nations. In some cases, these advanced weapons have contributed to regional instability and have increased the death and destruction when hostilities have occurred. In the aftermath of the Persian Gulf War, many world leaders have proposed that limits be placed on chemical, biological, nuclear, missile, and advanced conventional weapons proliferation and on transfers of dual-use goods and technology.

The proliferation of *nuclear weapons* is the greatest concern. The number of declared nuclear powers has grown slowly since World War II and is still limited to the five permanent members of the United Nations Security Council (United States, Soviet Union, Great Britain, France, and China). But four other countries probably have a nuclear weapon capability (India, Israel, Pakistan, and South Africa) and several others are considered capable of developing nuclear weapons in the next several years if they choose to (Argentina, Brazil, Iran, North Korea, South Korea, and Taiwan). The Nuclear Non-Proliferation Treaty, supported by the International Atomic Energy Agency, regional nuclear treaties, and informal nuclear supplier guidelines, has helped marshall the cooperation of 100 nations that have ratified the Treaty. In 1995, the Parties to the Treaty will convene a conference to decide whether the Treaty shall continue in force indefinitely or shall be extended for an additional fixed period or periods. In addition, the United States has advocated several nuclear control proposals for the Middle East: a ban on the production and aquisition of weapons-usable nuclear material; the creation of a nuclear weapons-free zone; placement of all nuclear facilities under IAEA safeguards; and accession to all states in the region to the NPT.

Iraq and Syria have reportedly developed offensive *biological weapons* and five or more other countries are progressing toward the development of biological weapons. According to the Director of Naval Intelligence, "entire regions could be rendered uninhabitable for years." through the use of biological agents. The 1972 Biological and Toxin Weapons Convention bans the development, production, stockpiling, possession, and transfer of these weapons. The U.S. Government has recently imposed export controls on certain biological weapons-related dual-use materials and is encouraging all 20 Australia Group countries—countries that pledged to constrain dangerous biological and chemical exports—to do likewise.

Fourteen Third World countries have offensive *chemical weapons*, and ten other countries are trying to develop them. Most of these countries are located in regions of political and military tension: the Middle East, South Asia, Southeast Asia, and Northeast Asia. Iraq used chemical weapons against Iranian troops and against Iraqi Kurds. Some analysts see the use of chemical weapons as a weapon of terror against civilian populations as the most ominous CW threat. The 1925 Geneva Protocol prohibits the use of chemical weapons in war, but many coun-

tries (including the United States) reserved the right to retaliate with chemical weapons if attacked with them. The United States works with the Australia Group to restrict exports of chemicals that can be used to produce chemical weapons and is working with other countries on completion of a Global Chemical Weapons Convention to ban such weapons. The President recently announced U.S. willingness to destroy all American chemical weapons if other countries destroyed theirs.

Twenty-five countries now have surface-to-surface *ballistic missiles*, and 12 of those countries are in the Middle East or Asia. Nine countries, of which six are in the Middle East and Asia, have produced missiles, and another eight countries in the Third World have missile development programs. Missiles add to regional instability by enabling a country to attack distant foreign cities with explosive warheads or, perhaps, nuclear, biological, or chemical warheads. The United States is one of the sixteen countries to adopt the export constraints of the Missile Technology Control Regime. The U.S. Government has also called for a ban on acquisition, production, and testing of missiles in the Middle East with a view to the ultimate elimination of missiles from the region.

The transfer of *advanced conventional weapons* has also contributed to regional instability. Over the last two decades, countries in the Middle East imported well over $200 billion worth of arms and military equipment. Iraq was able to build the world's sixth largest armed force and equip it with some of the best weapon systems of the industrial powers.

Several countries in the Middle East, Asia, Africa, and South America produce their own tanks, artillery, armored vehicles, ships, and light aircraft. Communist and non-Communist countries have competed to sell advanced aircraft, guided munitions, electronic equipment, and most other types of military armaments. The only multinational regime to control exports of conventional weaponry is CoCom (the Coordinating Committee on Multilateral Export Controls), which was designed to prevent transfers of critical goods to Communist countries from the Western Industrial countries. The U.S. Government has one of the most extensive national systems for controlling arms transfers. It publishes detailed information on military exports and has recently endorsed proposals from U.N. groups and European countries to establish a U.N. registry of all international arms transfers. Congress is considering several proposals to establish wider multilateral controls, or even a moratorium on arms exports to the Middle East.

The purpose of this report is to describe existing U.S. laws, policies, and international agreements regarding weapons proliferation and to describe how proposed legislation would effect them. The report is organized in six chapters that cover nonproliferation of (1) nuclear weapons, (2) chemical weapons, (3) biological weapons, (4) missiles, (5) conventional weapons, and (6) dual-use goods and technology. Each chapter describes existing laws, treaties and international agreements, policies, and proposed legislation. Existing laws and proposed legislation are discussed in terms of nine basic types of provisions:

(1) Eligibility requirements for receiving U.S. exports/transfers;

(2) Prohibitions/restrictions on the export of particular items;

(3) Countries/companies/individuals that are subject to restrictions/requirements and countries that are not subject;

(4) Relation to treaties, international agreements, or regimes;

(5) Congressional review provisions;

(6) Reporting/consultation requirements;

(7) Enforcement measures to include criminal penalties, economic sanctions, or denial of benefits;

(8) Responsibilities of agencies (by law or Presidential delegation); and

(9) Waiver provisions (to restrictions/prohibitions or to congressional review).

Some of the shorter or more narrowly focused bills are summarized in a brief paragraph rather than in terms of the nine points. The description of existing laws are printed in normal roman type; *the descriptions of proposed legislation are printed in italics*. The descriptions of proposed bills are repeated in each chapter, as appropriate, so that the discussions of each type of proliferation (e.g., nuclear, chemical, etc.) will stand alone.

The following *List of Proposed Legislation Regarding Weapons Nonproliferation* shows which areas of nonproliferation are addressed by each bill and the page number in this report that discusses the relevant provisions. Following that list is a brief report on the *Status of Legislation* at the date of publication.

LIST OF PROPOSED LEGISLATION REGARDING WEAPONS PROLIFERATION

[With references to pages at which they are described]

Bill	Nuc.	Chem.	Bio.	Miss.	Conv.	Dual [1]
LEGISLATION INTRODUCED IN THE HOUSE OF REPRESENTATIVES						
H. Con. Res. 75 Rinaldo, Missiles	.....	.....	.....	75	.....	.....
H. Con. Res. 93 Bonior, Middle East	28	48	61	75	86	.....
H. Con. Res. 97 Torricelli, Iraqi Reactor	28	.....	.....	.....	.....	.....
H.J. Res. 256 Hall, Transfer Restraint	.....	.....	.....	.....	86	.....
H.R. 88 Engel, Ulster	.....	.....	.....	.....	87	.....
H.R. 669 Rinaldo, Transfer Controls	28	48	61	76	87	119
H.R. 729 Gejdenson, Export-Import Bank	.....	.....	.....	.....	87	.....
H.R. 830 Stark, NNPA91	30	.....	.....	.....	.....	.....
H.R. 868 Hunter, Transfer Controls	30	48	62	76	87	120
H.R. 1111 Dellums, Apartheid	30	.....	.....	.....	.....	.....
H.R. 1282 Whitten, Desert Storm	.....	.....	.....	.....	87	.....
H.R. 1317 Anderson, Jordan	.....	.....	.....	.....	88	.....
H.R. 1343 Levine, Middle East	.....	49	62	76	88	120
H.R. 1346 McDermott, El Salvador	.....	.....	.....	.....	89	.....
H.R. 1428 Smith, Desert Storm	.....	.....	.....	.....	89	.....
H.R. 1611 Hughes, Jordan	.....	.....	.....	.....	90	.....
H.R. 1635 Moody, Export-Import Bank	.....	.....	.....	.....	91	.....
H.R. 1708 Schumer, Israel	.....	.....	.....	.....	91	.....
H.R. 2175 Kleczka, Export Import Bank	.....	.....	.....	.....	92	.....
H.R. 2315 Berman, Middle East	33	49	62	77	92	.....
H.R. 2318 Gejdenson, Terrorism	.....	.....	.....	.....	.....	121
H.R. 2456 Green, Israel	.....	.....	.....	.....	92	.....
H.R. 2508 Fascell, Foreign Aid	33	49	.....	.....	92	.....
H.R. 2621 Obey, Aid Approp	34	.....	.....	.....	97	.....
H.R. 2755 Markey, Nuclear Exports	34	.....	.....	.....	.....	.....
LEGISLATION INTRODUCED IN THE SENATE						
S. 156 Mitchell, IMET	.....	.....	.....	.....	97	.....
S. 236 Moynihan, Cold War	.....	.....	.....	.....	97	.....
S. 306 Dodd, Export-Import Bank	.....	.....	.....	.....	98	.....

LIST OF PROPOSED LEGISLATION REGARDING WEAPONS PROLIFERATION—Continued

[With references to pages at which they are described]

Bill	Nuc.	Chem.	Bio.	Miss.	Conv.	Dual [1]
S. 309 McCain, Transfer Controls	37	49	62	77	98	122
S. 320 Riegle, Export Act	39	51	64	79	.....	124
S. 552 Cranston, IMET	.....	.....	.....	.....	100	.....
S. 573 Cranston, Human Rights in War	.....	.....	.....	.....	100	.....
S. 601 Adams, El Salvador	.....	.....	.....	.....	102	.....
S. 766 Moynihan, Spoils	.....	.....	.....	.....	102	.....
S. 776 Kennedy, Cambodia	.....	.....	.....	.....	103	.....
S. 1020 Helms, PRC/MFN	39	.....	.....	80	104	.....
S. 1046 Biden, Middle East	39	54	67	80	103	.....
S. 1084 Mitchell, PRC/MFN	41	55	68	81	105	.....
S. 1128 Glenn, Nuclear Controls	41	.....	.....	.....	.....	.....
S. 1196 Adams, Israel	.....	.....	.....	.....	106	.....
S. 1433 Pell, State Dept./M.E.	.....	.....	.....	.....	106	.....

[1] Nuclear Nonproliferation, Chemical Nonproliferation, Missile Nonproliferation, Conventional Arms Transfers, and Dual-Use Commodities and Technology Export Legislation and Policy.

Status of Proposed Legislation

H. Con. Res. 75 (Rinaldo)

Would express the sense of Congress that the President should convene the Missile Technology Control Regime members to strengthen the accord and should invite the Soviet Union, China, and all other countries to join the agreement. Referred to the House Foreign Affairs Committee on Feb. 26, 1991.

H. Con. Res. 93 (Bonior)

Would express the sense of Congress that the President should seek negotiations to achieve a Middle East arms control agreement, security arrangement, and other ends. Referred to the House Foreign Affairs Committee on Mar. 7, 1991.

H. Con. Res. 97 (Torricelli)

Would express the sense of Congress that the 1981 Israeli attack against the Iraqi nuclear reactor at Osirak was legitimate and justifiable. Referred to the House Committee on Foreign Affairs on Mar. 12, 1991.

H.J. Res. 256 (Hall)

Would resolve that the United States should restrain arms sales to developing countries; the U.N. Security Council permanent members should negotiate arms transfers controls; the United States should discuss a control regime with supplier and recipient nations; and the United States should promote incentives to encourage cooperation in controlling arms transfers. Referred to House Foreign Affairs Committee on May 15, 1991.

H.R. 88 (Engel)

Would prohibit arms transfers to British security forces in Northern Ireland. Referred to House Committee on Foreign Affairs on Jan. 3, 1991.

H.R. 669 (Rinaldo)

A bill to control the transfer of arms to countries that threaten world peace. Referred to House Committees on Agriculture; Banking, Finance, and Urban Affairs; Foreign Affairs; and Ways and Means on Jan. 28, 1991. (See S. 309.)

H.R. 729 (Gejdenson)

A bill to amend the Export Administration Amendments Act of 1985 to assist in the export of certain U.S. defense articles and services. Referred to House Committees on Banking, Finance, and Urban Affairs; and Foreign Affairs on Jan. 30, 1991.

H.R. 830 (Stark)

Provides for the imposition of economic sanctions against foreign persons who have violated U.S. and international standards for nuclear transfers. Referred to Committee on Ways and Means on Feb. 5, 1991.

H.R. 868 (Hunter)

Would control the transfer of arms to countries that threaten world peace. Referred to House Committees on Agriculture; Banking, Financing, and Urban Affairs; Foreign Affairs; and Ways and Means on Feb. 6, 1991. (See S. 309.)

H.R. 1111 (Dellums)

Would prohibit all nuclear trade with South Africa and certain other activities with respect to South Africa. Referred to House Committees on Armed Services; Banking, Financing, and Urban Affairs; Foreign Affairs; Energy and Commerce; Interior and Insular Affairs; Rules; and Ways and Means on Feb. 26, 1991.

H.R. 1282 P.L. 102-28 (Whitten) Supplemental Appropriation for Desert Shield/Desert Storm

Includes a prohibition on the transfer of U.S. equipment and captured equipment to a foreign country until he notifies Congress and Congress approves a bill or resolution authorizing the transfer. Reported by the House Appropriations Committee (H. Rept. 102-10) on Mar. 5, 1991; passed the House on Mar. 7 by yea-nay vote of 380-19; received in the Senate and referred to the Committee on Appropriations Mar. 12; reported with amendments (S. Rept. 102-23) Mar. 14; passed the Senate by yea-nay vote of 98-1 on Mar. 19; conference report (H. Rept. 102-30) Mar. 22; House agreed to conference report Mar. 22; Senate agreed to conference report Mar. 22; enacted as P.L. 102-28 on Apr. 10, 1991.

H.R. 1317 (Anderson)

Would restrict economic and military assistance to Jordan. Referred to Committees on Foreign Affairs; Agriculture; Banking, Finance, and Urban Affairs; Intelligence; and Ways and Means on Mar. 7, 1991.

H.R. 1343 (Levine)

Would restrict the transfer of sophisticated weaponry to the Middle East through the actions of an international commission. Referred to Committee on Foreign Affairs on Mar. 7, 1991.

H.R. 1346 (McDermott)

Would withhold U.S. military assistance from El Salvador. Referred to House Committees on Foreign Affairs and Intelligence on Mar. 7, 1991.

H.R. 1428 (Smith of Florida)

Would govern the transfer of military equipment used or captured in Operation Desert Storm. Referred to Committee on Foreign Affairs on Mar. 13, 1991.

H.R. 1611 (Hughes)

Would terminate U.S. Foreign assistance to Jordan. Referred to Committees on Foreign Affairs; Agriculture; Banking, Finance, and Urban Affairs; Intelligence; and Ways and Means on Mar. 22, 1991.

H.R. 1635 (Moody)

Would expand the prohibition against financing of the export of defense articles and services by the Ex-Im Bank. Referred to House Committees on Banking, Finance, and Urban Affairs; and Foreign Affairs on Mar. 22, 1991.

H.R. 1708 (Schumer)

Would prohibit arms transfers to any country that is in a state of war with Israel. Referred to Committee on Foreign Affairs on Apr. 10, 1991.

H.R. 2175 (Kleczka)

Would amend the Export-Import Bank Act of 1945 to limit the Bank's financing of sales of defense articles and services. Referred to House Committee on Banking, Finance, and Urban Affairs on May 1, 1991.

H.R. 2315 (Berman)

Would provide for the establishment of an international arms suppliers regime to limit arms transfers to the Middle East. Referred to the House Committee on Foreign Affairs on May 14, 1991. (See S. 1046.)

H.R. 2318 (Gejdenson)

Would amend the Export Administration Act of 1979 to treat Iran, Iraq, Libya, and Syria as terrorist countries for three years. Referred to the House Foreign Affairs Committee on May 14, 1991.

H.R. 2456 (Green)

Would prohibit U.S. arms sales to any country that boycotts Israel. Referred to House Foreign Affairs Committee on May 23, 1991. (See S. 1196.)

H.R. 2508 (Fascell) International Cooperation Act of 1991

Would rewrite the Foreign Assistance Act of 1961, amend the Arms Export Control Act and redesignate it the Defense Trade and Export Control Act, and authorize funds for foreign assistance for FY 1992 and 1993. It would impose a moratorium on U.S. arms transfers to the Middle East and prohibit security assistance to countries that have an offensive chemical weapons program and have not supported the CW convention. Referred to the House Committee on Foreign Affairs on June 3, 1991; reported on June 4 (H.Rept. 102-96); debated and amended on the House floor June 11, 12, 13, 19, and 20; passed House amended by recorded vote of 274-138 on June 20, 1991; received in the Senate and referred to the Committee on Foreign Relations on June 28, 1991.

H.R. 2621 (Obey) Foreign Operations Appropriations for FY 1992

Would establish a moratorium on arms sales to the Middle East and Persian Gulf region. Prohibits aid to several countries and bans Export-Import Bank support of arms sales. Reported by the House Committee on Appropriations (H. Rept. 102-108) on June 12, 1991; passed House as amended by a 310 to 102 vote on June 19, 1991; received in the Senate and referred to the Senate Appropriations Committee on June 24, 1991.

H.R. 2755 (Markey)

Would amend the Atomic Energy Act of 1954 to restrict exports of nuclear items to non-nuclear weapons countries. Referred to House Foreign Affairs on June 25, 1991.

S. 156 (Mitchell)

Would reform the International Military Education and Training program to empower civilians in the management of foreign military forces. Referred to the Senate Committee on Foreign Relations on Jan. 14, 1991.

S. 236 (Moynihan)

Would repeal certain Cold War legislation and broaden certain prohibitions on arms transfers. Referred to the Senate Committee on Intelligence on Jan. 17, 1991.

S. 306 (Dodd)

Would amend the Export-Import Bank Act of 1945 to allow the Bank to guaranty certain arms export loans. Referred to the Senate Committee on Banking on Jan. 30, 1991.

S. 309 (McCain)

Would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. Referred to Committee on Foreign Relations on Jan. 31, 1991. (See also H.R. 669 and H.R. 868).

S. 320 (Riegle)

Would reauthorize the Export Administration Act of 1979, add restrictions on the export of chemical and biological warfare related goods or technology, and require the imposition of sanctions against persons who assist in the proliferation of chemical or biological weapons. Introduced and placed on legislative calendar on Jan. 31, 1991; Senate passed S. 320, amended, by voice vote on Feb. 20, 1991; sent to the House and referred to Committees on Foreign Affairs and Judiciary on Feb. 26, 1991.

S. 552 (Cranston)

Would amend the Foreign Assistance Act of 1961, including provisions for the International Military Education and Training Program to increase the control of foreign military forces by civilians. Referred to the Senate Committee on Foreign Relations on Mar. 5, 1991.

S. 573 (Cranston)

Would amend the Foreign Assistance Act of 1961 to condition U.S. security assistance on a country's compliance with fundamental guarantees of international humanitarian law applicable in armed conflict. Referred to the Committee on Foreign Relations on Mar. 6, 1991.

S. 601 (Adams)

Would withhold military assistance for El Salvador subject to certain conditions. Referred to the Committee on Foreign Relations on Mar. 7, 1991.

S. 766 (Moynihan)

Would control U.S. transfers of spoils of war. Referred to the Committee on Foreign Relations on Mar. 21, 1991.

S. 776 (Kennedy)

Would prohibit assistance to combat forces seeking to overthrow the Government of Cambodia. Referred to the Committee on Foreign Relations on Mar. 22, 1991.

S. 1020 (Helms)

Would permit MFN for China only if it met certain conditions, including compliance with certain proliferation standards. Referred to the Committee on Finance on May 9, 1991.

S. 1046 (Biden)

To provide for the establishment of an international arms suppliers regime to limit the transfer of arms to nations in the Middle East. Referred to the Committee on Foreign Relations on May 14, 1991.

S. 1084 (Mitchell)

Would deny MFN treatment for China until the President certifies it has demonstrated participation in efforts to control weapons proliferation. Referred to the Committee on Finance on May 16, 1991.

S. 1196 (Adams)

Would prohibit U.S. arms sales to any country that boycotts Israel. Referred to the Committee on Foreign Relations on May 24, 1991, 1991. (See also H.R. 2456.)

NUCLEAR NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Zachary Davis, Analysis in Environment and Natural Resources Policy, Environment and Natural Resources Policy Division)

A. Introduction

In 1962, President Kennedy warned of the possibility that by the 1970s the United

States could "face a world in which fifteen or twenty or twenty-five nations may have [nuclear] weapons." In 1991, there are five declared nuclear weapons states (United States, Soviet Union, Great Britain, France, China) and four nations reported to possess some undeclared nuclear weapons capability (India, Israel, Pakistan, South Africa). To prevent the further spread of nuclear weapons, the United States has taken the lead in developing and preserving the international nuclear nonproliferation regime.

The nuclear nonproliferation regime is organized on the foundation provided by the Nuclear Non-Proliferation Treaty (NPT), and is supported by an international organization, the International Atomic Energy Agency (IAEA), dedicated to servicing the regime with verification mechanisms and offering positive incentives for nations to comply with the terms of the Treaty. An array of other treaties—Latin America Nuclear Weapons Free Zone, South Pacific Nuclear Weapons Free Zone, Convention on the Physical Protection of Nuclear Materials—and other informal agreements such as the multilateral Nuclear Suppliers Guidelines also support the regime. A legacy of Presidential policies and strong bipartisan congressional support for nuclear nonproliferation policy defines the U.S. commitment to the regime.

The principal pieces of U.S. nonproliferation legislation are: the Atomic Energy Act of 1954, the Nuclear Non-Proliferation Act of 1978, and key amendments to the Foreign Assistance Act of 1961. Exports of nuclear goods or technology with nuclear applications are controlled by the Department of Commerce under the authority of the Export Administration Act. A detailed analysis of legislation and policy for the control of dual-use commodities appears in chapter six of this report. This section examines the basic provisions of U.S. nuclear nonproliferation laws, their relationship to international treaties and agreements, the status of U.S. nuclear nonproliferation policy, and the effects that proposed legislation may have on existing laws and policy.

B. U.S. Nuclear Nonproliferation Laws

The three main pillars of the statutory component of U.S. nuclear nonproliferation policy are the Atomic Energy Act of 1954, the Nuclear Non-Proliferation Act of 1978, and key amendments to the Foreign Assistance Act of 1961. The Export Administration Act authorizes the Department of Commerce to regulate dual-use nuclear exports. Two additional laws with key provisions described here are: Agreement for Nuclear cooperation between the United States and China, Joint Resolution Approving the Proposed Agreement for Nuclear Cooperation; and Comprehensive Anti-Apartheid Act of 1986.

Atomic Energy Act of 1954, as Amended (AEA)

The Atomic Energy Act of 1954 established legal authority for the commercial and military development of nuclear energy and directed the President to establish regulatory guidelines for all such activities. The Act created the Atomic Energy Commission, which was responsible for all aspects of nuclear energy until its duties were divided between the Nuclear Regulatory Commission and the Department of Energy in 1974. A major purpose of the Act was to establish control on the export of nuclear materials, goods, information, and technology.

1. Eligibility Requirements for Exports

The AEA authorizes the Government to cooperate with any nation or group of nations pursuant to the terms of a formal agreement for cooperation. Bilateral agreements for cooperation are required for all military and civilian transfers of nuclear materials and technology from the United States. Agreements for cooperation stipulate that non-nuclear weapons states must accept IAEA safeguards on all peaceful nuclear activities within their territory. Other conditions for cooperation include: guarantees that no nuclear materials or technology transferred from the United States will be retransferred without prior consent of the United States; guarantees that nuclear materials and technology will be returned if the terms of an agreement are broken; guarantees that adequate physical security and storage facilities will be provided; guarantees that no nuclear materials of U.S. origin will be enriched or reprocessed without prior consent of the United States [section 123].

2. Export Prohibitions/Restrictions

Export licenses are required for transfers of nuclear materials and technology. The issuance of export licenses is contingent on the fulfillment of certain criteria by recipient nations. These criteria include: acceptance of full-scope IAEA safeguards on all exported nuclear material and technology; assurance that no exported material, facilities, or technology will be used for research, development, or manufacture of a nuclear explosive device; provision of adequate physical security and storage facilities; no retransfer of any nuclear materials, facilities, or technology without prior approval of the United States; no reprocessing or alteration of nuclear materials without prior consent of the United States; acceptance of IAEA safeguards on all peaceful nuclear activities within the territory or jurisdiction of the recipient state [section 127 and section 128].

Transfers of nuclear materials, components, or restricted information to nuclear weapon states are conducted under the authority granted in section 91.

Except as provided in section 91, it is unlawful for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon [section 92].

3. Countries/Companies/Individuals Subject to Restrictions

All transfers of nuclear materials, facilities, components, and technology must be conducted under the authority of an agreement for cooperation with the appropriate export licenses. Nuclear transfers to non-nuclear weapon states may not be used for any military purpose (section 123). The AEA authorizes the Department of State to negotiate agreements for cooperation with any nation or group of nations. The term "group of nations" refers to the European Atomic Energy Community (Euratom), which cooperates with the United States under the provisions of the Euratom Cooperation Act of 1958.

4. Relation of Treaties/Agreements

The acceptance of IAEA safeguards is a condition of agreement for nuclear cooperation with the United States, and a criteria for issuing U.S. export licenses. The mission, purposes, and authority of the IAEA are contained in the Agency's Statute, which entered into force in 1957. Congress established conditions for U.S. membership in the International Atomic Energy Agency Participation Act of 1957. IAEA safeguards are defined in Article III(2) of the Nuclear Non-Proliferation Treaty, which entered into force in 1970.

The violation or abrogation by a country of a safeguard agreement with the IAEA is grounds for terminating that country's agreement for nuclear cooperation with the United States.

The President may also suspend an agreement for cooperation with any nation or group of nations which has not ratified the Convention on Physical Security of Nuclear Material, which entered into force in 1987.

Two informal multilateral groups were formed in the 1970s to reinforce the international standards for nuclear commerce contained in the 1954 AEA. The Zangger Committee and the London Nuclear Suppliers Group established voluntary export guidelines to regulate transfers of nuclear materials, facilities, and technology from the more technologically advanced nuclear supplier nations to recipient nations.[1] As a voluntary association, no formal administrative structure exists to coordinate the separate nuclear trade policies of the member states. The guidelines are voluntary and lack enforcement mechanisms. The London Nuclear Supplies Group met in March 1991 for the first time since 1978.

5. Congressional Review

All proposed agreements for cooperation and subsequent agreements must be submitted to the Congress for a period of 90 days of continuous session. During the first 30 days, the President is required to consult with the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs regarding the consistency of the agreement with the requirements of section 123. Thereafter a joint resolution may be introduced and Congress has 60 additional days of continuous session in which to hold hearings and act on the resolution. The resolution is required to say that the Congress [does or does not] favor the proposed agreement for cooperation (section 123, section 130).

If the President determines that an agreement meets all of the statutory requirements, it automatically takes effect after the 90-day review. However, the Congress can disapprove a Presidential approval by a joint resolution of disapproval, assuming it can override a Presidential veto. (The proviso in section 123(d) for a joint resolution was modified in 1985 in connection with the Supreme Court decision that legislative vetoes by passage of concurrent resolutions were unconstitutional.) If the President waives any requirement of the Act, the agreement can take effect only if both Houses pass a resolution of approval.

6. Reporting/Consultation Requirements

Proposed agreements for cooperation must be approved by the appropriate congressional committees.

The President must submit a determination to the Congress if he decides to continue an agreement for cooperation after the agreement has been violated [section 129].

The AEA instructs the Secretaries of Energy, Defense, and State, and the Chairman of the Nuclear Regulatory Commission to keep the Congress "fully and currently informed." Any Government agency must furnish information requested by the Congress.

The ACDA must prepare an unclassified report which assesses whether the proposed

[1] The members of the Zangger Committee are Australia, Canada, Czechoslovakia, Denmark, Finland, Germany, Greece, Hungary, Italy, Japan, Luxembourg, the Netherlands, Norway, Poland, Sweden, Switzerland, the United Kingdom, the United States, and the Soviet Union. The members of the London Club are Belgium, Canada, Czechoslovakia, France, Germany, Italy, Japan, the Netherlands, Poland, Sweden, Switzerland, the United States, the United Kingdom, and the Soviet Union.

agreement is consistent with the export criteria in section 123. The ACDA report shall accompany the proposed agreement when it is submitted to the President for approval, and when the agreement is sent to the Congress.

Prior to entering into an agreement for retransfer of more than 500 grams of plutonium, the Secretary of Energy must report to the Senate Committee on Foreign Relations and the House Foreign Affairs Committee stating the reasons for the agreement [section 131].

The transmission of restricted information pursuant to an agreement for cooperation requires the Nuclear Regulatory Commission (NRC) to report to Congress on the nature of the information to be exchanged (section 147). The Secretary of Energy is also required to prepare quarterly reports to be made available "to any interested person" regarding procedures for disclosing restricted information.

Before issuing validated export licenses, the NRC must first submit export license applications for review by the Department of State.

Proposed exports of nuclear materials must be approved by the Secretary of Defense to assure that adequate provisions for physical security are in place [section 133].

7. Enforcement

Nuclear cooperation agreements can be suspended if a country violates the terms of the agreement, or engages in certain activities prohibited by U.S. and/or international laws. Actions which can trigger a cutoff of cooperation with non-nuclear weapons states are: detonation of a nuclear explosive device; termination or violation of an IAEA safeguards agreement; activities which have direct significance for the manufacture or acquisition of a nuclear explosive device. Actions which can trigger a suspension of nuclear cooperation with nuclear weapons states are: violation of an agreement for cooperation with the United States; assisting, encouraging, inducing a non-nuclear weapons state to engage in activities having direct significance for the manufacture or acquisition of a nuclear explosive device; entering into an agreement to transfer reprocessing equipment to any non-nuclear weapon state, except in connection with an agreement to which the United States subscribes.

8. Agency Responsibilities

Agreements for cooperation are negotiated by the Department of State, with the assistance and concurrence of the Department of Energy, NRC, and ACDA. Agreements for cooperation involving military applications pursuant to section 91 are implemented by the Secretary of Defense.

The Secretary of Energy is responsible for establishing procedures for coordinating inter-agency consultations regarding exports and agreements (section 57 and section 131). These rules and procedures are published in the *Federal Register* (June 7, 1978, p. 25326, and May 16, 1984, p. 20780). As part of the President's Enhanced Proliferation Control Initiative, revised procedures intended to expedite the inter-agency review process for nuclear export licenses were announced on February 19, 1991. (*Federal Register*, February 19, 1991, p. 6701).

Export licenses for nuclear materials and commodities are issued by the NRC, pending review by the Secretary of State and consultations with the Departments of Defense, Commerce, Energy, and ACDA. Applications for export licenses for "dual-use" items which could be used in the development or manufacture of nuclear explosive devices are processed by the Department of Commerce, which maintains a list of such dual-use commodities. Applications for export licenses for nuclear commodities on the Commerce Department list are referred to the inter-agency Subgroup on Nuclear Export Coordination (SNEC), which reviews the application and recommends to the Department of Commerce whether the application should be granted or denied.

9. Waiver

The President may waive restrictions on nuclear agreements and exports if he determines that such restriction and requirements would be prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security (section 123, section 126, section 128).

Foreign Assistance Act of 1961 As Amended (FAA)

Questions about the future of U.S. economic and military aid to Pakistan in light of that country's progress towards the development of nuclear weapons prompted Congress to attach key amendments to the FAA. Congress intended the amendments (sections 669 and 670) to dissuade recipients of U.S. aid from acquiring the wherewithal to produce weapon grade uranium and plutonium. The amendments did not penalize non-nuclear weapon states that acquire the equipment and technology from their own resources, or had imported it before 1976.

By the late 1970s, Pakistan had acquired nuclear enrichment facilities, primarily from China, which would make it ineligible for U.S. foreign assistance because of the prohibition in section 669. The Carter, Reagan, and Bush Administrations and many members of Congress thought it was important to continue providing aid to Pakistan because of its role in support of Afghan refugees and guerrillas. Those administrations exercised their authority to waive cutoff of aid required by sections 669 and 670. In 1985, Congress passed the Pressler amendment [section 620E(e)), which conditioned aid to Pakistan on a written Presidential determination to the Congress that "Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device." Eventually, the President stopped making such certifications, and aid was terminated in late 1990.

1. Eligibility Requirements for Exports

Sections 669 and 670, known as the Glenn-Symington amendments, require the President to cut military and economic assistance to countries that receive or supply the wherewithal for enriching uranium or for reprocessing spent nuclear fuel to extract plutonium (unless all such nuclear facilities and materials are placed under IAEA safeguards), that receive or transfer a nuclear explosive device, or that detonate a nuclear explosive device. President Carter invoked section 669 when he cut aid to Pakistan in 1979.

In 1985, Representative Solarz added a new restriction to section 670 providing for the cutoff of aid to any country which illegally exports, or attempts to export illegally, nuclear equipment that would contribute significantly to the ability of a country to construct a nuclear device.

2. Export Prohibitions/Restrictions

Restrictions apply only to U.S. military and economic aid.

3. Countries/Companies/Individuals Subject to Restrictions

The United States can terminate military and economic assistance to any nation found to be violating these statutes. The certification requirement in section 620E made possible the waiver of restrictions under sections 669 and 670 for Pakistan, but placed additional conditions on U.S. economic and military aid to Pakistan.

4. Relation of Treaties/Agreements

Acceptance of IAEA safeguards on all peaceful nuclear materials and facilities is required for continued U.S. aid.

5. Congressional Review

Congress retained the authority in sections 669 and 670 to terminate or restrict aid provided pursuant to a Presidential waiver of the cutoff. If, within 30 calendar days after receiving a Presidential certification in connection with a waiver of restrictions, the Congress adopts a concurrent resolution disapproving the assistance pursuant to the certification, the certification shall cease to be effective and all assistance furnished under the authority of that certification shall be ceased. However, such legislative vetoes by passage of a concurrent resolution are probably unconstitutional in view of the 1985 Supreme Court ruling in the case of *Immigration and Naturalization Service v. Chadha*.

Presidents Reagan and Bush supplied determinations under the Pressler amendment [sections 620E(e)] in each year from 1985 to 1989 despite Pakistan's continued progress towards the development of nuclear weapons. In his 1989 determination, President Bush expressed doubts about Pakistan's unsafeguarded nuclear program. The President did not submit determination for FY 1991, and U.S. aid to Pakistan was subsequently cutoff.

6. Reporting/Consultation Requirements

To waive the cutoff of aid contained in section 669 of the FAA, the President must certify to the Congress that: (A) the termination of such aid would have a serious adverse effect on vital U.S. interests; (B) he has received reliable assurance that the country will not acquire or develop nuclear weapons or assist other nations in doing so [section 669(b)(1)].

To waive the cutoff of aid contained in section 670 the President must issue a determination that a cutoff would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security [section 670(B)(2)(1)].

7. Enforcement

Termination of U.S. economic and military assistance is to be used.

8. Agency Responsibilities

None were specified.

9. Waiver

The President has had the authority to waive the cutoff of aid contingent on his providing to the Congress the required determination that the termination of aid would harm the national interest. Congress authorized the President to waive the cutoff of aid to Pakistan in response to the Soviet invasion of Afghanistan. However, the President's authority to waive the cutoff of aid to Pakistan expired April 1, 1991.

The Nuclear Non-Proliferation Act of 1978 (NNPA)

With a view to reinforcing positive and negative incentives for international cooperation with U.S. nonproliferation policy, the NNPA was intended to assert U.S. lead-

ership and control over the international nuclear fuel cycle. The NNPA sought to strengthen the U.S. role as a reliable supplier of nuclear technology and nuclear fuels as a means of controlling the spread of uranium enrichment and plutonium reprocessing facilities throughout the world. The Act awarded the requirements for nuclear cooperation with the United States originally contained in the AEA of 1954.

1. Eligibility Requirements for Exports

Participation in U.S. supported international nuclear fuel supply services is available only to non-nuclear weapon states which accept IAEA safeguards on all peaceful nuclear activities, do not manufacture or acquire a nuclear explosive device, do not establish new enrichment or reprocessing facilities, and place all existing facilities under international auspices and inspection [section 104(d)].

2. Export Prohibitions/Restrictions

No nuclear materials and equipment and no sensitive nuclear technology are to be transferred to the jurisdiction of any other nation unless the recipient agrees to conditions on the uses of such materials and technology, including the acceptance of IAEA safeguards on all peaceful nuclear activities.

3. Countries/Companies/Individuals Subject to Restrictions

All nations engaging in nuclear commerce with the United States must comply with NNPA, and AEA of 1954 conditions for nuclear cooperation [section 403].

4. Relation of Treaties/Agreements

The NNPA was enacted to support and strengthen the NPT, and to further institutionalize the IAEA safeguards and inspection system as an integral part of international nuclear commerce (section 201). Top priority for receiving U.S. energy resource development assistance is designated for nations which have signed the NPT.

5. Congressional Review

Consistent with the requirements of the AEA of 1954, the President may not enter into agreements for nuclear cooperation without first submitting such proposed agreements to the Congress for approval [section 104(f)].

6. Reporting/Consultation Requirements

The NNPA contains extensive reporting and consultation requirements.

The President is directed by section 601 to submit an annual report to the Congress on the Government's efforts to prevent nuclear proliferation. The comprehensive report is to include descriptions of progress made towards negotiating multilateral export controls, support for IAEA safeguards, encouraging adherence to the NPT, and discouraging nuclear exports to non-nuclear weapon states that have not signed the NPT. Additional requirements for reporting on nuclear terrorism were added by the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

The NRC and the Department of Energy are also required to submit annual reports to the Congress including detailed analysis of potential proliferation problems associated with new enrichment and reprocessing technologies (section 602). The Departments of State, Defense, Commerce, Energy, and ACDA are directed to keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the House Committee on Foreign Affairs "fully and currently informed" regarding the implementation of the Act and activities of foreign nations which are of significance from a proliferation standpoint [section 602(c)]. Semi-annual classified briefings are offered to the ranking members of the committees by the Department of State.

The Secretary of Defense is entitled to have full assess to all information regarding proliferation held by the Secretary of State and the Secretary of Energy [section 602(f)].

7. Enforcement

The President is directed to ensure that the benefits of participating in the international nuclear fuel cycle are available to non-nuclear weapon states only if such states accept IAEA safeguards on all peaceful nuclear activities, and do not manufacture or otherwise acquire any nuclear explosive device [section 104(d)]. Provisions for enforcing bilateral agreements for nuclear cooperation are described in the Atomic Energy Act of 1954 as amended.

8. Agency Responsibilities

The NRC is authorized to publish regulations to faciliate implementation of the Act, including procedures for inter-agency consultations between the Departments of State, Commerce, Energy, Defense, NRC, and ACDA (section 309). The President is directed to publish procedures regarding the control by the Department of Commerce over all dual-use nuclear export items, other than those nuclear commodities licensed by the NRC, which could be used to make nuclear explosive devices. Such dual-use items are controlled by the Commerce Department under the authority granted in the EAA of 1979. (See Dual-Use section, pages 93, 99.) These regulations were revised in connection with President Bush's Enhanced Proliferation Control Initiative in February 1991. The new regulations were intended to improve and expedite inter-agency review proceses for nuclear export licenses. (*Federal Register*, February 19, 1991, p. 6701)

9. Waiver

None were added to existing Presidential authority under the AEA of 1954.

Agreement for Nuclear Cooperation Between the United States and China, Joint Resolution Approving the Proposed Agreement for Nuclear Cooperation

In 1985, the Reagan Administration concluded an agreement for nuclear cooperation with the People's Republic of China. This resolution established guidelines and conditions for such cooperation.

1. Eligibility Requirements for Exports

The agreement permits, but does not require, U.S. nuclear cooperation with and transfers of nuclear materials and technology to China.

2. Export Prohibitions/Restrictions

The agreement requires Presidential certification that China has accepted verification of all U.S. exported commodities to assure they are used for peaceful purposes only, and that China is not violating section 129 of the AEA of 1954, which places restrictions on exports to nations that assist or encourage non-nuclear weapon states to acquire nuclear weapons.

3. Countries/Companies/Individuals Subject to Restrictions

People's Republic of China.

4. Relation of Treaties/Agreements

China is not a party to the NPT, does not allow IAEA safeguards on all of its peaceful nuclear activities, and is not a member of the Nuclear Suppliers Group. Chinese officials have stated their country's intention to abide by international standards of nuclear trade and commerce. However, numerous reports indicate that China's nuclear exports have often failed to satisfy the basic requirements for safeguarding international nuclear transfers. The disclosure in March 1991 of a secret Chinese sale of a reactor to Algeria renewed concerns about China's nuclear export policies.

The AEA and the NNPA require full-scope IAEA safeguards on all peaceful nuclear activities in non-nuclear weapon states. However, since China is a nuclear weapon state, IAEA safeguards are not required under U.S. law.

5. Congressional Review

No nuclear export license may be issued until 30 days of continuous session after the President has made the required certifications to the Congress.

6. Reporting/Consultation Requirements

The President must certify to Congress that adequate verification measures are in place to provide assurance that U.S.-supplied nuclear materials or goods have not been diverted for military purposes, and that China has provided additional information about its nonproliferation policies and is not in violation of section 129 of the AEA of 1954. The President must also submit to Congress a report detailing the history and current developments in Chinese nonproliferation policy.

An additonal reporting requirement was added in 1989 after the suppression of Chinese students in Tiananmen Square directing the President to certify that China "has provided clear and unequivocal assurances to the U.S. that it is not assisting and will not assist any non-nuclear weapons state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices."

The President has not supplied the Congress with the certifications required for issuing nuclear export licenses for transfers of materials, or goods to China.

7. Enforcement

Cutoff of nuclear cooperation with the United States is to be used.

8. Agency Responsibilities

None were specified beyond responsibilities for nuclear exports in AEA of 1954 and NNPA.

9. Waiver

None were specified.

Comprehensive Anti-Apartheid Act of 1986, as Amended

The United States has an agreement for nuclear cooperation with South Africa which will expire in 2007. However, the United States restricted nuclear exports to South Africa in 1979 because it would not accept IAEA safeguards on all of its nuclear activities. Some minor U.S. exports not requiring full-scope safeguards continued until Congress passed the Comprehensive Anti-Apartheid Act of 1986. The Act imposed a range of sanctions against South Africa, including expanded restrictions on nuclear trade.

1. Eligibility Requirements for Exports

Restrictions on nuclear exports can be lifted if South Africa signs the NPT or accepts full-scope IAEA safeguards on all of its nuclear facilities [section 307(4)].

2. Export Prohibitions/Restrictions

The Act imposes a range of sanctions against South Africa. Section 309 bans the import into the United States of South African uranium ore, uranium oxide, coal, or

textile. Section 309 does not, however, specify uranium hexafluoride. Consequently, uranium hexafluoride can be imported into the United States from South Africa (*Federal Register*, March 10, 1987, 7274).

The Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances identified pursuant to section 109(b) of the AEA of 1954 as significant from the standpoint of making nuclear explosives.

The Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have ben determined, pursuant to section 309(c) of the NNPA, to be of significance for nuclear explosive purposes. This prohibition applies to goods judged by the President to be likely to be diverted to a South African production or utilization facility.

The Secretary of Energy shall not, under section 57(b) of the AEA of 1954, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa.

No goods, technology, source or special nuclear material, facilities, components, items, or substances shall be approved by the NRC or an executive branch agency for retransfer to South Africa.

Prohibitions may be altered if the Secretary of State certifies that South Africa has signed the NPT or accepts IAEA safeguards on all its peaceful nuclear activities.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions include exports to, and imports from, South Africa.

4. Relation of Treaties/Agreements

Section 307 states that prohibitions on nuclear trade can be lifted if South Africa signs the NPT or agrees to accept IAEA safeguards on all its peaceful nuclear activities.

5. Congressional Review

Congress may, through a joint resolution, disapprove a Presidential determination to suspend or modify sanctions [section 311(b)(3) and section 601].

6. Reporting/Consultation Requirements

The President must submit determinations to allow particular prohibited nuclear exports to go forward for national security reasons to the Speaker of the House and the chairman of the Committee on Foreign Relations of the Senate at least 60 days in advance of such exports [section 307(c)].

Additional reports are required in connection with sanctions on other goods and transactions.

7. Enforcement

In addition to economic sanctions, any person that violates the provisions of the Act, or any regulations, license, or order issued to carry out the Act, shall be subject to a civil penalty of $50,000. Any person, other than an individual, who willfully violates the provisions of the Act shall be fined not more than $1,000,000. Any individual who willfully violates the provisions of the Act shall be fined not more than $50,000 or imprisoned not more than 10 years, or both. Whenever a person commits a violation, persons connected with the violation, including employers and employees, may be fined not more than $10,000 or imprisoned not more than 5 years, or both (section 603).

Additional penalties are available in connection with non-nuclear violations.

8. Agency Responsibilities

The NRC and the Departments of Commerce and Energy are directed not to allow transfers of goods under their jurisdiction.

9. Waiver

The President may waive prohibitions on nuclear exports if he determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States. Such a determination must be submitted to the Speaker of the House and the chairman of the Committee on Foreign Relations at least 60 days before the export is carried out.

Sanctions do not preclude nuclear exports necessary for humanitarian purposes or participation in IAEA reactor safety programs.

The President may lift sanctions on nuclear trade if South Africa signs the NPT or accepts IAEA safeguards on all its peaceful nuclear activities.

C. Treaties, International Agreements, and Regimes

The United States has played a leading role in developing the interconnected web of treaties, multilateral and bilateral agreements, laws, and policies that are collectively described as the nuclear nonproliferation regime. To a large extent, U.S. Laws and policies pioneered emerging norms of international behavior which today guide most international nuclear affairs.

President Eisenhower's 1953 Atoms for Peace proposal provided the foundation on which the IAEA was founded in 1957. The IAEA is a U.N.-affiliated international organization which serves in the dual capacity as a facilitator for the transfer of peaceful nuclear technology to developing nations, and as the primary verification mechanism for the NPT. The dual nature of the IAEA's mission provides both positive and negative incentives for achieving nonproliferation objectives. The coupling of positive incentives with the IAEA's verification and safeguards mechanisms is viewed by many analysts as vital for the success of the regime. Some nonproliferation analysts have recommended expanding the IAEA's verification capabilities to provide greater assurances regarding the nuclear programs of certain states. However, the Agency has been forced to operate with a zero-growth budget for the past 6 years, and thus lacks sufficient resources or authority to expand the scope of its operations.

Unilateral U.S. laws and policies have also been on the forefront of efforts to establish multilateral export controls on international transfers of nuclear materials and technology. The Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978 set important precedents for safeguarding international nuclear trade and commerce. The informal multilateral Zangger Committee and Nuclear Suppliers Group were established in the 1970s to reinforce and assist in the implementation of restrictions on nuclear transfers included in the NPT. The two voluntary groups seek to harmonize the separate nuclear export control policies of the major nuclear suppliers. The 1987 Convention on the Physical Protection of Nuclear Material also codifies international legal norms for safeguarding nuclear commerce.

Although the United States no longer wields the same level of economic and technological superiority that it did during the genesis of the nuclear nonproliferation regime, U.S. policy towards critical proliferation issues will strongly influence the direction of global responses to the spread of nuclear weapons.

D. Nuclear Nonproliferation Policy

The Bush Administration has expanded the definition of proliferation to include nuclear, chemical and biological weapons, and missiles. Oversight of these proliferation problems has been consolidated in the office of Reginald Bartholomew, Undersecretary of State for Security Assistance, Science, and Technology. Ambassador Richard T. Kennedy retains special responsibility for nuclear proliferation, including IAEA affairs. In connection with the Administration's Enhanced Proliferation Control Initiative, new regulations intended to streamline the complex and sometimes inconsistent implementation of export controls were announced on February 19, 1991. In adjusting U.S. export control policies to the post-Cold War environment, the Bush Administration has sought to improve coordination between the Departments of State, Defense, Commerce, Energy, NRC, and ACDA, especially in the administration of export controls on nuclear commodities and other dual-use goods.[2] The apparent relaxation of certain U.S. and CoCom regulations, however, has raised concerns about the removal of existing restrictions on exports of sensitive dual-use technologies to nations with active nuclear weapons programs.

Other critical issues before the President and the Congress include:

(1) U.S. aid to Pakistan;

(2) U.S. policy towards nations engaging in illegal or suspicious nuclear activities;

(3) Vote on extension of the NPT at the Fifth NPT Review Conference in 1995;

(4) Linkage between progress in "vertical" and "horizontal" proliferation;

(5) Linkage between the nuclear nonproliferation regime and the regimes created to control the spread of chemical and biological weapons and missiles; and

(6) Support for the IAEA and its inspections and safeguards system.

E. Proposed Legislation on Nuclear Nonproliferation

Several bills being considered by the Congress seek to address various aspects of nuclear nonproliferation policy.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H. Con. Res. 97 (Torricelli)

This concurrent resolution would express the sense of the Congress that the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense, and that the United States should seek the repeal of U.N. Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade of embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

[2] See Glennon Harrison and George Holliday, *Export Controls*, CRS issue Brief 87122 and, *Finding Common Ground: US Export Controls in a Changed Global Environment* (Washington: National Academy of Sciences, 1991).

H.R. 830, The Nuclear Non-Proliferation Enforcement Act of 1991 (Stark)

The bill would provide for the imposition of economic sanctions against foreign "proliferation profiteers" who violate U.S. and international standards for nuclear transfers.

1. Eligibility Requirements for Exports

The bill would not change eligibility for U.S. assistance, but would cut off trade with foreign companies or entities found to be violating U.S. and international laws regarding nuclear trade and commerce.

2. Export Prohibitions/Restrictions

The bill includes no prohibition or restriction on U.S. exports. Sanctions would prohibit for a period of at least 2 years the entry into the customs territory of the United States of any article that is the growth, product, or manufacture of a foreign person or entity whom the President has determined has violated U.S. nonproliferation laws.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions would apply to any foreign person, company, country, or entity determined by the President to have violated U.S. nuclear nonproliferation laws.

4. Relation to Treaties/Agreements

Sanctions would be applied to foreign persons who supply nuclear goods or technology to any foreign country which has not ratified the Treaty on the Non-Proliferation of Nuclear weapons and concluded an agreement with the IAEA for the application of IAEA safeguards on all nuclear facilities, and to any country which has violated a safeguards agreement with the IAEA.

The term "non-nuclear weapon state" is given the same definition as in the NPT.

5. Congressional Review

None.

6. Reporting/Consultation Requirements

The president would be required to determine at least once each year which, if any, foreign persons have violated the Act. Such determinations are to be published in the Federal Register.

The President would be authorized to issue advisory opinions to persons regarding actions that may make them eligible for sanctions.

The President would be required to notify the Congress in not less than 20 working days before issuing waivers of sanctions. The report must include explanations of the rationale and circumstance which led to the waiver.

Any United States person would be able to file a petition requesting an investigation to determine whether sanctions are warranted in a particular case. Upon receipt of such a petition, the President must determine whether to conduct an investigation and notify the petitioner of his decision. The decision shall be published in the Federal Register within 20 days. The petitioner may appeal the President's decision in U.S. district court.

7. Enforcement

The bill would prohibit for a period of at least 2 years of imports to the United States of any article that is the growth, product, or manufacture of any foreign person determined by the President to have violated the provisions of the Act. The definition of foreign person includes corporations, business associations, and government entities.

8. Agency Responsibilities

None stated.

9. Waiver

The President may waive sanctions pursuant to a determination that to do so is essential to the security of the United States.

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309 below.)

H.R. 1111, Anti-Apartheid Act Amendments of 1991 (Dellums)

In 1988, proponents of South African sanctions introduced amendments to the Comprehensive Anti-Apartheid Act of 1986. These amendments passed the House, but were not enacted. Similar amendments were introduced in the 101st Congress by Representative Dellums (H.R. 21) and Senator Simon (S. 507). Representative Dellums introduced H.R. 1111 in February 1991. The bill closely resembles previous efforts to amend the 1986 Act.

1. Eligibility Requirements for Exports

Sanctions against nuclear trade could no longer be lifted by the President if South Africa were to sign the NPT or accepts IAEA safeguards.

The amendments would strengthen sanctions in the existing law by imposing trade and investment sanctions and closing loopholes in the 1986 Act.

2. Export Prohibitions/Restrictions

Section 105 of the Act would amend section 307 of the Comprehensive Anti-Apartheid Act of 1986 to cut off any residual U.S. nuclear trade with South Africa. Section 201 would amend section 301 of the Comprehensive Anti-Apartheid Act to extend the ban on imports of South African uranium to include uranium hexafluoride that has been manufactured from South African uranium.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions would apply to exports to and imports from South Africa. Certain sanctions would not apply to businesses wholly owned and controlled by South Africans who are economically and politically disadvantaged by apartheid.

4. Relations of Treaties/Agreements

Signing the NPT or accepting IAEA safeguards would no longer be sufficient to allow the President to lift prohibitions on nuclear transfers.

5. Congressional Review

Joint resolutions to disapprove the President's intention to suspend or modify certain import and export restrictions on South African goods would be referred jointly to the House Committee on Foreign Affairs and the House Committee on Ways and Means. Existing law requires such joint resolutions to be referred to the Speaker of the House and the Senate Foreign Relations Committee.

6. Reporting/Consultation Requirements

New reporting requirements would include a requirement for the President or his designee to confer with the governments of the African "frontline" states regarding the implementation of appropriate measures to prevent the circumvention by South Africa of import restrictions on South African products.

A comprehensive report to the Congress would be submitted annually by the coordinator of South African sanctions, a new position in the Department of State that would be established by the bill.

7. Enforcement

With a view to expanding and strengthening sanctions in the existing law, H.R. 1111 would cut off any residual U.S. nuclear assistance to South Africa by providing that: "Notwithstanding any other provision of law, the Secretary of Energy shall not, under section 57(b)(2) of the AEA of 1954, authorize any person to engage directly or indirectly, in the production of special nuclear material in South Africa." In addition, section 201 would amend section 301 of the 1986 Act to extend the ban on imports of South African uranium to include "uranium hexafluoride that has been manufactured from South African uranium or uranium oxide."

Penalties under the Act would be amended so that any person, other than an individual, that knowingly violates the provisions of the Act, or any regulation, license, or order issued to carry out the Act shall be fined in accordance with title 18, United States Code. Any individual who willfully violates the Act shall be imprisoned not more than 10 years, fined in accordance with title 18 of the United States Code, or both. Any individual who knowingly violates the provisions of the Act shall be imprisoned not more than 5 years, fined in accordance with title 18 of the United States Code, or both. Any individual who violates section 302(d)(1) or any regulations issued to carry out that section shall be fined in accordance with title 18, U.S. Code.

The amendments would also include new penalties against foreign persons who take commercial advantage of sanctions imposed by the Act. The President could impose one or both of the following penalties: Limit the importation into the U.S. of any product or service of the foreign person; restrict the foreign person from contracting with the U.S. Government.

8. Agency Responsibilities

New sections would be added to the 1986 Act providing for the establishment within the Department of State of a coordinator of South Africa sanctions (section 607). The coordinator would assist the Department of Commerce and Treasury and the appropriate intelligence agencies in carrying out the provisions of the Act.

Section 608 would establish an interagency coordinating committee on South Africa, composed of the Secretaries of State (who would also be the chairperson), Treasury, Defense, Commerce, Agriculture, the Attorney General, the U.S. Trade Representative, and such other heads of executive agencies with functions under the Act as the President considers appropriate.

9. Waiver

Prohibitions would not apply to the import of "any strategic mineral with respect to which the President certifies to the Congress for purposes of this Act that the quantities of such mineral which are essential for the economy, public health, or defense of the United States are not available from alternative reliable suppliers. . . ."

Section 402 of the Act would be amended to allow the President to waive sanctions against violators of United Nations sanctions if the violators have entered into a cooperative agreement with the United States to bring about the dismantling of apartheid [section 401]. The President may revoke the waiver in consideration of evidence that the agreement is not being adequately enforced.

H.R. 2315 (Berman)

The bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

H.R. 2508 Foreign Assistance Act Amendments (Fascell)

This legislation would amend the Foreign Assistance Act of 1961 to establish more effective

assistance programs and eliminate obsolete and inconsistent provisions. Earlier legislation (H.R. 1792), introduced on behalf of the President, would have eliminated key provisions of the FAA relating to nuclear proliferation. An attempt to eliminate section 620E of the FAA (the Pressler amendment), which requires the President to certify to the Congress that Pakistan does not possess a nuclear explosive device as a condition for continued U.S. aid, was defeated (Congressional Record, June 12, 1991, 14401). However, an amendment was passed to extend the certification requirements for Pakistan to include India (Congressional Record, June 13, 1991, 14710). The version of the bill passed by the House would leave other existing provisions of the Act relating to nuclear proliferation intact.

H.R. 2621, Appropriations for Foreign Operations, Export Financing, and Related Programs for the Fiscal Year Ending September 30, 1992 (Obey)

Under Title IV of the appropriations bill, no funds made available through the Export-Import Bank may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear weapon state (as defined by the NPT) that is eligible to receive U.S. economic or military assistance. The certification requirement for aid to Pakistan contained in Section 620E of the Foreign Assistance Act of 1961, the Pressler amendment, would be extended from April 1, 1991, to April 1, 1993. In calling for a moratorium on U.S. arms transfers, section 589 of the appropriations bill directs the President to submit reports to the Senate Foreign Relations Committee and the House Foreign Affairs and Appropriations Committees on a U.S. plan for establishing a multilateral regime to restrict transfers of conventional and unconventional arms to the Middle East, and on specific methods of implementing such a plan. The President is directed to seek negotiations for the purpose of convening an international conference on establishing the multilateral arms control regime. The bill also appropriates $27,500,000 for the IAEA.

H.R. 2755, The Nuclear Proliferation Prevention Act of 1991 (Markey)

If enacted, the bill would amend the Atomic Energy Act of 1954 to expand restrictions on nuclear exports to include dual-use commodities and would ban exports of highly enriched uranium for use in civilian nuclear reactors. The bill calls on the President to conduct negotiations to strengthen multilateral export controls on nuclear items, and would impose trade sanctions against violators of U.S. and/or international proliferation controls.

1. Eligibility Requirements for Exports

The bill would require enactment of a formal agreement for nuclear cooperation with the U.S. pursuant to the terms of the AEA as amended by the NNPA as a condition for all nuclear exports, including exports of dual-use items controlled under the Export Administration Act.

2. Export Prohibitions/Restrictions

Nuclear materials, facilities, components, and technology would be exported only to nuclear weapons-states that maintain full-scope IAEA safeguards on all peaceful nuclear activities and non-nuclear-weapon states that maintain full-scope IAEA safeguards on all nuclear activities. Exports of weapons-usable enriched uranium would be sharply curtailed. The bill urges the President to undertake negotiations with those nations that participate in the Nuclear Suppliers Group to expand and harmonize multilateral restrictions on nuclear exports.

3. Countries/Companies/Individuals Subject to Restrictions

Only states which maintain full-scope IAEA safeguards and which have negotiated a formal agreement for nuclear cooperation under the provisions of the AEA of 1954, as amended by the NNPA, would be eligible to receive nuclear exports from the United States.

Sanctions would apply to any foreign or U.S. person who the President has determined has violated U.S. or international nuclear nonproliferation laws or agreements.

Sanctions would not apply to exports and transfers authorized by the laws of a nation participating in the Nuclear Suppliers Group and adhering to all NSG suppliers guidelines.

Persons who request an advisory opinion from the United States Government regarding activities that may make them subject to sanctions will not be subject to sanctions if they act in good faith in accordance with such an advisory opinion.

4. Relation to Treaties/Agreements

The bill would urge the President to undertake negotiations with the members of the Nuclear Suppliers Group to establish a list of facilities, materials, equipment, and technology of significance for nuclear explosive purposes which may not be transferred to any non-nuclear facilities. The President should negotiate also to prohibit exports of greater than 20 percent enriched uranium, to terminate exports and retransfers of items which could be of significance for nuclear explosive purposes to states which are determined to pose significant threats to regional or global peace and security.

The bill would amend the NNPA to include measures aimed at improving the effectiveness of the International Atomic Energy Agency. The measure directs U.S. officials to negotiate with other nations and the IAEA Board of Governors to require the IAEA to make public documents and reports on IAEA safeguards agreements with individual member states and the results of IAEA inspections. The United States would also seek to improve IAEA access within nuclear facilities capable of producing, processing, or fabricating weapons-usable nuclear materials, to facilitate the exercise of the right of IAEA to conduct special inspections of such facilities, to apply IAEA safeguards to tritium and natural uranium concentrate, and to expand the scope of safeguards on heavy water. The bill calls on the United States to provide the IAEA with additional funds, technical assistance, and political support.

5. Congressional Review

No requirement is stated.

6. Reporting/Consultation Requirements

The President would be required to notify Congress of his intention to impose sanctions not later than 15 days before imposing sanctions, together with his reasons for the choice of particular sanctions.

The President would be required to report to the Speaker of the House and the President of the Senate within 6 months and annually thereafter on negotiations to improve the effectiveness of the IAEA.

7. Enforcement

Sanctions required in the bill would terminate for a period of not less than 2 years all U.S. nuclear exports, retransfers, and authorizations for persons, firms, or nations determined by the President to be violating U.S. nuclear non-proliferation laws or international nuclear nonproliferation agreements. Imports into the United States would also be prohibited for a period of not less than 2 years.

8. Agency Responsibilities

Dual-use nuclear-related exports controlled by the Secretary of Commerce under the authority of the NNPA and the EAA would become subject to the tougher export restrictions contained in the bill.

The Nuclear Regulatory Commission would be required to cease issuing licenses for exports of uranium enriched to greater than 20 percent U-235, except for use in reactors which the NRC determines cannot be converted to use low-enriched uranium.

Upon request, agencies may, in consultation with the Secretary of State and the Secretary of Defense, issue advisory opinions to persons that would be subject to sanctions.

9. Waiver

None is stated.

S. 309, The Non-Proliferation and Arms Transfer Control Act (McCain)

If enacted, S. 309 would not significantly alter the basic conditions for nuclear cooperation with the United States. However, the bill would call for a cutoff of most forms of trade with nations identified by the President as having acquired or used weapons of mass destruction—including nuclear weapons—or transferred illegally goods or technology that could be used to produce nuclear weapons. Penalties and sanctions would apply to both suppliers and recipients of such goods and technology. Penalties include a cutoff of U.S. economic and military aid, denial of most favored nation status, trade sanctions against countries, companies, and individuals, and forfeiture of property and assets.

1. Eligibility Requirements for Exports

The bill would prohibit most forms of trade and commerce with nations identified by the President as threats to world peace.

2. Export Prohibitions/Restrictions

No goods or technology could be exported from the United States to any country that has acquired weapons of mass destruction, including nuclear weapons, "at levels that threaten world or regional peace or the security of the United States, its allies, or other nonbelligerent countries." Exports would also be banned to "any country that threatens to use armed force to carry out an act of aggression against any other country or to use a weapon of mass destruction against such country," and to "any country that has transferred any good or technology, including any dual-use item or technology, that may be used to produce or transfer conventional arms or any weapon of mass destruction" to any country identified by the President as a threat to world peace.

3. Countries/Companies/Individuals Subject to Restrictions

The bill does not identify those who are subject to restrictions. Sanctions and penalties may be directed against nations identified by the President as threats to world peace, and "against those countries, companies, and national entities that transfer such military equipment and technology that assist in building up the military capabilities of other countries that threaten world peace, including their capability to manufacture and deliver weapons of mass destruction."

4. Relation to Treaties/Agreements

No relationship is stated.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit to Congress a list identifying countries of concern based on criteria described in the bill. The report shall describe relevant transfers of military and dual-use goods to each country on the list, the governments and persons involved in such transfers, steps taken to enforce the Act, the success

of those efforts, sanctions and penalties imposed, and steps taken to persuade other countries to cooperate with the United States to hold the activities in question.

The President may notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

The President shall publish the U.S. Munitions List and a consolidated list of dual-use items subject to export controls not more than 30 days after the enactment of the Act.

Presidential determinations that a U.S. or foreign person has violated the provisions of the Act shall be published in not more than 7 days.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report. No product or technology could be imported into the United States from a country named on the list.

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government could not enter into contracts with violators and could not transfer technology to violators, and would have to deny security clearances to violators. Any property owned by violators within the United States would be forfeited to the U.S. Government, with certain exceptions.

8. Agency Responsibilities

None is stated.

9. Waiver

The President could waive prohibitions on exports, imports, and assistance if he determines and notifies Congress that to do so would be in the national security interests of the United States. However, nondiscriminatory trade treatment could not be extended or restored to a country on the President's list.

Certain penalties would not apply if the President certifies that the violator could not know or prevent the violation. Also penalties do not apply to contracts entered into before a country was named on the President's list of countries of concern.

S. 320, Omnibus Export Amendment Act of 1991 (Riegle)

Subtitle B of the Act contains specific sanctions against Iraq, including prohibitions on NRC export licenses for transfers of nuclear material, facilities, components, and technologies to Iraq. The Act would restrict NRC and DOE authorities under the Atomic Energy Act of 1954.

S. 1020 (Helms)

This bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear Non-Proliferation Treaty; adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict; ceasing to provide support for the Khmer Rouge; and adhering to international human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments and "halt the flow of unconventional arms, including nuclear weapons and technologies necessary to produce or assemble such arms, to all nations in the Middle East."

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish a multilateral arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East. The International Atomic Energy Agency and CoCom are cited as models for the types of multilateral control mechanisms which could be incorporated into the proposed new regime.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of transfers of conventional and unconventional weapons to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

S. 1128, The Omnibus Nuclear Proliferation Control Act of 1991 (Glenn)

If enacted, S. 1128 would expand the scope of penalties available to the President to be imposed on U.S. and foreign companies and individuals that traffic in equipment or technology related to nuclear weapons. The bill would amend 7 existing U.S. laws for the purpose of denying such firms and individuals access to American markets and U.S. Government contracts. Countries found by the President to be violating international nuclear nonproliferation treaty commitments could be excluded from receiving economic and military assistance from the United States, and from receiving assistance from international financial institutions in which the United States participates.

1. Eligibility Requirements for Exports

The bill would not change the existing conditions and criteria for negotiating nuclear cooperation agreements and for controlling nuclear exports, which are contained in the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978. The bill could, however, exclude certain countries, firms, and individuals from trade and commerce with the United States.

2. Export Prohibitions/Restrictions

The Arms Export Control Act would be amended to ensure that nations receiving U.S. arms are in full compliance with their international nuclear nonproliferation treaty commitments, and that they have not willfully aided or abetted the international proliferation of nuclear explosive devices.

Sanctions would include a ban on imports into the United States of products produced by any foreign person or any parent, subsidiary, affiliate, or successor entity that the President has determined is trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions could be imposed on U.S. and foreign firms and individuals determined by the President to be trafficking in goods or technology that would assist a nation or group to acquire nuclear weapons.

Nations that receive assistance from international financial institutions in which the United States participates would be subject to restrictions against using such assistance directly or indirectly to acquire unsafeguarded nuclear material or to develop stockpiles, or use any nuclear explosive device.

4. Relation to Treaties/Agreements

Recipients of U.S. arms transfers would be required to be in full compliance with their nuclear nonproliferation treaty commitments.

United States executive directors of international financial institutions would be instructed to oppose direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear materials or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear weapon state. U.S. executive directors would be required to determine if recipient countries are seeking to acquire unsafeguarded nuclear material, are seeking to acquire a nuclear explosive device, or have not signed the Nuclear Non-Proliferation Treaty.

The term "non-nuclear weapon state" is defined by Article IX(3) of the Nuclear Non-Proliferation Treaty.

The term "IAEA safeguards" means the safeguards set forth in agreements between a country and the International Atomic Energy Agency.

The term "unsafeguarded nuclear material" means special nuclear material which is held in violation of, or not subject to, IAEA safeguards.

5. Congressional Review

The President would be required to notify the Congress not less than 20 days before exercising his authority to waive sanctions. Such notification would include a report fully articulating the rationale and the circumstances which led the President to exercise the waiver authority. The President would also be required to determine and certify to the Congress his intention to delay the imposition of sanctions for 180 days pending consultations with foreign governments regarding actions to terminate and punish actions prohibited by the Act. The President could delay the imposition of sanctions for an additional 90 days if he determines and certifies to Congress that the foreign government is in the process of taking corrective action.

To terminate sanctions, the President would be required to determine and certify to Congress that the actions for which the sanctions were originally imposed have ceased, and the President has reason to believe that they will not continue in the future.

6. Reporting/Consultation Requirements

The President would be required to submit an annual report to Congress assessing the compliance by other nations with their nuclear nonproliferation commitments.

The Secretary of State would be required to submit a comprehensive report assessing the effectiveness of past U.S. diplomatic demarches issued to advance nonproliferation objectives.

Not later than 90 days after making a determination to enact sanctions, the President would be required to submit a report on the status of consultations with the appropriate government to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House.

7. Enforcement

Sanctions on foreign persons would include a ban on procurement contracts with the United States Government and a ban on imports into the United States of products produced by any foreign person or any parent, subsidiary, affiliate, or successor entity that the President has determined is trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device.

Sanctions against U.S. persons would include a ban on procurement contracts with the United States Government.

Sanctions would be imposed for at least 12 months and would be lifted only if the President determines and certifies to Congress that reliable information indicates that the actions that triggered the sanctions have ceased, and will not recur in the future.

Nations determined by the President to be trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device could also be denied arms transfers under the Arms Export Control Act and financial benefits under the Export-Import Bank Act of 1945. These sanctions are in addition to other sanctions that may be imposed for the same activities under any other provision of law.

The Secretary of State would be authorized to offer rewards for information relating to illicit acquisitions of unsafeguarded nuclear material or nuclear explosive devices.

If enacted, the bill would expand the President's authority under the International Emergency Economic Powers Act to impose a broader variety of economic sanctions against nuclear proliferators.

8. Agency Responsibilities

The bill directs the Secretary of the Treasury to instruct the U.S. executive directors of international financial institutions described in section 701(a) of the International Financial Institutions Act to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear weapon state.

The Arms Control and Disarmament Act would be amended to direct the General Advisory Committee of the Arms Control and Disarmament Agency to provide to the President advice on measures to reduce, control, or halt the spread of nuclear weapons.

9. Waiver

The President would have the authority to waive any sanction after a period of 12 months.

Sanctions would not apply to cases involving U.S. imports of essential defense-related commodities, to goods covered by contracts predating enactment of the law, to information and products essential to U.S. production, and to medical and humanitarian items.

The bill would amend the Foreign Assistance Act of 1961 to establish time limitations and waivers of penalties against countries that traffic in nuclear reprocessing technology.

CHEMICAL NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Steven R. Bowman, Analyst in National Defense, Foreign Affairs and National Defense Division)

A. Introduction

It has never been U.S. policy to permit export of chemical munitions. The manufacture of all chemical munitions in Government-controlled facilities has made control over their transfer relatively simple. In recent years, U.S. chemical weapons (CW) nonproliferation efforts have expanded to control the export of lethal chemical and warfare agents, their precursors, and technology that could assist other nations in manufacturing finished CW munitions.[3]

B. U.S. Chemical Nonproliferation Laws

The Department of State, under authority of the Arms Export Control Act (AECA), regulates the transfer of "chemical agents having military application." As most new CW nonproliferation efforts are focusing on controlling exports of precursor chemicals and production equipment, the Export Administration Act (EAA) and its implementing regulations provide legal authority for the control of such dual-use items. The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President, Bush indefinitely extended his authority to control exports.

The following section concentrates on the export restrictions that apply specifically to chemicals and related technology, over and above those applied to arms exports in general. (See Appendix I at the end of this chapter for specific controlled chemicals and equipment.)

1. Eligibility Requirements for Exports

There are no special statutory eligibility requirements for the export of CW-related goods and technology.

2. Export Prohibitions/Restrictions

There is no statutory prohibition of exporting CW-related goods or technology. The AECA and EAA regulations, however, require validated export licenses for: (1) chemical warfare agents on the Munitions Control List; (2) precursor chemicals on the Commodity Control List, if destined for firms in non-Australia Group countries, and (3) CW-related equipment and technology on the Commodity Control List, if destined for certain specified countries. (See country listings below.) It is current U.S. policy to deny all export license applications which the Department of Commerce determines would make a "material contribution to the design, development, production, stockpiling, or use of chemical weapons."[4] It should be noted that no export license or Government notification is required for the export of precursor chemicals or CW-related equipment and technology to firms located in Australia Group countries.[5]

Recent amendment of the Export Administration Regulations also prohibits U.S. nationals from participating in or assisting the development or production of chemical weapons in or by the countries listed below.[6]

3. Countries/Companies/Individuals Subject to Restrictions

In accordance with recently revised Export Administration Regulations, countries for whom validated licenses are required to export CW-related goods are: Afghanistan, Brahrain, Cambodia, Cuba, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Myanmar (Burma), North Korea, Oman, Pakistan, Qatar, Romania, Saudi Arabia, South Africa, Soviet Union, Syria, Taiwan, United Arab Emirates, Vietnam, and Yemen.[7]

4. Relation to Treaties/Agreements

U.S. laws governing the export of CW-related goods are independent of international treaties and agreements.

5. Congressional Review

Under the AECA, Congress may veto the export of chemical warfare agents through a joint resolution of disapproval within 30 days of Presidential certification of the transfer. However, Presidential certification to Congress is only required for transfers of $14 million or more. Other transfers of CW-related goods are not subject to congressional review.

6. Reporting/Consultation Requirements

Transfers of CW-related goods are subject to the same reporting requirements as those of other commodities controlled by the AECA and EAA.

7. Enforcement

Violation of the AECA or EAA may be punished by criminal and civil penalties with fines up to $1 million and ten year imprisonment.

8. Agency Responsibilities

The Secretary of Commerce grants export licenses for CW-related goods and technology, in consultation with the Secretaries of Defense and State. The U.S. Customs Service and Federal Bureau of Investigation are responsible for domestic enforcement of the AECA and EAA.

9. Waiver

Presidential waiver authority under the AECA and EAA is the same for CW-related goods and technology as other controlled commodities.

C. Treaties, International Agreements, and Regimes

International cooperation to control CW-related commerce is centered in the Aus-

[3]Most CW agents, such as nerve agents or vesicants, have no peaceful applications. However, some hydrogen cyanide for example, do. In addition, some chemicals, such as organophosphorus pesticides, are chemically very similar to modern CW agents. Moreover, a range of chemicals that can be combined to produce CX agents (so-called "precursor" chemicals) have a variety of legitimate uses.

[4]U.S. Government. Federal Register. Vol 56, No. 49. March 13, 1991. p. 10760.

[5]The Australia Group comprises Australia, Austria, Belgium, Canada, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United States. It is so named because Australia first encouraged its formation, and it meetings are held in the Australian embassy in Paris.

[6]U.S. Government. Federal Register. Vol. 56, No. 49, March 13, 1991. p. 10765. See Section C for a brief discussion.

[7]U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

tralia Group, an informal association of supplier nations which have agreed upon a list of chemicals whose export to non-member nations should be controlled. The United States is currently encouraging Australia Group members to expand their export controls to include dual-use equipment and technology. Each member nation imposes its export controls voluntarily, and their stringency varies. The 1925 Geneva Protocol, often thought to ban chemical weapons entirely, actually only prohibits their use in war.[8] The multilateral Chemical Weapons Convention currently under negotiation in Geneva would ban the production, stockpiling, tranfer, and use of all chemical weapons. (See CRS Issue Brief IB89042, Chemical Weapons: U.S. Production, Destruction, and Arms Control Negotiations.)

D. U.S. Chemical Nonproliferation Policy

The Administration is seeking to impede chemical weapons proliferation without diminishing U.S. competitiveness in legitimate international chemical commerce. License applications for exports of CW-rleated commodities to countries that are not members of the Australia Group and that are not actively working to stem CW proliferation will be routinely denied licenses. At the same time, the Administration is applying diplomatic presure to have all Australia Group members tighten their export regulations, thereby placing their chemical industries under restrictions similar to those now governing U.S. firms.

E. Proposed Legislation on Chemical Nonproliferation

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology and address other areas pertinent to limiting arms sales or transfers. The bill would instruct the President to enter discussions with other governments concerning the establishment of a commission to pursue these purposes. (See Missile Nonproliferation chapter for a more detailed treatment of H.R. 1343.)

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

H.R. 2508 (Fascell) International Cooperation Act of 1991

The bill would prohibit U.S. security assistance to any country that has an offensive chemical weapons program and has not supported the Chemical Weapons Convention being negotiated in Geneva.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements

The bill would prohibit U.S. exports of any goods or technology to counties that the President has reported as having taken certain threatening or aggressive actions.

2. Export Prohibitions/Restrictions

No goods or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any goods or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated, although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the Presdient would be required to submit to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government could not enter into contracts with violators of the Act, could not transfer technology to violators, and would have to deny security clearances to violators. The United States would be able to vest all right, title and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/Companies Subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

This bill would reauthorize the Export Administration Act of 1979, and provide for other purposes.

The following section deals only with the provisions of Title IV of this bill, Chemical and Biological Weapons Proliferation, which amends both the AECA and EAA. This title is also known as the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

1. Eligibility Requirements

This bill would require the Secretary of Commerce to grant export licenses on the basis on the "reliability" of an applicant to prevent the diversion of controlled goods or technology to unauthorized use or consignee.

2. Export Prohibitions/Restrictions

A validated license would be required for the export of CW-related goods or technology to any country that does not have an arrangement with the United States for the control of such items.

3. Countries/Companies/Individuals Subject to Restrictions

No specific countries would be subject to restriction, except those noted that do not have an arrangement with the United States to control CW-related items. These countries would be designated "countries of concern." Foreign persons who knowingly assist a "country of concern" to export from the U.S. or any other country controlled CW-related goods would be subject to restrictions and sanctions described under Enforcement below.

4. Relation to Treaties/Agreements

The bill would encourage the Australia Group to become more formal in its arrangements through establishing: (1) a "harmonized" list of export control rules and regulations; (2) diplomatic liaison officers to the Group; (3) information-exchange channels of suspected proliferants, and; (4) a denial list of firms and individuals who violate export controls.

5. Congressional Review

None is stated.

[8] Many signatories to the Geneva Convention, including the United States, ratified it reserving the right to retaliate with chemical weapons if attacked with them. This weakens the Convention's ban, making it, in effect, a "no first use" agreement.

6. Reporting/Consulting Requirements

The Secretary of Commerce would be directed to maintain a list of goods and technology that would directly and substantially assist a foreign government or group to develop, produce, stockpile, or use chemical weapons whose licensing would be effective in barring such capability.

If the President determines that a foreign person has assisted in CW proliferation, he would be urged to consult with the foreign government of jurisdiction concerning the imposition of sanctions, and required to report the status of such consultations to Congress within 90 days.

The Chairman of the Senate Committee on Foreign Relations or the Chairman of the House Committee on Foreign Affairs could request the President to consider whether a foreign government has used chemical weapons in violation of international law or against its own nationals. Within 60 days of such a request, the President would be required to provide a written report on the information held by the executive branch pertinent to this request.

Within 90 days of the enactment of this Act, the President would be required to submit to Congress a report which would include: (1) a description of actions taken to carry out this title (Title IV); (2) a description of current efforts of foreign nations to acquire a CW capability and an assessment of potential success in doing so; (3) a description of the use and preparation for use of chemical weapons by foreign nations and subnational groups; (4) a description of the extent to which foreign nations have knowingly assisted third countries or subnational groups to acquire a CW capability.

If the executive branch receives persuasive information that a foreign nation has made substantial preparation to use or has used chemical weapons in violation of international law or against it own nationals, the President would be required to determine the validity of the accusation within 60 days and report the determination to Congress. If the President determines the accusation is accurate, he would be required to specify to Congress what sanctions are to be imposed. Within 30 days of this determination, the President would be required to certify to Congress that the foreign nation is no longer using chemical weapons, has provided reliable assurances it will not in the future, and will allow on-site inspections. If such certification is not possible, the President would be required to consult with Congress and impose an additional sanction. (See Enforcement.)

7. Enforcement

Foreign persons who knowingly and materially assist a country that, according to Presidential determination, has since January 1, 1980, used chemical weapons in violation of international law or against its own nationals, or had made preparations to do so, or has repeatedly provided support for international terrorism, would be subject to the following sanctions: (1) denial of U.S. Government contracts for goods or services; (2) denial of the importation of any products into the United States.

The President would not be required to apply sanctions in the case of: (1) procurement of defense articles or services under existing contracts for which their is no reasonable alternative supplier or which are subject to defense coproduction agreements; or (2) existing contracts for spare parts, component parts, routine servicing and maintenance, information or technology essential to U.S. products, or medical and humanitarian items.

If the President determines that a nation has used chemical weapons in violation of international law or against its own nationals, the President would be required to impose at least six of the following sanctions: (1) termination of foreign assistance, except urgent humanitarian assistance, food, or other agricultural products; (2) termination of arms sales and United States Munitions List export licenses; (3) termination of arms sales financing; (4) U.S. Government opposition to any loan or financial or technical assistance by international financial institutions; (5) denial of U.S. credit or financial assistance; (6) prohibition of any loan or credit from U.S. banks, except for those to buy food or other agricultural products; (7) prohibition of exports of security-sensitive goods and technology; (8) prohibition of all exports, except food and other agricultural commodities; (9) unspecified restrictions on imports; (10) downgrading or suspending diplomatic relations; (11) termination of national air carrier landing rights.

In addition to the provision of Title IV, section 606 of the Act would amend the U.S. Code by defining as an act of international terrorism the production, transport, or use of biological or chemical weapons which kill, maim, or injure U.S. nationals abroad. Persons who commit the acts would thereby become subject to criminal and civil penalties.

8. Agency Responsibilities

The bill would not amend U.S. Government agency responsibilities.

9. Waiver

Twelve months after the imposition of sanctions, the President could waive them if he determines and certifies to Congress that it is important to the national security interests of the United States.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies that the Administration has tried to establish an arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

Appendix I. Controlled Chemical Weapons Precursor Chemicals

Ammonium hydrogen fluoride.
Arsenic trichloride.
Benzylic acid.
2-Chloroethanol.
Diethyl ethylphosphonate.
Diethyl methylphosphonite.
Diethyl-N,N-dimethylphosphoroamidate.
Diethyl phosphite.
N,N-Diethylethanolamine.
N,N-Diisopropyl-.beta.-aminoethanethiol.
N,N-Diisopropyl-.beta.-aminoethanol.
N,N-Diisopropyl-.beta.-aminoethyl chloride.
Diisopropylamine.
Dimethyl ethylphosphonate.
Dimethyl methylphosphonate.
Dimethyl phosphite.
Dimethylamine.
Dimethylamine hydrochloride.
O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL).
Ethylphosphonous dichloride.
Ethylphosphonous difluoride.
Ethylphosphonyl dichloride.
Ethylphosphonyl difluoride.
Hydrogen fluoride.
3-Hydroxyl-1-methylpiperidine.
Methyl benzilate.
Methylphosphonous dichloride.
Methylphosphonous difluoride.
Methylphosphonyl dichloride.
Methylphosphonyl difluoride.
Phosphorus oxychloride.
Phosphorous pentachloride.
Phosphorous pentasulfide.
Pinacolone.
Pinacolyl alcohol.
Potassium cyanide.
Potassium fluoride.
Potassium hydrogen fluoride.
3-Quinuclidinol.
3-Quinuclidinone.
Sodium bifluoride.
Sodium cyanide.
Sodium fluoride.
Sodium sulfide.
Thiodyglycol.
Thionyl chloride.
Triethanolamine.
Triethyl phosphite.
Trimethyl phosphite.

Controlled Chemical Weapons-Related Equipment

1. Chemical processing equipment lined with nickel or constructed of a nickel alloy.
2. Vapor leakproof pumps or valves.
3. Thermometers of other chemical processing sensors encased in nickel.
4. Filling equipment enclosed in an environmental barrier or having a nickel-lined nozzle.
5. Specifically designed incinerators for chemical precursors, chemical warfare agents, or organophosphorus compounds.

6. Toxic gas monitoring systems.

7. Monitoring systems for the detection of anticholinesterase (nerve agent) activity.

BIOLOGICAL NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Steven R. Bowman, Analyst in National Defense, Foreign Affairs and National Defense Division)

A. Introduction

The United States destroyed its stockpile of biological weapons in accordance with the 1972 Biological and Toxin Weapons Convention. The U.S. Government maintains small amounts of potential biological warfare agents for defensive research purposes (e.g., vaccine development, testing protective clothing). Many commodities that could conceivably be diverted to biological weapons development have a variety of legitimate research applications. Recently, the Administration tightened export controls on a very extensive list of biological agents (viruses, protozoa, bacteria, and fungi) and some equipment that could be useful in developing biological weapons. (The types of such equipment are listed at Appendix II at the end of this chapter.)

B. U.S. Biological Nonproliferation Laws

The Arms Export Control Act (AECA) regulates the transfer of defense articles, including "biological agents having military application." New BW nonproliferation efforts expand export controls to a much larger range of biological agents than those historically considered for military application. Consequently, the Export Administration Act (EAA) and its implementing regulations have been used to provide additional controls for items that are primarily used for civilian purposes but have applications in biological warfare. The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President Bush indefinitely extended his authority to control exports. In addition, Title 18 U.S. Code, Chapter 10 provides criminal penalties for the development, production, stockpiling, transfer, or possession of any biological agent, toxin, or delivery system for use as a weapon.

1. Eligibility Requirements for Exports

There are no special statutory eligibility requirements for the export of BW-related dual-use goods and technology.

2. Export Prohibitions/Restrictions

The transfer of biological weapons is statutorily prohibited. There is no statutory prohibition of export BW-related dual-use goods or technology. The AECA and the EAA regulations, however, require validated export licenses for: (1) biological warfare agents on the Munitions Control List; (2) biological agents on the Commodity Control List, except those destined for Canada; and (3) BW-related equipment and technology on the Commodity Control List, if destined for certain specified countries. (See country listings below.) It is current U.S. policy to deny all export license applications which the Department of Commerce determines would make a "material contribution to the design, development, production, stockpiling, or use of biological weapons."[8]

3. Countries/Companies/Individuals Subject to Restrictions

In accordance with recently revised Export Administration Regulations, validated licenses are required to export any controlled biological agents to any country, except Canada. Export licenses are required to export BW-related equipment to: Afghanistan, Bahrain, Cambodia, Cuba, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Syria, United Arab Emirates, Vietnam, and Yeman.[9]

4. Relation to Treaties/Agreements

Title 18, U.S. Code, Chapter 10 (Biological Weapons Anti-Terrorism Act of 1989) implements the 1972 Biological and Toxin Weapons Convention.

5. Congressional Review

The export of biological warfare agents is statutorily prohibited, and transfers of BW-related dual-use goods are not subject to congressional review.

6. Reporting/Consultation Requirements

Transfers of BW-related dual-use goods are subject to the same reporting requirements as those of other commodities controlled by the AECA and EAA.

7. Enforcement

Violation of the AECA or EAA may be punished by criminal and civil penalties with fines up to $1 million and ten year imprisonment. Title 18 U.S.C., Chapter 10 (Biological Weapons Anti-Terrorism Act of 1989) provides criminal penalties of fines (amount unspecified) and/or life imprisonment.

8. Agency Responsibilities

The Secretary of Commerce grants export licenses for BW-related dual-use goods and technology, in consultation with the Secretaries of Defense and State.

The U.S. Customs Service and Federal Bureau of Investigation are responsible for domestic enforcement.

9. Waiver

Presidential waiver authority under the AECA and EAA is the same for BW-related goods and technology as other controlled commodities. Title 18 U.S.C., Chapter 10 provides no waiver authority.

C. Treaties, International Agreements, and Regimes

The United States is an initial signatory of the 1972 Biological and Toxin Weapons Convention, which bans the development, production, stockpiling, possession, and transfer of these weapons. Small amounts of biological warfare agents and toxins may be retained under the Convention for defense research purposes only.

D. U.S. Biological Nonproliferation Policy

The Administration is seeking to impede biological weapons proliferation without handicapping legitimate research. Its policy is based upon enforcement of the Biological Weapons Convention, both domestically and overseas. Recently Administration officials have begun to encourage Australia Group member nations, all of whom are Convention signatories, to tighten their export controls on BW-related dual-use materials.

E. Proposed Legislation on Biological Proliferation

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology, and address other areas pertinent to limiting areas sales or transfers. The bill would instruct the President to enter discussions with other governments concerning the establishment of a commission to pursue these purposes. (See Missile Nonproliferation chapter for a more detailed treatment of H.R. 1343.)

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken certain threatening or aggressive actions.

2. Export-Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be

[8] U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

[9] U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

subject to sanctions. Sanctions and penalties would not apply, under certain circumstances in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government is required not to enter contracts with violators of the Act, shall not transfer technology to violators, and shall deny security clearances to violators. The United States shall vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

The bill would reauthorize the Export Administration Act of 1979, and provide for other purposes.

The following section deals only with the provisions of Title IV of this bill, Chemical and Biological Weapons Proliferation, which amends both the AECA and EAA. This title is also known as the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

1. Eligibility Requirements for Exports

This bill would require the Secretary of Commerce to grant export licenses on the basis of the "reliability of an applicant to prevent the diversion of controlled goods or technology to unauthorized use or consignee.

2. Export Prohibitions/Restrictions

A validated license would be required for the export of BW-related goods or technology to any country that does not have an arrangement with the United States for the control of such items.

3. Countries/Companies/Individuals Subject to Restrictions

No specific countries would be subject to restriction, except those noted that do not have an arrangement with the United States to control BW-related items. These countries would be designated "countries of concern." Foreign persons who knowingly assist a "country of concern" to export from the U.S. or any other country controlled BW-related goods would be subject to restrictions and sanctions described under Enforcement below.

4. Relation to Treaties/Agreements

The bill would encourage the Australia Group to become more formal in its arrangements through establishing: (1) a "harmonized" list of export control rules and regulations; (2) diplomatic liaison officers to the Group; (3) information-exchange channels of suspected proliferants, and; (4) a denial list of firms and individuals who violate export controls.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

The Secretary of Commerce would be directed to maintain a list of goods and technology that would directly and substantially assist a foreign government or group to develop, produce, stockpile, or use biological weapons whose licensing would be effective in barring such capability.

If the President determines that a foreign person has assisted in BW proliferation, he would be urged to consult with the foreign government of jurisdiction concerning the imposition of sanctions, and is required to report the status of such consultations to Congress within 90 days.

The Chairman of the Senate Committee on Foreign Relations or the Chairman of the House Committee on Foreign Affairs could request the President to consider whether a foreign government has used biological weapons in violation of international law or against its own nationals. Within 60 days of such a request, the President would be required to provide a written report on the information held by the executive branch pertinent to this request.

Within 90 days of the enactment of this Act, the President would be required to submit to Congress a report which would include: (1) a description of actions taken to carry out this title (Title IV); (2) a description of current efforts of foreign nations to acquire a BW capability and an assessment of potential success in doing so; (3) a description of the use and preparation for use of biological weapons by foreign nations and subnational groups; (4) a description of the extent to which foreign nations have knowingly assisted third countries or subnational groups to acquire a BW capability.

If the executive branch receives persuasive informaiton that a foreign nation has made substantial preparation to use or has used biological weapons in violation of international law or against its own nationals, the President would be required to determine the validity of the accusation within 60 days and report the determination to Congress. If the President determines the accusation is accurate, he would be required to specify to Congress what sanctions are to be imposed. Within 30 days of this determination, the President would be required to certify to Congress that the foreign nation is no longer using biological weapons, has provided reliable assurances it will not in the future, and will allow on-site inspections. If such certification is not possible, the President would be required to consult with Congress and impose an additional sanction. (See Enforcement.)

7. Enforcement

Foreign persons who knowingly and materially assist a country that, according to Presidential determination, has since January 1, 1980, used biological weapons in violation of international law or against its own nationals, or has made preparations to do so, or has repeatedly provided support for international terrorism, would be subject to the following sanctions: (1) denial of U.S. Government contracts for goods or services; (2) denial of the importation of any products into the United States.

The President would not be required to apply sanctions in the case of: (1) procurement of defense articles or services under existing contracts for which there is no reasonable alternative supplier or which are subject to defense coproduction agreements; or (2) existing contracts for spare parts, component parts, routine servicing and maintenance, information or technology essential to U.S. projects, or medical and humanitarian items.

If the President determines that a nation has used biological weapons in violation of international law or against its own nationals, the President would be required to impose at least six of the following sanctions: (1) termination of foreign assistance, except urgent humanitarian assistance, food, or other agricultural products; (2) termination of arms sales and United States Munitions List export licenses; (3) termination of arms sales financing; (4) U.S. Government opposition to any loan or financial assistance by international financial institutions; (5) denial of U.S. credit or financial assistance; (6) prohibition of any loan or credit from U.S. banks, except for those to buy food or other agricultural products; (7) prohibition of exports of security-sensitive goods and technology; (8) prohibition of all exports, except food and other agricultural commodities; (9) unspecified restrictions on imports; (10) downgrading or suspending diplomatic relations; (11) termination of national air carrier landing rights.

In addition to the provision of Title IV, section 606 of the Act would amend the U.S. Code by defining as an act of international terrorism the production, transport, or use of biological or chemical weapons which kill, maim, or injure U.S. nationals abroad. Persons who commit the acts would thereby become subject to criminal and civil penalties.

8. Agency Responsibilities

The bill would not amend U.S. Government agency responsibilities.

9. Waiver

Twelve months after the imposition of sanctions, the President could waive them if he determines and certifies to Congress that it is important to the national security interests of the United States.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime, and

submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States would be required to seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

Appendix II. Controlled Biological Weapons-Related Equipment

1. Biological and toxin agent detection systems
2. Biohazard containment equipment
3. Equipment for the microencapsulation of microorganisms
4. Media for the growth of microorganisms in quantities greater than 100 kilograms

MISSILE NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Robert D. Shuey, Kirk Campbell, and Kemper Vest, Foreign Affairs and National Defense Division)

A. Introduction

Exports of missiles and related goods and technology have long been regulated under the authority of the Arms Export Control Act, for Munitions List items, or the Export Administration Act of 1979 and its predecessors, for items not on the Munitions List. In April 1987, the United States and six other countries announced the Missile Technology Control Regime, a set of common guidelines for regulating missiles technology exports. In 1990 Congress approved legislation that set U.S. policy regarding missile nonproliferation and amended the Arms Export Control Act and the expired Export Administration Act of 1979. These amendments included penalties to be imposed against persons who inappropriately export missile technology.

B. U.S. missile nonproliferation laws

The Arms Export Control Act (AECA) and the Export Administration Act of 1979 (EAA) are the primary laws regulating the transfer of missiles and missile technology. These laws require licenses for the export from the United States of certain missiles, components, or technology specified in the annexes of the Missile Technology Control Regime (MTCR) and require the imposition of sanctions against persons who export such items. The authority of the EAA has expired but its provisions have been extended under executive order. It is U.S. policy, and the policy expressed in the MTCR, that facilities to produce missiles capable of carrying a 500 kilogram payload 300 kilometers may not be exported; that exports of such missiles themselves will generally be denied; and that restraint will be exercised on the export of other materials, equipment, and technology involved in missile production.

1. Eligibility Requirements for Exports

Neither the AECA nor the EAA specifies any country as being eligible to receive missile exports. Section 3(a) of the AECA states that the United States Government can sell or lease defense articles or defense services to a country or international organization only if the President finds that transfers to that country or organization will strengthen U.S. security and promote world peace. The country or organization must agree not to retransfer the item or to use it for purposes other than those intended without the consent of the President, and to maintain the security of the item.

Section 505 of the FAA specifies additional agreements that must be made by a country to be eligible to receive defense articles or services under the Military Assistance Program, but that vehicle is no longer used—grants are now provided by Foreign Military Financing under the AECA.

2. Export Prohibitions/Restrictions

The AECA (Chapter 7) establishes penalties for U.S. and foreign persons and companies that export certain missiles and missile technologies. The EAA, as amended in 1990, requires a license for U.S. exports of dual-use missiles items or exports of any goods or technology that the exporter knows are destined for a missile project in a country that is not an MTCR adherent. Such licenses are generally to be denied, and sanctions are to be imposed on U.S. and foreign persons who make such exports without proper authorization. Numerous provisions of existing law contain contingent prohibitions or restrictions on arms transfers to countries (or persons) that violate human rights, support international terrorism, engage in nuclear proliferation activities, produce or traffick narcotics, assist Iraq's rocket, chemical, biological, or nuclear weapons capability, or violate the terms of an arms transfer agreement. Major sales may not be completed until they are reviewed by Congress.

3. Countries/Companies/Individuals Subject to Restrictions

The AECA requires State Department to supervise and direct all governmental arms transfers and to license commercial arms transfers to any country. Chapter 7 specifically requires licenses for U.S. exports of missile items and technology. Under the EAA, exports of missile due-use technology to any country must be licensed, and exports of any good or technology to missile facilities in countries that are not adherents to the MTCR must be licensed. The two acts mandate sanctions against U.S. persons who improperly export missile goods or dual-use items to any country, and against foreign persons who export, without proper authority, missile items or dual-use items that contribute to the missile program of a country that is not an MTCR adherent. The AECA, Foreign Assistance Act of 1961, and Foreign Operations Appropriations Act, 1991 (P.L. 101-513) place numerous contingent restrictions on arms transfers and security assistance and on assistance programs to particular countries. See the section on Conventional Arms Transfers.

4. Relation to Treaties/Agreements

The AECA and EAA as amended in 1990 link U.S. missile export controls to the informal Missile Technology Control Regime and impose sanctions against those who violate the policy guidelines stated in that regime.

5. Congressional Review

The AECA [section 36(b)] requires the President to submit a certification to Congress before issuing a letter of offer to sell $14 million or more of major defense equipment, $50 million or more of any defense articles or services, or $200 million or more design and construction services. Congress can block such a transfer by passing a joint resolution of disapproval within 30 calendar days or, for NATO members, Japan, Australia, and New Zealand, within 15 days. A similar certification requirement, congressional review, and legislative veto apply to commercial arms transfers [section 36(c)].

6. Reporting/Consultation Requirements

The AECA and other laws relating to arms transfers include over 50 reporting requirements, not including reports on specific countries, reprogramming of assistance, human rights, terrorism, nuclear proliferation, or narcotics. (See the Conventional Arms Transfer section for further discussion.)

Section 72 of the AECA requires the President to certify to Congress that a particular product or service is essential to U.S. national security and that it can be supplied only from a particular U.S. supplier in order to waive sanctions that would otherwise be imposed on the supplier. Section 73 requires the President to notify Congress if he waives sanctions against a foreign person because he has determined it is essentail to U.S. national security, and requires a separate Presidential certification, similar to that in section 72, to justify waiving sanctions against foreign sole-source suppliers.

Section 11B of the EAA was amended in 1990, requiring the President to make certifications to Congress similar to those in Chapter 7 of the AECA if he waives sanctions against U.S. and foreign suppliers.

Section 1704 of the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510) requires the President to submit to Congress a report on missile proliferation every six months. The report includes information on missile and aircraft development programs, assistance provided to missile and NBC capable aircraft programs, diplomatic counter measures, and analysis of control regimes, recent transfers, and U.S. policy.

7. Enforcement

Persons who violate the AECA are subject to criminal and civil penalties with fines up to $1 million and imprisonment up to ten years. Chapter 7 imposes sanctions against individuals who improperly export missile equipment or technology. U.S. and foreign

persons who improperly export category II missile equipment or technology (components, test and production equipment, and materials) will be denied U.S. Government contracts and export licenses relating to missiles. U.S. and foreign persons who improperly export category I missile equipment or technology (entire missiles or major components) will be denied all U.S. Government contracts and permission to export any munitions list item. Those who violate the EAA are subject to fines of $50,000 and five years imprisonment, and willful violators are subject to $1,000,000 fines and 10 years imprisonment. Section 11 of the EAA established sanctions against those who improperly export missile equipment and technology that would deny export licenses for missile equipment and technology to those who improperly transfer category II items, and would deny licenses for all export to those who improperly transferred category I items.

8. Agency Responsibilities

May of the policy determinations set forth in the AECA and the function of administering controls of commercial arms transfers have been delegated to the Secretary of State by executive order. The administration of the Foreign Military Sales program has generally been delegated to the Secretary of Defense. These officials are to consult with the Secretary of the Treasury, the Director of the Arms Control and Disarmament Agency, and the Director of the Office of Management and Budget on specified functions. Chapter 7 AECA directs the Secretary of State to regulate exports of missile equipment and technology in consultation with the Secretary of Defense and other appropriate departments and agencies and to establish a system for sharing information with the intelligence community. Section 6 of the EAA calls on the Secretary of State in consultation with the Secretaries of Commerce and Defense to conduct international negotiations regarding missile proliferation. The section also requires the Secretary of Commerce in consultation with the Secretaries of State and Defense and the head of other appropriate departments to establish and maintain a system to control exports of dual-use goods and technology related to missiles. Such licenses for exports to a country of concern can be approved only 20 days after consultation with State and Defense. The Secretary of State shall maintain a list of countries of concern. The President will resolve differences between Commerce and Defense on the approval or disapproval of such licenses.

Commerce Department refers export license applications for items that could contribute to a missile development project to the Missile Technology Export Control (MTEC) group. This interagency group is chaired by the Department of State and includes representatives from the Departments of Commerce and Defense, ACDA, NASA, and intelligence agencies. It discusses proposed export cases and advises Commerce on licensing decisions. If the group disagrees, it refers the issue to the Policy Coordinating Committee on Nonproliferation.

9. Waiver

The AECA [section 36(b)(1) and 36(c)(2)] allows the President to waive the congressional review requirements for FMS transfers and commercial sales if he certifies that an emergency exists that requires the proposed sale in the national security interests of the United States. Section 614(a) of the Foreign Assistance Act of 1961 authorizes the President to furnish assistance under the AECA without regard to other provisions of law if he certifies to Congress that it is important to the security interests of the United States and to transfer arms if it is vital to U.S. national security.

Chapter 7 AECA allows the President to waive sanctions against persons who improperly export missile goods and technology if he certifies to the Congress that the product or service is essential to the national security interest of the United States and that it is not available from other suppliers. The President may also waive sanctions against a foreign person if he determines the waiver is essential to U.S. national security and notifies Congress 20 days before issuing the waiver.

C. Treaties, International Agreements, and Regimes

The Missile Technology Control Regime (MTCR) was formed in 1987 by the Group of Seven Western economic powers and has expanded to 16 countries that have adopted common guidelines to govern exports of missiles, components, materials, equipment, and technology. The regime is voluntary with no mechanism for verification or enforcement. The Soviet Union has not joined the group but has agreed to observe the guidelines. China has refused to adopt the guidelines.

D. U.S. Missile Nonproliferation Policy

U.S. Government policy is to prohibit exports of missiles, components, and dual-use equipment and technology described in the MTCR to any country of concern, and to encourage other countries to adopt similar restraints.

E. Proposed Legislation on Missile Nonproliferation

In the 102nd Congress, 11 bills have been introduced that would affect existing law regarding missile nonproliferation.

H. Con. Res. 75 (Rinaldo)

Would express the sense of Congress that the President should work to strengthen the Missile Technology Control Regime, expand it to cover other deliver systems for weapons of mass destruction, and invite the Soviet Union, China, and other countries to join the regime.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309 below.)

H.R. 1343 (Levine)

This bill would: restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weaons and ballistic missile technology, and address other areas pertinent to limiting arms sales or transfers. It would instruct the President to discuss with other governments the establishment of a commission to pursue these purposes.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

Supplier nation commission would coordinate with the Australia Group and the members of the Missile Technology Control Regime to enhance controls on the proliferation of chemical and biological weapons, and ballistic missile technology [section 3(c)(3)].

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions apply to "the Middle East."

4. Relation of Treaties/Agreements

Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group [section 3(a)] and would coordinate its activities with the Australia Group and members of the Missile Technology Control Regime [section 3(c)(3)].

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

Commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions by member countries and other arms suppliers" [sec. 3(c)(4)(a)].

8. Agency Responsibilities

The President is required to enter into discussion for the purpose of creating the commission referred to above within 90 days after enactment of this act [section 3(a)].

9. Waiver

Not addressed.

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 requires that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together these two reports will include somewhat different material than the single report required under S. 1046. (See S. 1046 below.)

S. 309 (McCain)

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit transfers to countries that threaten world peace. See Export Prohibitions and Enforcement.

2. Export Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine who would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated, although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country.

[The bill lists these sanctions as prohibitions, separate from its section on enforcement.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government is required not to enter contracts with violators of the Act, not to transfer technology to violators, and to deny security clearances to violators. The United States is required to vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities.

None is stated.

9. Waiver.

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment would not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

This bill would reestablish in law nearly all the provisions regarding missile nonproliferation that were added to the EAA by P.L. 101-510, National Defense Authorization for F.Y. 1991, November 5, 1990. S. 320 would exclude subsection 6(l)(4) "Consultation with Other Departments, which required the Secretary of Commerce to consult with the Secretary of Defense for 20 days before issuing an export license for missile related items. Also excluded is the provision allowing the Secretary of Defense to disagree with the determination by Commerce to issue a license and to submit the disagreement to the President for resolution.

S. 1020 (Helms)

The bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear Non-Proliferation Treaty, adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict; ceasing to provide support for the Khmer Rouge; and adhering to international human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. The bill is nearly identical to H.R. 2315.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. Plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

CONVENTIONAL ARMS TRANSFERS LEGISLATION AND POLICY

(Prepared by Robert D. Shuey, Kemper Vest, and Kirk Campbell, Foreign Affairs and National Defense Division)

A. Introduction

U.S. arms exports are governed primarily by the Arms Export Control Act. U.S. policy is to allow, or even support, transfers that benefit U.S. foreign or security policies and to block transfers that do not. The only international arms transfer controls are exercised by CoCom to prevent the export of weapons to Communist countries.

B. U.S. Conventional Arms Transfers Laws

The Arms Export Control Act (AECA) is the primary law regulating the transfer of U.S. defense goods and defense services. It authorizes the U.S. Government to transfer arms to other governments and to regulate arms transfers by private U.S. parties. The Foreign Assistance Act of 1961 (FAA), several foreign assistance authorization and appropriation acts, defense authorization acts, and the Export-Import Bank Act of 1945 also contain provisions relating to arms transfers.

1. Eligibility Requirements for Exports

Section 3(a) of the AECA states that the United States Government can sell or lease defense articles or defense services to a country or international organization only if the President finds that transfers to that country or organization will strengthen U.S. security and promote world peace. The country or organization must agree not to retransfer the item or to use it for purposes other than those intended without the consent of the President, and to maintain the security of the item.

Section 505 of the FAA specifies additional agreements that must be made by a country to be eligible to receive defense articles or services under the Military Assistance Program, but that vehicle is no longer used—grants are now provided by Foreign Military Financing under the AECA.

2. Export Prohibitions/Restrictions

The AECA prohibits U.S. persons and companies from exporting certain missiles and missile technologies, but does not prohibit transfers of any other specific weapons. The foreign operations appropriations act for 1971 (P.L. 101-513) restricts the transfer of depleted uranium antitank shells (section 553) and stinger missiles (section 568). It also includes several country-specific restrictions (see below). Numerous provisions of existing law contain contingent prohibitions or restrictions on arms transfers to countries (or persons) that violate human rights, support international terrorisim, engage in nuclear proliferation activities, export certain missiles or missile technology, produce or traffick narcotics, assist Iraq's rocket, chemical, biological, or nuclear weapons capability, or violate the terms of an arms transfer agreement. Major sales may not be completed until they are reviewed by Congress.

Section 32 of the AECA and provisions of the Export-Import Bank Act of 1945, as amended, prohibit the use of Export-Import

Bank credits to finance the sale of defense articles and defense services to developing countries.

3. Countries/Companies/Individuals Subject to Restrictions

The AECA requires State Department to supervise and direct all governmental arms transfers and to license commercial arms transfers to any country. The Foreign Operations Appropriations Act (P.L 101-513) restricts security assistance programs for Guatemala, Haiti, Zaire, Sudan, Liberia, and Somalia [Title III]; prohibits the use of funds appropriated therein to assist directly or indirectly Angola, Cambodia, Cuba, Iraq, Libya, Vietnam, Iran, Syria [sections 512 and 545], Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia except through notification procedures [section 541]; Afghanistan [section 565]; Kenya [section 593]; and Yugoslavia [section 599(A)]; limits aid to El Salvador [section 597]; and prohibits all exports to Iraq [section 586(C)].

4. Relation to Treaties/Agreements

U.S. laws do not appear to have an effect on international treaties, multilateral agreements, or regimes concerning the transfer of conventional arms.

5. Congressional Review

The AECA [section 36(b)] requires the President to submit a certification to Congress before issuing a letter of offer to sell $14 million or more of major defense equipment, $50 million or more of any defense articles or services, or $200 million or more of design and construction services. Congress can block such transfer by passing a joint resolution of disapproval within 30 calendar days or, for NATO members, Japan, Australia, and New Zealand, within 15 days. A similar certification requirement, congressional review, and legislative veto apply to commercial arms transfers [section 36(c)].

6. Reporting/Consultation Requirements

The AECA and other laws relating to arms transfers include over 50 reporting requirements, not including reports on specific countries, reprogramming of assistance, human rights, terrorism, nuclear proliferation, or narcotics, Four of the key reports are required by sections 25(a), 28, 36(a), and 36(b) of the AECA. Section 25(a) requires a detailed annual report estimating likely sales during the coming year to each foreign country, the impact of the sales, and other data. Section 28 requires a quarterly list of each estimate of price and availability provided by the U.S. Government and foreign requests for letters of offer for the sale of defense equipment or services. Section 36(a) requires a quarterly report listing all letters of offer to sell any major defense equipment for $1 million or more and other data. Section 36(b) requires a certification of each major sale before the letter of offer is delivered to a foreign country (described in paragraph 5 above).

7. Enforcement

Persons who violate the AECA are subject to criminal and civil penalties with fines up to $1 million and imprisonment up to ten years. See the section on missiles for a description of sanctions against those who export certain missiles and related technology.

8. Agency Responsibilities

Many of the policy determinations set forth in the AECA and the function of administering controls of commercial arms transfers have been delegated to the Secretary of State by executive order. The administration of the Foreign Military Sales program has generally been delegated to the Secretary of Defense. These officials are to consult with the Secretary of the Treasury, the Director of the Arms Control and Disarmament Agency, and the Director of the Office of Management and Budget on specified functions.

9. Waiver

The AECA [section 36(b)(1) and 36(c)(2)] allows the President to waive the congressional review requirements for FMS transfers and commercial sales if he certifies that an emergency exists that requires the proposed sale in the national security interests of the United States. Section 614(a) of the Foreign Assistance Act of 1961 authorizes the President to furnish assistance under the AECA without regard to other provisions of law if he certifies to Congress that it is important to the security interests of the United States and to transfers arms if it is vital to U.S. national security.

C. Treaties, International Agreements, and Regimes

There are no treaties governing transfers of conventional arms. By informal agreement, the Coordinating Committee on Multilateral Export Controls (CoCom) was established to oversee exports from member states to Communist countries. The members of CoCom are Australia, Japan, and the members of NATO, except Iceland. CoCom monitors exports of items on three lists: an International Munitions list, a Nuclear list, and a list of dual-use industrial goods. The international munitions list is similar to the U.S. Munitions list that is used by State Department to monitor U.S. arms exports. See the section on missiles for a discussion of the Missile Technology Control Regime.

D. U.S. Conventional Arms Transfers Policy

Defense trade remains primarily a foreign policy/national security function, but the Administration is also concerned with the need to improve the ability of U.S. defense industry to compete overseas. Arms transfers are generally approved or denied on a case-by-case basis under guidelines that are frequently unpublished. Officials in the Administration have reportedly been debating arms transfer policy as some parties wish to expand defense exports to support U.S. allies and U.S. industries, while others wish to place tighter controls on arms transfers now that the Cold War is over and the military power of Iraq has been greatly reduced.

It is the policy of the Export-Import Bank to deny the use of credits to finance the sale of defense articles and services to *any* foreign country although the law prohibits only financing sales to developing countries. The Administration, however, submitted to Congress in early 1991 legislation that would establish a $1 billion pilot program permitting the ExIm Bank to guarantee defense loans for NATO members, Japan, Australia and Israel. Other countries could become eligible upon Presidential certification.

E. Proposed Legislation on U.S. Conventional Arms Transfers

Over 30 bills have been introduced in the 102nd Congress that would make changes in existing laws concerning arms transfers.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) U.S. guaranty of Israel's security.

H.J. Res. 256 (Hall)

Would resolve that the United States should restrain arms sales to developing countries; the U.N. Security Council permanent members should negotiate arms transfers controls; the United States should discuss a control regime with supplier and recipient nations; and the United States should promote incentives to encourage cooperation in controlling arms transfers.

H.R. 88 (Engel)

Prohibits arms transfers to or for the Royal Ulster Constabulary or the Ulster Defense Regiment

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to contries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 729 (Gejdenson)

Would amend the Export Administration Amendments Act of 1985 to permit the Export-Import Bank to use its authority to finance sales of defense articles and services to any country that is a member of the North Atlantic Treaty Organization, Japan, Israel, Australia, or New Zealand. Such financing would be directed to be competitive with the terms and conditions of countries that compete with U.S. exporters.

H.R. 868 (Hunter)

Nearly identical to S. 309 and H.R. 669. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1282 P.L. 102-28 (Whitten) Supplemental Appropriations for Desert Shield/Desert Storm for FY 1991

Would prohibit the President from transferring to a foreign government any U.S. equipment or equipment captured in Iraq until he notifies Congress of the proposed transfer, and Congress enacts a bill or joint resolution authorizing the transfer.

H.R. 1317 (Anderson)

Would restrict United States economic and military assistance to Jordan. United States assistance to Jordan would be suspended and Jordan would be denied most-favored-nation trade treatment, unless the President makes a determination and notifies the Congress that waiving this restriction is in the national interest of the United States.

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology, and address other areas pertinent to limiting arms sales or transfers.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

Supplier nation commission [section 3(c)] would negotiate restrictions on the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production.

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions apply to "the Middle East" [section 3(c)].

4. Relation to Treaties/Agreements

Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group [section 3(a)] and would coordinate its activities with the Australia Group and members of the Missile Technology Control Regime [section 3(c)3]

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

Commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions by member countries and other arms suppliers" [section 3(c)4(A)].

8. Agency Responsibilities

The President is required to enter into discussions for the purpose of creating the commission referred to above within 90 days after the enactment of this act [section 3(a)].

9. Waiver

Not addressed.

H.R. 1346 (McDermott)

This bill would conditionally withhold United States military assistance to El Salvador. No United States military assistance would be allocated for El Salvador unless the President determines and reports in writing to the Congress that certain conditions are met and the Congress enacts a joint resolution authorizing assistance. The prohibitions and conditions on U.S. military assistance to El Salvador spelled out in S. 601 are virtually identical.

H.R. 1428 (Smith of Florida)

This bill would govern the transfer of military equipment captured during Operation Desert Storm and United States military equipment used during Operation Desert Shield and Operation Desert Storm.

1. Eligibility Requirements for Exports

Military equipment captured during Operation Desert Storm and U.S. military equipment used during Operation Desert Shield and Operation Desert Storm may be transferred to foreign government only to the extent authorized by applicable United States law.

2. Export Prohibitions/Restrictions

Restrictions of other laws apply.

3. Countries/Companies/Individuals Subject to Restrictions

Military equipment captured during Operation Desert Storm may not be transferred to a country whose government has repeatedly provided support for acts of international terrorism. Other provisions apply to all parties.

4. Relation to Treaties/Agreements

Not addressed.

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

The President must report to the Congress, within 30 days after the date of enactment of this Act, on any military equipment captured during Operation Desert Storm that was transferred to another foreign country during the period beginning on February 27, 1991, and ending on the date of enactment of this Act.

7. Enforcement

Not addressed.

8. Agency Responsibilities

Not addressed.

9. Waiver

Not addressed.

H.R. 1611 (Hughes)

Would terminate United States foreign assistance to Jordan. A moratorium would be placed on further aid to Jordan and Jordan would be denied most-favored-nation trade treatment, until such time as the Congress is convinced that Jordan will act as a responsible nation and will not provide aid and comfort to the enemies of the United States.

H.R. 1635 (Moody)

Would amend the Export-Import Bank Act of 1945 to prohibit the Bank from using any of its funds or borrowing authority to extend credit for the sale of defense articles or services to any country.

H.R. 1708 (Schumer)

This bill would prohibit arms transfers to any country that is in a state of war with Israel and has not accorded formal recognition to the sovereignty of Israel.

1. Eligibility Requirements for Exports

The country must not be in a state of war with Israel and must have accorded formal recognition to the sovereignty of Israel to be eligible to receive U.S. defense articles or services [section 1(b)1–2].

2. Export Prohibitions/Restrictions

Defense articles, defense services, and design and construction services could not be sold or otherwise transferred [section 1(a)1].

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions would apply to Bahrain, Yemen, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, and the United Arab Emirates [section 1(c)].

4. Relation of Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to make certain certifications to Congress in order to remove restrictions [section 1(b)].

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

H.R. 2175 (Kleczka)

Would amend the Export-Import Bank Act of 1945 to prohibit Bank activity in a credit sale of defense articles and services, unless the President determines that the sale is necessary to protect the United States from a direct threat or if the sale is related to anti-narcotic efforts.

H.R. 2315 (Berman)

This bill provides for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 requires that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together these two reports will include somewhat different material than the single report required under S.1046.

H.R. 2456 (Green)

Would prohibit government-to-government and commercial arms sales to any country that is participating in or cooperating with the economic boycott of Israel.

H.R. 2508 (Fascell) International Cooperation Act of 1991

This bill would amend the Foreign Assistance Act of 1961 (FAA) to write the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, would amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, and would authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993.

The bill would amend the FAA by rewriting Title II (Military Assistance, Related Assistance, and Military Sales) to include chapters on Policy, Foreign Military Financing Program, Transfers of Excess Defense Articles, Overseas Management of Assistance and Sales Programs, International Military Education and Training, Peacekeeping Operations, Stockpiling, International Terrorism, and Other Provisions.

1. Eligibility Requirements for Exports

The bill would include basically the same requirements that exist in FAA for MAP and AECA for FMS. By combining the Foreign Military Sales credit program with the Military Assistance Program under the new Foreign Military Financing Program (FMFP), the bill would eliminate two former eligibility requirements under MAP: that the recipient country must agree to permit continuous observation and review of transferred defense articles and services by the U.S. Government, and that it will return such articles and services to the U.S. Government when they are no longer needed for the purpose for which furnished (FAA sections 505(a)(3) and (4)). However, the House Foreign Affairs Committee report (H. Rept. 102–96) states, "Foreign countries must permit, as the President may require, observation and review at any time by representatives of the U.S. Government with respect to the use of such defense articles and services." The bill also specifies eligibility requirements for the transfer of excess defense articles under the FAA.

The bill would repeal section 35 AECA that made a country ineligible for government arms sales if the President finds that a less developed country is diverting development or food assistance or its own resources to unnecessary military expenditures.

2. Export Prohibitions/Restrictions

Section 242 would establish new guidelines for U.S. arms transfers to the Middle East and Persian Gulf region, impose an indefinite unilateral moratorium on new transfers, authorize the President to provide replacement equipment on a one-for-one basis, and authorize the President to lift the moratorium if another major supplier country sells major defense equipment to the region. The moratorium would not apply to any transfer that is a necessary emergency response to sustained hostilities in the region or imminent threat thereof.

The bill would prohibit the use of funds to facilitate the sale of depleted uranium antitank shells, such as the M–833, to countries other than NATO and major non-NATO allies unless the President determines the prohibition is not in U.S. national security interest. A similar provision was first included in the Foreign Assistance Appropriations Act, 1987.

Equipment captured from Iraq by U.S. forces could be transferred to another Middle East country only in accordance with normal notification procedures. The bill would also prohibit U.S. security assistance to any country that has an offensive chemical weapons program and has not supported the Chemical Weapons Convention being negotiated in Geneva.

3. Countries/Companies/Individuals Subject to Restrictions

The bill would create a new section (6201) consolidating restrictions that make countries ineligible for foreign assistance, including assistance under the Foreign Military Financing Program. The following categories of countries or projects are ineligible: (1) Communist countries, as designated by the President; (2) Human rights violators; (3) Countries that have expropriated U.S.

property; (4) Those whose government is deposed by military coup; (5) Nuclear proliferators (further described in nuclear chapter of this report); (6) Projects that compete with U.S. exports; and (7) Countries that export lethal equipment to countries that support international terrorism.

The bill would continue the prohibition against assistance and arms transfers to Pakistan unless the President certifies that Pakistan does not possess a nuclear explosive device, extend until September 30, 1993, the President's authority to make this certification and waive the prohibition, and apply the same provision to India.

Specific restrictions would be placed on military aircraft transfers to countries in Latin America, and military assistance to Guatemala, Nicaragua, Haiti, Suriname, Bolivia, Columbia, Peru, Chile, Jordon, Lebanon, Syria, Kuwait, Burma, Khmer Rouge in Cambodia, Fiji, China, Sri Lanka, Kenya, Malawi, Somalia, Sudan, and Zaire.

4. Relation to Treaties/Agreements

No changes made.

5. Congressional Review

The bill would increase the dollar thresholds that trigger the requirement for the executive branch to notify Congress of proposed arms sales, leases, construction services, and third country transfers and submit the proposals to congressional review. The threshold for actions involving major defense equipment would be increased from $14 million to $18 million; thresholds for defense articles and defense services would be raised from $50 million to 75 million; thresholds for design and construction services would be raised from $200 million to $300 million.

The bill also establishes standard congressional review procedures for the six types of transaction: third-country transfers of items provided on a government-to-government bases, third-country transfers of items provided on a commercial basis, government-to-government arms sales, commercial arms sales, commercial arms manufacturing agreements, and government-to-government leases. In each case, there would be a 15-day prior congressional review and possible disapproval by joint resolution for transfers to NATO members, Australia, and Japan, and a 30-day review and possible disapproved by joint resolution for transfers to other eligible countries. Review periods for transfers to New Zealand vary depending on the type of transaction.

A new section 31 DTECA provides for sanctions against foreign parties or countries that violate third-party transfer restrictions in coproduction agreements. The sanctions can be triggered by a Presidential determination or by a joint resolution.

6. Reporting/Consultation Requirements

Dollar thresholds for certain notifications would be raised (see Congressional Review section above.)

In notifications of proposed government-to-govenment arms sales and commercial arms, sales, the Administration would be required to describe the extent to which comparable kinds and amounts of such goods or services are available to the proposed recipients from other countries.

In the annual report on arms sales required by section 25 of the AECA (DTECA), the Administration would be required to include an analysis of the economic benefits or disadvantages to the United States of military sales and licensed commercial sales during the previous year.

The quarterly report required by section 36(a) AECA (DTECA) would require additional information on all coproduction agreements.

A new section 31 DTECA would require the President to report promptly to Congress on the receipt of information that a violation of an agreement regarding the third-party transfer of coproduced articles or related technology may have occurred.

The bill would repeal several reporting provisions that are deemed obsolete or inconsistent.

Section 242 would require the President to report to Congress on the U.S. plan to establish a multilateral arms transfer control regime for the Middle East, and a second report on the feasibility of an arms transfer and control regime among nations in the Middle East and Persian Gulf. It would also require an annual report to Congress describing arms transfers to the region and assessing the military balance of power in the region.

7. Enforcement

A new section 31 DTECA would provide for sanctions against foreign parties or countries that violate third-party transfer restrictions in coproduction agreements (including manufacturing license agreements). The sanctions could be triggered by a Presidential determination or by a joint resolution. For a substantial violation, all authority or license of the foreign party to coproduce defense articles would be suspended and new licenses under section 38 may not be issued.

The bill would amend section 38 of the ATECA to require that any person convicted or debarred for violating rules or regulations under section 38 (commercial licensing) or section 39 (agent fees and other payments) be barred from contracts involving FMFP for one year. Such convicted persons would forfeit to the United States any interest in or rights in defense articles or tangible items that were the subject of or used in the violation of arms export rules or regulations. Conviction for the violation of certain other laws "should" also be grounds for disapproving a commercial arms export license. The bill also would add national security and foreign policy considerations to be taken into account when exempting certain license applications from disapproval because of such violations.

8. Agency Responsibilities

No changes.

9. Waiver

The authority for the President to waive a prohibition on security assistance to Pakistan is continued to September 30, 1993.

10. Other

To enhance U.S. competitiveness, the bill would amend section 21(e) and 43(b) to exempt non-recurring costs to the U.S. Government for research and development of non-major defense equipment on both government and commercial sales of such items to the extent provided for in appropriations acts.

H.R. 2621 (Obey) Appropriations for Foreign Operations, FY 1992

This bill includes a moratorium on arms transfers to the Middle East and Persian Gulf Region that is nearly identical to the moratorium that is provided for in H.R. 2508 (amending the Foreign Assistance Act of 1961, see above).

The bill would allow aid to Jordan, only if the President certifies that Jordan is taking steps to advance the peace process, is complying with U.N. sanctions, and that it is in U.S. interest to provide such aid.

S. 156 (Mitchell)

This bill would affect the international military education and training (IMET) program through the allocation of funds under chapter 5 of part II of the Foreign Assistance Act (FAA) of 1961. The purpose of S. 156 would be to revise and reform IMET so as to provide support for emerging democracies and the civilian control of military establishments. S. 156 would authorize the expenditure of no less than 10 percent of the total funds appropriated through FAA for developing, initiating, conducting, and evaluating courses and other programs for training foreign civilian officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including the observance of internationally recognized human rights [section 3(a)].

S. 156 would also stipulate that "nation-building" training funds be made available (other than map making) only in those countries in which no civilian agency or individual could reasonably be expected to carry out such activities and in which a freely elected head of government has requested such "nation-building" training. It would also require that all IMET trainees receive instruction specifically designed to promote universal adherence to the universal military responsibilities of protecting civilians and prisoners from harm and intimidation, reporting all human rights abuses by military forces to the proper authorities, and accepting the authority of elected civilian officials [section 3(b)-3(c)].

S. 236 (Moynihan)

Would repeal certain Cold War legislation and broaden certain prohibitions on arms transfers. Among other things, this bill would require that whenever any law refers to its section 401 and prohibits U.S. assistance to a foreign entity, then all forms of assistance including arms sales would be prohibited.

S. 306 (Dodd)

This bill would amend the Export-Import Bank Act of 1945 to permit the Export-Import Bank to use its guarantee authority to finance sales of defense articles and services to any country that is a member of NATO, Japan, Israel, Australia, or New Zealand. Such financing is directed to be comparable with the terms and conditions of countries that compete with U.S. exporters.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken certain threatening or aggressive actions.

2. Export Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Repeating/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from its section on enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government shall not enter contracts with violators of the Act, shall not transfer technology to violators, and shall deny security clearances to violators. The United States shall vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance will not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties shall not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 552 (Cranston)

This bill would affect the international military education and training (IMET) program through the allocation of funds under chapter 5 of part II of the Foreign Assistance Act (FAA) of 1961. The purpose of S. 552 would be to amend the FAA to provide support for emerging democracies and civilian control of military and security establishments in Central and Eastern Europe. The relevant section of the legislation is section 3 which would deal with the allocation of IMET funds and the content of IMET instruction. Not less than 20 percent of the funds made available each fiscal year through FAA would be available to train military personnel and a representative range of civilian political leaders and their staffs from the countries of Eastern and Central Europe [section 3(a)]. All IMET trainees would receive instruction designed to promote adherence to the universal military responsibilities of protecting civilians and prisoners from harm and intimidation, reporting human rights abuses to the proper authorities, and accepting the authority of elected civilian officials [section 3b].

S. 573 (Cranston)

This bill would amend the Foreign Assistance Act of 1961 to condition the availability of security assistance for a foreign country on that country's compliance with fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

1. Eligibility Requirements for Exports

None is specified.

2. Export Prohibitions/Restrictions

Would restrict the export of any defense articles or defense services.

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Foreign assistance would not be provided to any country the government of which consistently violates fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

4. Relations to Treaties/Agreements

The phrase "fundamental guarantees of international humanitarian law applicable in situations of armed conflict" refers to guarantees contained in the four Geneva Conventions of 1949 and to other guarantees applicable to armed conflicts "as are recognized by customary international law."

5. Congressional Review

If Congress requests a statement from the Secretary of State pertaining to a certain country's observance of the fundamental guarantees of international humanitarian law applicable in situations of armed conflict and the statement is not transmitted within thirty days after the request is made, no foreign assistance could be delivered to that country until the statement is transmitted.

6. Reporting/Consultation Requirements

The President may certify in writing that extraordinary circumstances exist warranting provision of foreign assistance to a country.

As part of the presentation for foreign assistance programs proposals, the Secretary of State would be required to transmit to the Congress an annual report regarding the observance of and respect for fundamental guarantees of international humanitarian law applicable in situations of armed conflict in each country proposed as a recipient of foreign assistance.

At the request of the Senate or the House of Representatives, or at the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the Secretary of State would be required to transmit within 30 days a statement with respect to the country designated and its observance of fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

Funds could be made available and allocated for foreign assistance after the President has reported to the Congress. The report would include the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of significant improvements in the country's record regarding fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

7. Enforcement

No foreign assistance would be made to any country violating fundamental guarantees of international humanitarian law applicable in situations of armed conflict until they are certified by the President. No foreign assistance would be provided to any country that refuses to provide the U.S. Government satisfactory assurances that its officer training covers human rights, or whose armed forces violate such guarantees during war.

8. Agency Responsibilities

None is stated.

9. Waiver

The President may provide assistance to violating countries if he certifies to Congress that extraordinary circumstances exist warranting provision of such assistance. The President may waive the prohibition against providing foreign assistance to any country that refuses to provide satisfactory assurances or violates such assurances, if he determines and reports to Congress that the national security interest of the United States requires such a waiver.

S. 601 (Adams)

This bill would conditionally withhold United States military assistance to El Salvador. No United States military assistance would be allocated for El Salvador unless the President determines and reports in writing to the Congress that certain conditions are met and the Congress enacts a joint resolution authorizing assistance. The prohibitions and conditions on U.S. military assistance to El Salvador spelled out in H.R. 1346 are virtually identical.

S. 766 (Moynihan)

The purpose of this bill is to govern the transfer of spoils of war to foreign governments, groups, and persons.

1. Eligibility Requirements for Exports

Spoils of war held by the United States may be transferred to any other party to the same extent and in the same manner that similar property owned by the United States may be transferred [section 2(a), 2(b)].

2. Export Prohibitions/Restrictions

Only as noted in 1 above.

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions would apply to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism [section 3].

4. Relation to Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

President would be required to submit, within 30 days after enactment of this act, a report to the appropriate congressional committees which describes any spoils of war obtained during Desert Shield/Storm that were transferred to any party before the enactment of this action [section 4.] Appropriate congressional committees are defined as Senate Foreign Relations Committee and House Foreign Affairs Committee [section 5].

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver.

This is not addressed.

S. 776 (Kennedy)

No assistance of any kind, including excess military equipment or supplies, would be provided to any group or individual engaged in the use of force against the current Government of Cambodia.

S. 1020 (Helms)

This bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear-Proliferation Treaty; adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict, ceasing to provide support for the Khmer Rouge; and adhering to internatinal human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. This bill is nearly identical to H.R. 2315.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime; and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relations to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

S. 1196 (Adams)

This bill would prohibit government-to-government and commercial arms sales to any country that is participating in or cooperating with the economic boycott of Israel.

S. 1433 (Pell) Foreign Relations Authorization Act, FY 1992 and 1993

The bill would establish U.S. policy for arms exports to the Middle East and would prohibit U.S. arms transfers to the region 60 days after the President reports to Congress assessments of the regional threat, appropriate types of equipment to transfer, the feasibility of regional security arrangements, and the willingness of supplier nations to restrict conventional arms transfers.

The bill would also require that U.S. spoils of war could be transferred to another country only to the extent and in the same manner that similar U.S. property may be transferred.

DUAL-USE COMMODITIES AND TECHNOLOGY EXPORT LEGISLATION AND POLICY

(Prepared by Theodor Galdi, Specialist in International Political Economy, Foreign Affairs and National Defense Division)

A. Introduction

Dual-use items are commodities, processes, or technologies designed primarily for civilian purposes but which can be used to help design, fabricate or improve weapons, munitions or military operations. Examples of dual-use items or technologies are very high speed computers, electronic components needed to initiate or control nuclear reactions, and entire plants or processes which are designed to produce chemical products such as pesticides but, if modified, could produce chemical warfare agents. The laws and mechanisms to control the exports of conventional, chemical and biological weapons, nuclear equipment, material and technology, and missile technology are discussed in other chapters of this report.

The *legal* basis for controlling dual-use items is the Export Administration Act of 1979. Using the provisions of the Act, dual-use exports can be controlled for national security, foreign policy, or short supply reasons. Primary *administrative* responsibility for the licensing of dual-use exports belongs to the Department of Commerce. The resoluton of dual-use *policy* involves the Departments of Commerce, State, Energy and Defense, NASA, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the intelligence community. *Enforcement* of export controls is the responsibility of the Commerce Department and the U.S. Customs Service.

The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President Bush indefinitely extended his authority to control exports.

In this session of Congress, the Senate passed S. 320, its version of the Export Administration Act extension, on February 20, 1991. The House Foreign Affairs Committee had not reported an export control extension by June 28, 1991.

The primary international organization (group) for coordinating control of dual-use exports is CoCom, the Coordinating Committee for Multilateral Export Controls. Formed in 1949 to control trade with Communist countries, CoCom now consists of Japan and Australia and all members of NATO except Iceland. CoCom operates on the basis of consensus, and functions without the existence of a treaty or specific international legal authorization.

Current dual-use export control policy is in a state of flux. Until the recent past, the primary goal of export control policy through CoCom was to limit the export of dual-use items or processes to Communist countries. Improvements in U.S.-Soviet relations, the replacement of Communist regimes in Eastern Europe, and the increased threat of the development and use of weapons of mass destruction by non-Communist countries all served to place into question existing policy. As a result of these changes in the international environment, the Bush Administration undertook a major reassessment of U.S. export control policy in early 1990. In May 1990, the U.S. representative to CoCom announced a major liberalization and restructuring of the CoCom process. Though major changes were announced in most of the CoCom control categories, final details concerning a few commodity categories still remain unresolved.

The terms of Executive Order 12735, used by President Bush to extend his authority to control exports following the expiration of the Export Administration Act, and the Enhanced Proliferation Control Initiative, announced in December 1990, include efforts to limit the spread of chemical, biological, and nuclear weapons, and missile technology. In addition, separate Titles in S. 320, the Omnibus Export Amendments Act of 1991, deal specifically with chemical, biological and missile proliferation.

B. U.S. Dual-Use Export Control Laws

The Export Administration Act of 1979 provides the guidelines for controlling the exports of dual-use commodities, processes, and technologies or data inherent in them.

The Export Administration Act allows the President to control exports for three reasons: National Security, Foreign Policy, and Short Supply. The language in Section 5 of the Act—which authorizes national security controls—is very broad. In accordance with the provisions of that section, the President may prohibit or curtail the export of *any* goods or technology subject to the jurisdiction of the United States . . . which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." (Emphasis added.) Section 6 of the Act allows the President to limit the export of any goods or technology "to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations." Section 7 of the Act authorizes controls on commodities in short supply.

At the present time, only Western Red Cedar and domestically produced crude oil are subject to short-supply restrictions. However, it should be noted that in the years immediately after World War II, the *primary* focus of U.S. export controls was on short-supply commodities. But, except for the Nixon embargo of U.S. soybeans in 1973, and a long-running but relatively unimportant debate on exports of North Slope oil to Japan, short supply concerns have not played a major role in the export administration debate since the mid-1950's. The primary focus of that debate has been on national security and foreign policy controls.

1. Eligibility Requirements for Exports

No general eligibility requirements exist in the Act; however, see section 3 below for country requirements.

2. Export Prohibitions/Restrictions

The broad latitude given by the language "prohibit or curtail the export of any goods or technology" in sections 5 and 6 of the Act has been noted above. The language in section 5(d)—Militarily Critical Technologies—is similarly general. However section 5(d)(1) does admonish the Secretary of Commerce to work with the Secretary of Defense to insure that export controls imposed under section 5 are *limited to* militarily critical goods and technologies and the mechanisms through which such goods and technologies might be effectively transferred.

In addition to these general references in the Act, a few specific commodities or technologies are identified for special attention. After setting out language lifting restrictions on exports to CoCom countries, section 5(a)(4)(B) allows the Secretary of Commerce to require permission for persons in CoCom countries to *reexport supercomputers*, goods or technology for certain sensitive *nuclear* uses, and *listening devices* for oral or wire communications.

Section 6(k) of the Act requires validated licenses for any exports of *crime control instruments*, except for exports to NATO countries, Japan, Australia and New Zealand.

The Short Supply Section (Section 7) of the Act prohibits the export of *unprocessed Western red cedar* and domestically produced *crude oil* except under certain specified circumstances.

While not in the Export Administration Act—but based on the Act—special treatment for other specific commodities is set out in Part 776 of the *Export Control Regulations* which comprise Title 15, Code of Federal Regulations, Parts 730–799. These commodities include *computers, machine tools and numerical controls, robots, and robot controllers, and equipment used for developing missiles capable of delivering nuclear weapons*. In addition, a separate part 778 sets out the *Export Nuclear Controls* implemented by the Department of Commerce. Items of direct nuclear use are controlled by the Nuclear Regulatory Commission. (See the first section of this report for a discussion of "Nuclear Nonproliferation Legislation and Policy.")

Specific language adding controls on exports of *missile technology* and also *chemical and biological warfare* equipment to part of section 6 of the Export Administration Act was included in the Omnibus Export Amendments Act of 1990 (H.R. 4653). This Act was pocket-vetoed by President Bush in November 1990, because of his concern over the mandatory nature of chemical warfare sanctions contained in the bill. Language incorporating *only* the missile technology control provisions was then included in the National Defense Authorization Act of 1991 (P.L. 101-510).

However, because the act amended by the National Defense Authorization Act—the Export Administration Act of 1979—had already expired, and its extension pocket-vetoed by President Bush, the exact status of the missile technology control requirements is currently unclear. More detail on these issues appears in the sections of this report dealing with controls on missile and chemical and biological weapons proliferation. and

A major—and continuing—issue in the operation of the export control program since the beginning has been the question of *foreign availability*. American producers and exports have argued that it made no sense to forbid them to export commodities that were available in sufficient quantities from other countries and not subject to CoCom restrictions. The Export Administration Act contains separate provisions on foreign availability to sections 4, 5, and 6. The longest provision is in section 5(f)—applicable to national security controls and establishes an elaborate mechanism for determining foreign availability including the establishment of an Office of Foreign Availability. Section 6—authorizing foreign policy controls—refers to the foreign availability procedures in section 5(f), and in subsection 6(h)(3) appears to require the Secretary of Commerce to remove items from the commodity list if, within six months of imposing or expanding controls, he finds foreign governments in limiting the exports of those commodities. However, section 4(c) states the President shall not impose export controls for foreign policy or national security reasons after he has determined that *there is* sufficient foreign availability to render the controls ineffective "unless the President determines that evidence presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States." The same language is in three subsections of section 5(f). Thus, notwithstanding or profit of foreign availability, the President may impose, or continue to impose export controls.

3. Countries/Companies/Individuals Subject to Restrictions.

In enforcing national security export controls, section 5(b) of the Export Administration Act requires the President to establish as a list of controlled countries those set out in section 620(f) of the Foreign Assistance Act.[10] The President is given the authority under section 5(b)(1) to add or remove countries from the list of controlled destinations depending upon whether the country would—or would not—act detrimentally to the national security of the United States. In determining whether a country was to be added to or removed from the list of controlled countries, the President was to take into account a number of criteria:

The extent to which the country's policies were adverse to the national security interests of the United States,

The Communist or non-Communist status of the country,

The present and potential relationship of the country with the United States,

The present and potential relationship of the country with countries friendly or hostile to the United States, and

The nuclear weapons capability and the compliance record of the country with respect to multilateral nuclear weapons agreements.

Exports to CoCom countries receive expedited treatment. According to section 10(o) of the Act, a request for an *individuals validated license* to a CoCom country will become affective unless the Secretary of Commerce takes specific steps to deny it, and notifies the applicant. Exports of *less sophisticated* technology to CoCom countries requires no authority or permission from the Secretary of Commerce. According to section 5(a)(4), added in 1988, *reexports* to CoCom countries can take place without license except in the cases of reexports of supercomputers, nuclear technology, and listening devices noted above.

Section *5(k) countries* are non-CoCom countries that have negotiated with the United States and have agreed to implement export control regimes comparable to those maintained by CoCom countries. Exports to these 5(K) countries are to receive the same treatment as those to CoCom members.[11]

Section 5(b)(2)(C)—added to the Export Administration Act in 1988—requires the Secretary of Commerce to compile a list of *countries implementing effective export control systems* in accordance with principles agreed to in CoCom. These countries are eligible to receive preferential treatment under U.S. exports control law.

In carrying out foreign policy export controls under section 6, the Secretary of Commerce has the authority to require a license for the export of goods to *countries supporting international terrorism* after the Secretary of State has determined that the government of the country has repeatedly provided support for acts of international terrorism and that the export of the goods or technology in question could make a significant contribution to the military potential—including logistics—of the country or could enhance the ability of the country to support acts of international terrorism. As of September 1, 1990, the Secretary of State had designated Cuba, North Korea, Libya, Syria, Iran, and Iraq as countries supporting international terrorism.

Section 6(n) of the Act authorizes continuation of those foreign policy export controls against *South Africa* that were in effect in 1982. According to the 1991 Foreign Policy Report of the Secretary of Commerce, the controls were extended through fiscal year 1991 in order to demonstrate continued opposition to the apartheid polices of the South African Government. Additional, specific, controls over U.S. exports to South Africa were included in the Comprehensive Anti-Apartheid Act of 1986 which is also enforced by the Department of Commerce.

4. Relation of Treaties/Agreements

There is no international treaty or formal agreement for controlling exports of dual-use commodities. CoCom, the primary body for regulating East-West trade has no separate legal identity. It is a multilateral organization for coordinating the *national* export control policies of the various countries which are CoCom members. CoCom's Industrial List identifies dual-use goods and technologies that could significantly enhance the military capabilities of Communist armed forces. CoCom also maintains a Nuclear List and an International Munitions List. It is up to the various CoCom member countries to pass—and enforce—adequate laws and regulations to control exports of such items. The recent disclosures of dual-use commodity ex-

[10] Section 620(f) states that no assistance may be provided under the Foreign Assistance Act to Communist countries. As of January 1991, the phrase "Communist countries" was defined to include Czechoslovakia, North Korea Estonia, East Germany, Hungary, Latvia, Lithuania, Outer Mongolia, Albania, Bulgaria, People's Republic of China, Poland, Cuba, Yugoslavia, Romania, Vietnam, Tibet, and the Soviet Union. However, as allowed by the provisions of Section 620(f)(2), *for the purposes of the Foreign Assistance Act*, Presidential waivers have been made for Tibet and the People's Republic of China (1985), Yugoslavia (1986), Poland and Hungary (1989), Czechoslovakia (1990), and East Germany (1990). H.R. 2187, introduced by Mr. Solomon on May 1, 1991, proposes that Section 620(f) be amended to remove Bulgaria, Czechoslovakia, Estonia, Hungary, Lithuania, Latvia, Outer Mongolia, Poland, and Yugoslavia from the list, and to add Afghanistan, Angola and Ethiopia. H.R. 2505, as passed by the House, repeals section 620(f) and requires the President to establish and publish a list of communist countries.

[11] Currently, these are Austria, Finland, Ireland, and Switzerland.

ports to Iraq by many countries, especially Germany and the United Kingdom, indicates that the existing arrangements are not designed to address proliferation concerns in non-Communist countries.

Because of uncertainty over the comprehensiveness of the national export control policies of other CoCom members, provisions placed in section 5(b)(2) of the Export Administration Act in 1988 set out five conditions that CoCom countries were to meet to implement effective export control systems. If the Secretary of Commerce found that the countries were meeting these conditions, he could dispense with most licensing requirements for exports to that country.

5. Congressional Review

Section 6(o) of the Act requires the President to determine that it is necessary to impose foreign policy export controls *without* meeting the requirements of the following subsections: (c) consulting with industry, (d) consulting with other countries (e) making reasonable efforts to pursue alternative means to accomplish the purpose of the sanctions, (g) excluding controls on exports of medicine, medical supplies, and certain food exports, (h) imposing controls on goods with foreign availability, and (m) imposing controls which would have the effect of canceling contracts already concluded. This determination would then be reported to Congress, and the imposition of the controls would become law only after Congress passed a joint resolution approving of the controls.

6. Reporting/Consultation Requirements

There are numerous provisions requiring reports to and/or consultation *with Congress* throughout the Export Administration Act. Other provisions in the Act require consultation among *executive branch* agencies and with *foreign governments* in specific instances. There are at least 15 reporting and 20 consultation requirements set out in the Act. Most of the consultation requirements apply to the executive branch.

There are two "mandatory" requirements for consultation with Congress in the law. Section 6(f) allows the President to impose, expand, or extend *foreign policy* export controls *only* after consultation with Congress. This requirement has not acted as a significant limitation on Presidential behavior. The second appears in section 11A—Multilateral Export Control Violations. Section 11A was passed following the diversion to the Soviet Union by Toshiba and Konigsberg of multi-axis submarine propeller machine technology. The section requires the President to levy sanctions against a foreign firm or person if he determines that the firm has violated a CoCom national security export restriction and that the violation resulted in the substantial improvement in Soviet and East Bloc capabilities in the following areas: submarine or anti-submarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, and communications and intelligence, or other critical technologies. Section 11A(j) requires the President to report to and consult with Congress on the nature of the export control violation by the foreign firm or person and the actions that he proposes to take to rectify the situation. This provision has not been used to date.

Finally, in Section 11(c) there is what could be termed an administrative requirement for consultation with Congress in instances when the President suspends an order that would have revoked the authority of an American individual or firm to export under the Act. In that instance, the House Foreign Affairs Committee and the Senate Banking Committee have to be consulted.

The reporting requirements in the Act are of two types: those to be made before or at the time specific steps are taken, and reports on the status of the export administration program. The main "status" report is the annual report required by section 14 of the Act. The annual report is to provide detailed information on 20 different types of actions. Among these are: a discussion of administrative procedures and licensing activities under the act; the results of various reviews of the status under the act of certain commodities including those on the militarily critical technologies list, and of negotiations with certain countries on export control issues; determinations of foreign availability and removal of export controls because of those determinations; assessments of the effectiveness of foreign policy export controls; the status of U.S. anti-Arab boycott efforts; and a review of violations and enforcement activities. A separate report required by section 10(n) tracks the status of export licensing applications.

The most important report required to be made preceding or accompanying steps taken under the Act is that under section 6(f). This report has to be submitted to Congress before the President imposes, expands, or extends foreign policy export controls. The report is to describe the purpose of the controls, the reasons for the controls, the consultations with U.S. industry and foreign countries, alternative means for accomplishing the same goal, and the availability from other countries of goods or technology subject to the proposed controls. As with the consultations required by this section, past reports submitted according to section 6(f) have been incomplete or perfunctory. Other one-time reports must accompany short supply control requests; notify Congress of changes in the status of countries identified as supporting international terrorism; and give Congress an explanation of the delays in issuing export licenses due to CoCom reviews.

7. Enforcement

There are two focuses in dealing with violators of the Export Administration Act: domestic "persons" (which includes firms and individuals) and, as of 1988, foreign persons.

Individuals who knowingly violate any provision of the act, or any regulation, order, or license issued under the Act can be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years.

Section 11(b)—Willful Violations—sets out more stringent penalties for individuals and firms who willfully violate the act with the knowledge that the exports are intended to go to a controlled country or to a country with foreign policy controls. These penalties include fines against firms of not more than five times the value of the exports or $1,000,000, whichever is greater, and fines against individuals not more than $250,000, or imprisonment not more than 10 years, or both. Other parts of section 11(b) provide the same level fines, but not more than five years imprisonment for willful evasion of the Act.

Under the authority of section 11(c) of the Act the Secretary of Commerce can impose *civil penalties* of $10,000 for each violation of the Act or any regulation, order or license issued under the Act. He may also levy a civil penalty of $100,000 for each violation of the Act involving national security controls or controls on defense articles and services under section 38 of the Arms Export Control Act.

Section 11(g) mandates the *forfeiture* of any benefits from an export transaction which resulted in punishment under sections 11 (a) and (b).

Finally, the Act allows the Secretary of Commerce to *revoke the right to export* for up to 10 years of anyone convicted of a violation of the Act. The Secretary also has the power to issue Temporary Denial Orders which forbid an export which he believes will result in an imminent violation of the Act. Temporary denial orders can be issued for 180 days and renewed for 180 day periods if the Secretary justifies the renewal in writing.

Congress amended the Export Administration Act after the Toshiba-Konigsberg diversion in an attempt to reach *foreign firms or individuals* that violated the export control regulations of any CoCom country. According to section 11A, after the President had determined that the export control violation resulted in a substantial enhancement of Soviet and East Bloc capabilities in certain technical areas, he could prohibit contracting or procurement by the U.S. Government from the foreign violator, and/or prohibit the importation into the United States of all products produced by the firm or individual. These sanctions could be imposed for not less than two nor more than five years. Several exceptions and exclcusions are set out in the Act.

Section 11A(i)—never applied—allows the President to seek *compensation* from the foreign firm that violated the export control regulations in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and its allies needed to counteract the effect of the technological advance achieved by the Soviet Union as a result of the export control violation. Section 11A(k) allows the U.S. Attorney General to seek *damages* in U.S. Federal Court against the foreign violator. The law states that the total amount of the damage award "shall not exceed the amount of the net loss to the national security."

8. Agency Responsibilities

The Commerce Department is the organization primarily responsible for *administering* the dual-use export control system. In addition, the Department of State is responsible for licensing items on the *Munitions List*, and the Nuclear Regulatory Commission (NRC) is responsible for licensing exports of *nuclear materials and commodities*. Other chapters of this report deal with the duties of the State Department and the NRC.

All dual-use *license* processing is undertaken by the Commerce Department. The Act sets out the types of licenses that can be required in section 4 and devotes all of section 10 to procedures for processing licenses. While section 10 (a)(2) states that it is the intent of Congress that an export licensing determination be made "to the maximum extent possible" by the Secretary of Commerce without referral of the application to any other department or agency of the Government, section 10(g) authorizes the Secretary of Defense to review any export of goods and technology to any country to which goods are controlled for national security purposes. If the Secretary of Defense determines that the potential export will be detrimental to U.S. national security, he is authorized to recommend to the President disapproval of the export.

Section 4 of the Export Administration Act (General Provisions) gives authority for making decisions on which commodities to

place on the *control list* and their level of sophistication, in the first instance, to the Secretary of Commerce. According to the law, all goods and technology on the control list are to be reviewed for continuation by the Secretary of Commerce at least once each year.

Similar language exists in section 5(c)(1) assigning primary responsibility to the Secretary of Commerce for compiling a list of the commodities controlled under the national security controls section of the Act. However, secion 5(c)(2) gives the Secretary of Defense and the heads of other departments and agencies the responsibilties to identify goods and technology to be included in the list. In the event of a disagreement between the Secretary of Defense and the Secretary of Commerce, the Secretary of Defense may refer the issue to the President for resolution. The Secretary of Defense is authorized under section 5(d)(2) to compile a list of militarily critical technologies which are not possessed by or available to controlled countries. The Militarily Critical Technologies List is supposed to be integrated with the control list "with all deliberate speed." Disagreements between the Secretaries of Defense and Commerce over which items are to be integrated into the control list are supposed to be resolved by the President. The Secretary of Defense is to establish a procedure for reviewing the goods and technologies on the Militarily Critical Technologies List for the purpose of removing goods and technologies that are no longer militarily critical.

Primary responsibility for *enforcement* of the Export Administration Act is divided between the Department of Commerce and the Customs Service in the Treasury Department. As part of the licensing process, the Bureau of Export Administration in the Commerce Department compiles lists of acceptable—and unacceptable—domestic and foreign firms. According to section 12 of the Act, the focus of Commerce Department inquiries should be in the United States. Officials of the Commerce Department can deny licenses on the basis of earlier violations or indications of current intentions to violate the Act. The Customs Service examines actual commodity shipments and also compiles lists of violators on the basis of earlier infractions or intelligence data indicating a potential current diversion. To prevent excessive agency conflict, the focus of Customs Service investigations is to be at U.S. ports of entry and overseas. The Department of Justice is responsible for bringing criminal prosecutions for violations of the act, while the Commerce Department has the authority to levy civil penalties and to suspend the right to export.

The primary responsibilities of the Department of State under the Export Administration Act are to conduct *negotiations with other countries* regarding their cooperation in restricting exports, to *consult* with the Departments of Commerce and Defense and other U.S. Government agencies, and to make *determinations* in certain instances.

In discharging his responsibility for negotiations, according to section 5(k), the Secretary of State is obliged to consult with the Secretaries of Commerce and Defense and other agencies appropriate for the negotiations. The State Department is the conduit through which CoCom negotiations take place.

Decisions of the Secretary of Commerce under section 6(k) of the Act concerning the description of items to be placed on the list of crime control and detection instruments and concerning exports of those commodities to any country have to be made with the concurrence of the Secretary of State.

The Secretary of State has the primary responsibility for determining which countries qualify as supporting international terrorism for the purposes of section 6(j) of the Act.

Finally, section 6(a)(5) gives the Secretary of State the right to *review* any export license to a country that has foreign policy export controls levied against it.

The Secretary of Commerce and the Commissioner of Customs, in consultation with the Director of the Federal Bureau of Investigation, have the responsibility to provide advice and technical assistance for exporters to develop *security systems* to prevent violations or evasions of export controls.

9. Waiver

The Export Administration Act, which expired in September 1990, contained no explicit waiver provisions. Amendments adding specific controls on missile proliferation to the Export Administration Act—which contained waiver language—are not discussed here. Section 9 of the Act does allow foreign importers of U.S. goods that become subject to export controls to petition for hardship relief from the controls.

Section 11A of the Act deals with sanctions against foreign firms or individuals. Section 11A(d)—Exclusion—states that the President "shall not apply sanctions under this section to a foreign firm if he determined that the firm did not knowingly violate the export control regulations and the government of the foreign country had in operation an export control system compatible with CoCom principles. The language of section 11A(d) does not allow the President to make a determination and then waive the sanction, rather it states that he will impose no sanction under certain circumstances.

The closest to a true waiver in the Export Administration Act is the President's *foreign availability override* authority discussed above in section 2 on Export Prohibitions and Restrictions.

C. Treaties, International Agreements, and Regimes

The principal international organization for coordinating control of dual-use exports is CoCom, the Coordinating Committee for Multilateral Export Controls. CoCom was created in 1949 as an informal forum associated with NATO to control trade with Communist countries, and now consists of Japan and Australia and all members of NATO except Iceland. CoCom meets in Paris to help resolve the technical and administrative questions which arise from the operations of export control systems. Examples of these issues are the types and sophistication of technology to be placed on the CoCom control list and how export documents can be created that will allow the shipment to be tracked to its destination. CoCom operates on the basis of consensus.

Since there is no international treaty establishing a single administrative body for controlling exports, the operations and structure of the export control regime of each country is left up to that country to create and operate. Section 5(b)(2)(C) of the Export Administration Act sets out the CoCom principles that are to act as a guideline for the effective implementation of an export control regime. U.S. objectives in CoCom are set out in section 5(i) of the Act and section 10(h) discusses U.S. administrative procedures for export licensing requests that are submitted to CoCom for review.

D. U.S. Dual-Use Export Policy

Current dual-use export control policy is in a state of flux. Until the recent past, the goal of export control policy through CoCom was to limit the export of dual-use items or processes to Communist countries.[12] Improvements in U.S.-Soviet relations, the replacement of Communist regimes in Eastern Europe, and the increased threat of the development and use of weapons of mass destruction by non-Communist countries, have all served to place into question existing policy.

As a result of these changes in the international environment, the Bush Administration undertook a major reassessment of U.S. export control policy in early 1990. In May 1990, the U.S. representatives to CoCom announced a major liberalization and restructuring of the CoComm process. Though major changes were announced in most of the CoCom control categories, final details concerning a few commodity categories still remain unresolved. As of the end of May 1991, major decontrols were to be implemented on all exports to the Soviet Union except for fiber optic communication technology and certain high-end computer technology.

The terms of Executive Order 12735, used by President Bush to extend his authority to control exports following the expiration of the Export Administration Act, and the Enhanced Proliferation Control Initiative, announced in December 1990, are both efforts to limit the spread of chemical, biological, and nuclear weapons, and missile technology, using some authority from the Export Administration Act.

The long-standing conflict between the Department of Commerce and the Customs Service over enforcement responsibilities seems to have subsided for the present. Each organization has partisans in Congress favoring an expansion of its authority to counter the supposed weaknesses of the other organization in enforcement matters.

The continuing conflicts between the Commerce Department and the Department of Defense over which areas of technology should be covered—and to what extent—continue, but this conflict appears to be inherent in the differing responsibilities of the two departments. Recent news reports have discussed disagreements between the Department of State—which wanted to *continue* exporting to Iraq prior to the invasion of Kuwait—and the Undersecretary of Commerce for Export Administration who wanted to limit them. This disagreement is unusual since, in the past the Commerce Department has favored using export controls for foreign policy purposes.

Finally, the actions of Congress reflect two themes: to liberalize greatly the current export control system, carrying out maximum decontrol through CoCom and increasing U.S. exports; and expanding the focus of controls to third countries capable of obtaining or producing weapons of mass destruction.

E. Proposed Legislation on Dual-Use Export Controls

This section deals with legislative proposals that would affect *the dual-use* provisions of the Export Administration Act. Legislative proposals limiting missile, chemical,

[12] For more details on current policy, see: U.S. Library of Congress. Congressional Research Service. Export Controls. Issue Brief 91-064. By Glennon Harrison and George Holiday. Updated Regularly; and U.S. National Academy of Sciences. Finding Common Ground: U.S. Export Controls in a Changed Global Environment. Washington. National Academy of Sciences Press. 1991.

and biological proliferation—some of which are contained in amendments to the Export Administration Act—are discussed in other parts of this report.

H.R. 669 (Rinaldo)

The purpose of this bill is to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309 (see below). One difference is that H.R. 868 includes U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance."

H.R. 1343 (Levine) Middle East Post-War Stability and Arms Restraint Act of 1991

The purpose of this bill is to: restrict the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production to the Middle East, to enhance the peace and stability in that region by seeking to maintain a balance of power among the majority military powers in the region, to coordinate with other international arms control regimes to enhance controls on the proliferation of chemical and biological weapons and ballistic missile technology, and to limit the sale or transfer of arms by adopting mechanisms to safeguard against arms control circumvention.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

A commission consisting of the major arms suppliers to the Middle East would be created to negotiate restrictions on the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production.

3. Countries/Companies/Individuals Subject to Restrictions

Countries in the "Middle East" (not defined in the bill).

4. Relation of Treaties/Agreements

The Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group and would coordinate its activities with those of the Australia Group (for chemical weapons) and the Missile Technology Control Regime.

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

The commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions negotiated by member countries and other suppliers."

8. Agency Responsibilities

The President is required to enter into discussions for the purpose of creating the commission within 90 days after the enactment of this bill.

9. Waiver

Not addressed.

H.R. 2318 (Gejdenson)

This bill would amend section 6(j) of the Export Administration Act to designate for a three-year period Iran, Iraq, Libya, and Syria as having governments that have repeatedly provided support for international terrorism.

1. Eligibility Requirements for Exports

This is not addressed.

2. Export Prohibitions/Restrictions

The bill would change the current definition of goods subject to controls to prohibit the export or sales of any goods or technology subject to controls under section 5—National Security—of the Export Administration Act, and any defense articles and services sold or licensed under the Arms Export Control Act.

3. Countries/Companies/Individuals Subject to Restrictions

H.R. 2318 would add a new paragraph to section 6(j) of the Export Administration Act. The new paragraph 5 specifically designates for a three-year period, Iran, Iraq, Libya, and Syria as countries with governments that have repeatedly provided support for international terrorism.

4. Relations to Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting-Consultation Requirements

Unless an earlier recission has been made under the terms of section 6(j)(4) of the Export Administration Act, the President is required to report to Congress no later than 2 years and 6 months after the enactment of the bill on the activities of the governments of Iran, Iraq, Libya, and Syria in support of international terrorism.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

The terms of section 6(j)(4)—which allow the President to rescind the designation of government as supporting international terrorism, but only after submitting a detailed report and certification on the satisfactory behavior of the designated government—would remain unchanged.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken six threatening or aggressive actions listed in the next section.

2. Export Prohibitions/Restrictions

No good or technology would be exported from the United States to any country that meets any one of six criteria: (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology including dual-use items or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction" to any country identified by the President under subparagraphs (A), (B), (C), (D), or (E) above.

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically covered by restrictions. Actions defined in the prohibitions section determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of contracts entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated.

5. Congressional Review

None.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit to Congress a report identifying countries of concern which fall into any of the six categories listed above under export prohibitions. The report would also describe defense transfers to each of these countries, the governments and persons who have made the transfers, the steps taken since the previous year to enforce this Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President may determine and notify Congress that it is in the national security interests of the United States to waive the application of certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the texts of the U.S. Munitions List and a consolidated list of dual-use items to be controlled under the Export Administration Act.

Presidential determinations that a U.S. or foreign person has violated this Act would be required to be published no later than 7 days after they have been made.

7. Enforcement

No goods or technology would be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's January 15 report, and no product or technology would be imported into the United States from such a country.

In addition to penalties under the Arms Export Control Act and the Export Administration Act of 1979, the U.S. Government is required not to enter contracts with violators of the Act, not to transfer technology to violators, and to deny security clearances to violators.

Any property owned by violators within the United States would be forfeited to the United States Government, with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, he could waive prohibitions on exports, imports, and assistance to a country, but could not waive removal of nondiscriminatory (MFN) trade treatment.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. Also penalties do not apply to contracts entered into before a country was named on the President's list of countries of concern.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

S. 320, the Omnibus Export Amendments Act of 1991, would reauthorize the Export Administration Act of 1979. It passed the Senate in February of 1991 and has been referred to the House for action. This bill—containing most of the same language as the bill pocket-vetoed by the President in October 1990—would add specific language to the Export Administration Act on chemical biological and missile technology proliferation controls, and would modify many portions of the Act dealing with the control of dual-use exports.

1. Eligibility Requirements for Exports

No specific changes to current law would be made.

2. Export Prohibitions/Restrictions

Three sections of S. 320 would affect specific commodities. Section 105(b) states that not later

than 6 months after the date of enactment of the Export Administration Act amendments, the Secretary of Commerce would be required to publish in the Federal Register a performance-based indexing to insure that the definition of a supercomputer and the controls and security safeguard procedures on supercomputer exports and reexports would be commensurate with technological advances in the supercomputer industry. For non-Communist countries signatory to the Non-Proliferation Treaty, no security safeguards would be required for any supercomputer with a peak speed less than 25 percent of the two most powerful supercomputers available in the United States.

Section 108 would attempt to coordinate and rationalize the U.S. and CoCom control lists. According to this provision: (a) Within three months after the passage of the bill, no item may be on the U.S. Control List and the U.S. Munitions List at the same time, (b) items on the CoCom International Munitions List would be subject to control by the United States through the Arms Export Control Act, not the Export Administration Act, (c) items that do not appear on the International Munitions List would be subject to control through the Export Administration Act, not the Arms Export Control Act. Exceptions allowing items not on the International Munitions List to be controlled by the Arms Export Control Act could be allowed, but only after the President: determined that national security required the item to be controlled under the Arms Export Control Act; proposed to CoCom that the item be added to the International Munitions List; and submitted a report to Congress describing the item and the reasons for the step. Other parts of section 108 would describe the process for creating new, separate lists, and the roles of the Secretaries of State and Commerce in compiling the lists.

The intent of the new section 109 would be to liberalize controls on telecommunications equipment to countries "of a lesser strategic threat" (defined below) and to accord telecommunications exports to those countries CoCom's least restrictive control procedure. As part of this process, Section 109 states that the United States should propose to CoCom that exports of computer network software and related equipment for civilian use be accorded the same licensing treatment as that permitted for the computer systems exported for interconnection to such networks, and should be treated in accordance with the new telecommunications controls.

3. Countries/Companies/Individual Subject to Restrictions

Several major changes are proposed relating to the overall focus of the export control program and also regarding specific countries.

Section 103 would establish as a general principle that, after December 31, 1991, there would be no controls on exports to CoCom or 5(k) countries. The Secretary of Commerce could continue to require licenses for exports to unreliable end-users, certain reexports to non-CoCom or 5(k) countries of supercomputers, certain nuclear technology, and listening devices, and in accordance with multilateral control arrangements unanimously agreed to by CoCom. The Secretary of Commerce would also be given the authority to require a license to export to any country that is engaging in a pattern and practice of noncompliance with CoCom principles.

Designed to deal with the changed status of Poland, Hungary and Czechoslovakia, S. 320 would attempt to recognize countries representing a lesser strategic threat. According to the bill, the list of controlled countries under section 5(b)(1) should be revised to recognize those which represented a lesser strategic threat and which: (a) implemented an effective export control system, including effective penalties, (b) created technology security arrangements, and (c) terminated intelligence cooperation with controlled countries which resulted in illegal acquisition and diversion of controlled technology, when the Secretary of Commerce determined that the countries had carried out these steps, the Secretary of State would propose to CoCom more favorable treatment for exports to those countries. If these countries carried out all of the above steps and, in addition, reduced its offensive military capabilities, and phased out their participation in the Warsaw Pact, the President would be required to seek CoCom agreement to remove the countries from the controlled list and to treat them as a free world or cooperating country destination.

Section 107 would attempt to codify the general East-West Decontrol decisions made at the June 1990 High Level CoCom meeting by requiring the Secretary of Commerce to issue regulations fully implementing the decisions taken there relating to the removal of controls, increased national discretion and favorable consideration of export licenses, and higher levels of technical sophistication for exports.

The bill would require the Secretary of Commerce to conduct a study on the goods and technology available from newly industrialized countries (NICs) to determine if the goods and technology are of such sophistication that they warrant multilateral export controls. If he determines that controls are warranted, the Secretary of State would be required to propose negotiations to obtain the NIC's participation in CoCom. Another section of the bill directs the Secretary of Commerce to restrict or terminate the 5(k) status of any country that does not maintain export restrictions comparable in practice to those of CoCom.

In terms of the focus of the Export Administration Act, one of the most important changes is proposed by section 120 of the Senate bill. A new section 10(r)—Countries of Concern Regarding Proliferation and Regional Stability—would be added to the Act. A determination to approve any export license application to these countries dealing with possible missile, chemical and biological weapons proliferation by the Secretary of Commerce would be required only after consulting with the Secretaries of State and Defense. Iran, Iraq, Syria, Libya as well as any other countries identified as having repeatedly supported international terrorism would be specifically identified as countries of concern. All countries of concern would be maintained by the Secretary of Commerce on a classified list. Procedures would be spelled out in the provision for appeals to the President over disagreements among the Secretaries of State, Commerce, and Defense. This section is significant because of the widening of the focus of the Act from East-West controls to more general controls based on the behavior of specific countries.

Another provision of the bill would extend the applicability of section 11A—the Toshiba-Konigsberg Sanctions—to 5(k) countries and the new category of countries of lesser strategic threat.

The People's Republic of China was the subject of three specific parts of the bill. In section 125, Congress states that the Chinese had, in the past, received special treatment through CoCom, but because of its human rights record, should no longer do so. Accordingly, the new section 5(b)(4)(A) would direct the U.S. representative to CoCom to oppose preferential treatment for the People's Republic of China compared to the treatment of other controlled countries in the Core List revisions arising from the June 1990 high level CoCom agreements. A new section 6(q)—Proliferation Concerns Regarding the People's Republic of China—stated that requests for authority or permission to export to China goods or technology controlled pursuant to multilateral arrangements to control chemical weapons and missile proliferation, should be denied in the absence of adequate assurances regarding appropriate end-use and non-transfer of goods or technology to a country or project of concern. Section 126 would forbid the export from the United States of any satellite intended to be launched from a Chinese launch vehicle. A waiver of the application of this provision would be allowed in certain instances.

The bill contains two statements of a sense of Congress concerning the Soviet Union. The first indicates that no exports to the Soviet Union which might be allowed by the changes in the law should be allowed unless the President certified to Congress that the Soviet Union had entered into negotiations with Lithuania for the purpose of allowing self determination. The second indicates that no liberalizations would take place if the Soviet Union took steps to restrict the emigration of Soviet Jews.

4. Relation of Treaties/Agreements

See chapter of this report concerning chemical weapons proliferation.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

Several of the provisions discussed above contained reporting requirements.

As required by the provision concerning the requirements for a supercomputer performance rating system, the Secretary of Commerce would be required to publish in the Federal Register the performance-based index system he develops within six months of the passage of the Act. Two weeks before the publication of this standard, the Secretary would be required to submit to the House Foreign Affairs Committee and the Senate Banking Committee a text of the report, summary of the views of the technical advisory committees on what the performance-based system should contain, and how the draft takes those views into consideration.

The Secretary of Commerce would be required to submit a report to the House Foreign Affairs Committee, and the Sente Banking Committee no later than March 1, 1991, describing the status of implementation of the June 1990 CoCom agreement. This report would include a description of the status of: construction of the Core List; the special procedures for countries representing a lesser strategic threat; procedures concerning national discretion and favorable consideration; implementation of the CoCom license-free zone; and how the new standards will affect the military capabilities and technology acquisition efforts of the controlled countries.

In carrying out the rationalization and coordination of the U.S. and CoCom control lists, within three months of the passage of the bill, the Secretaries of Commerce and State would publish final versions of the Control List and the United States Munitions List. The Secretary of State would also be required to publish a separate list of those items remaining subject to the Arms Export Control Act that are not on the International Munitions List.

The President would be required by section 109 of the bill to prepare a study on the national security implications of the transfer of telecommunications equipment and technology under the Export Administration Act. Not later than a year after the passage of the bill, the President would be required to report to the Speaker of the House and the Senate Banking committee on the results of the study.

Within six months after the enactment of the bill, the Secretary of Commerce would be required to report to Congress on his review of whether the goods and technology available from newly industrializing countries are of such sophistication that they warrant multilateral export controls.

Section 119 would require the Secretary of Commerce to publish the full texts of the CoCom

control lists within three months of the passage of the bill.

CLARENCE THOMAS AND THE LIBERAL "LYNCH MOB"

Mr. DOLE. Mr. President, although it's been just 2 weeks since President Bush first nominated Judge Clarence Thomas to the Supreme Court, the liberal lynch mob is already forming outside the Judiciary Committee hearing room.

As Alan Keyes points out in today's Washington Times, Judge Thomas' nomination has "aroused the nastier instincts" of some of his liberal critics, who cannot figure out how a black man in America can be both a Republican and a conservative.

I suspect that much of the liberal criticism directed at Judge Thomas stems not from a close analysis of his record, but from pure, unadulterated self-interest.

For the past 25 years, the civil rights leadership in this country has operated like a public utility monopoly. The liberal leadership packages the correct civil rights message and the liberal media glowingly reports this message to America—uncritically and without dissenting votes.

Those in black America who don't buy into the message are shunned into silence.

So, Mr. President, it is no wonder that Judge Thomas—with his independent thinking and intellectual integrity—is a threat to the self-proclaimed keepers of civil rights orthodoxy.

Ad homine attacks—such as the cheap shot by columnist Carl Rowan, who absurdly compares Judge Thomas with the bigot David Duke—are the first warning signs of an orthodoxy coming to the painful realization that it does not have a monopoly on the truth.

Mr. President, I ask unanimous consent that the article by Mr. Keyes be printed in the RECORD immediately after my remarks.

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

[From the Washington Times, July 15, 1991]

"OUTING" BIGOTS WHO LURK ON THE LEFT

(By Alan Keyes)

Besides provoking a flurry of interest in black conservatives, the Clarence Thomas nomination has apparently aroused the nastier instincts of some of his supposedly liberal critics.

Take, for example, the outburst by black columnist and TV commentator Carl Rowan: "If they had put David Duke on, I wouldn't scream as much because they would look at David Duke for what he is. If you gave Clarence Thomas a little flour on his face, you'd think you had David Duke talking.

Apparently, if we put a little flour on his face, Judge Thomas might have some hope of getting a fair hearing from political bigots. Since he's black, fairness need not apply.

Mr. Rowan has always been a champion practitioner of the vicious racial intimidation through which some black leaders have tried to keep the black community in the grip of political and intellectual totalitarianism. Disagree with them and you're instantly excommunicated from the black race, accused of being a "white-thinking black," an "Oreo cookie" or, at the very least, a foot-shuffling Uncle Tom.

Mr. Rowan's knee-jerk bigotry comes as no surprise to me. In 1988, when the Maryland Republican Party nominated me for the U.S. Senate, he wrote a column dismissing my candidacy as a "token" because I was black. He didn't interview me. He didn't look at my background or experience in government. He looked only at my skin color and boldly prejudged the situation.

As it turned out, nearly 40 percent of Maryland's voters disagreed with him, a showing that equaled or exceeded that of the Republican candidates in the two preceding Senate races.

This is, of course, precisely the kind of prejudice the great champions of the civil rights struggle fought against. Yet people like Mr. Rowan routinely practice it, while lambasting others for betraying the civil rights cause.

Why are petty, close-minded bigots allowed to call themselves "liberals"? Until it was hijacked by these covert totalitarians the word liberal implied a generous, fair-minded approach to issues. It implied a willingness to give all sides a hearing. Now it refers to intellectual fascists who deem themselves the good guys and say their way is the only way.

Another clear example of this bigotry has emerged in "know-nothing" anti-Catholic slurs and innuendo against Judge Thomas by advocates of abortion. Though the political archetype of contemporary liberal idealism, John Kennedy, was himself a practicing Catholic, these virulent, single-issue ideologues feel justified in stirring up the corrosive venom of religious bigotry in their zeal to take Judge Thomas apart. Yet the Catholics who now sit on the court were confirmed without such scurrilous attacks.

Since Judge Thomas is black, the pro-abortion zealots think it's safe to show their religious bigotry in ways they wouldn't dream of doing if he were white.

Contemporary liberals always have suffered from an undercurrent of condescending bigotry. That's why the liberal stereotypes of the "victims" of society correspond so closely to the old racist sterotypes that victimized blacks in the first place.

Today, when they say "helpless," do they still mean "lazy"? Today, when they say "disadvantaged," do they still mean "inferior"? Today, when they say "underclass," don't they still mean second-class citizens?

As victims, blacks still are placed conveniently to be looked down upon. If a black person dares to look them in the eye, to think for himself, to claim with pride a role in his own achievements, they rush to stomp him down, just as racist mobs in the old South took it upon themselves to deal peremptorily with what they called "uppity" blacks.

Clarence Thomas is such a person and the lynch mob is forming. Some blacks like Carl Rowan are helping to knot the rope. Others like Benjamin Hooks are hesitating, sensing, I think, the trap laid out before them. Somewhere in their hearts they know that even though the ideologues say they're "Borking" a conservative, in reality they're just lynching another black.

PROCEDURES ON HABEAS CORPUS

Mr. SPECTER. Mr. President, during the course of the consideration of the crime bill, there was extensive consideration given to procedures on habeas corpus. In a colloquy with the distinguished chairman of the Judiciary Committee, Senator BIDEN, there was a discussion about the need for holding hearings to reform habeas corpus procedures. By letter dated May 22, 1991, vice dean and professor of law, James S. Liebman from the School of Law of Columbia University in the city of New York wrote with some interesting and worthwhile ideas on reforming habeas corpus procedures. I ask unanimous consent that this letter be printed in the RECORD so that it may be reviewed in advance of the Judiciary Committee hearings on habeas corpus to be held in the future.

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

COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,
New York, NY, May 22, 1991.

Re: Capital Habeas Corpus Reform.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: On May 7, 1991, American Bar Association President John Curtin and I testified before the Senate Judiciary Committee on the subject of habeas corpus reform. I was struck during the hearing by the thoughtfulness of your effort to get free of the rhetoric coming from both sides in the debate and to come up with a genuine solution to the problem of death penalty habeas corpus review. Speaking now only for myself, as a law professor and student of habeas corpus, I thought that it might be helpful—and I hope not too presumptuous—to provide my thoughts directly to you. I do so in particular because I believe that your proposal (S. 19) is very much on target in theory and general approach.

Habeas corpus is a very complex procedure right now, largely due to the procedural default and nonretroactivity (Teague) doctrines. In the usual, noncapital case, that complexity speeds up the process in the sense that it deters many prisoners, acting without counsel, from filing. As a result, the per capita rate at which prisoners file habeas corpus petitions has dropped to less than one third of the habeas corpus filing rate at its peak in 1970 (and is still dropping). As you seemed to suggest during the hearings, the habeas corpus system works well enough in *noncapital* cases and does not now need the radical surgery that the Administration has proposed.

Capital cases are different. In those cases, complexity slows down the process because the lawyers representing capital petitioners can handle, and even take advantage of, the complexities in the process. The insight into this problem that you reflected at the hearing is that neigher "side" in the debate is making a genuine effort to solve the problem of complexity—and thus delay—in capital cases. The reason is simple. Both sides in the debate profit from complexity. Defense lawyers favor complexity because they often can take advantage of it to keep their cases going. On the other hand, states attorneys favor the existing complexities because, by creating procedural obstacles, to habeas cor-

pus relief, those complexities (for example, the procedural default and nonretroactivity doctrines) enable states attorneys to win more of their cases on the basis of technicalities that trump constitutional violations. Put bluntly, complexity buys capital prisoner time while giving states attorneys a higher success rate.

The problem is that, while the lawyers on both sides gain from the complexity of the capital habeas corpus process, the public and the federal courts lose. As you alone seemed to recognize at the hearing, the solution is to make the process both fairer *and* less complex. Congress will have to craft a solution in its own, however, because neither side in the debate has much incentive to craft a workable solution itself.

In my view, your general approach to habeas reform is on target—to make the process fairer by providing more adequate counsel and resources at the trial and appellate level, and to make the system faster by setting time limits and dispensing with procedural complexity (which you propose to do by jettisoning state post-conviction proceedings). Below, I outline a similar but modified method of implementing your general approach. The one major problem I see with your bill is the method it uses to reduce procedural complexity—dispensing with state post-conviction proceedings. For the reasons set out below, I think that state post-conviction proceedings acutually contribute in significant (and even constitutionally protected) ways to creating a full and fair record based upon which federal courts can swiftly adjudicate capital habeas corpus petitions. Getting rid of state post-conviction proceedings accordingly will simply shift procedural burdens—mainly, hearings and other fact-determining procedures—from the state to the federal courts. Doing so may well end up increasing the criticism of habeas corpus and many also make unworkable the strict time limits that you want to impose on federal judges.

As laid out below, a surer way to get rid of procedural complexities in federal habeas corpus proceedings is to modify the procedural default and nonretroactivity (Teague) doctrines in ways that enable federal courts to address and decide the merits of constitutional claims immediately and expeditiously. As matters now stand, federal courts often devote 50–75 percent of their adjudicative efforts resolving collateral procedural questions that arise under those three doctrines. Limiting those three doctrines and insisting that federal judges reach and quickly decide the merits of swiftly filed habeas corpus petitions is the surest way, in my view, to implement your basic approach to habeas corpus reform.

More specifically, I think the following 10-part proposal would go a long way towards implementing your creative and well-conceived general approach to habeas corpus reform, although it deviates from S. 19 in some respects:

1. The level of legal representation at trial should be improved. Sections 2261 and 2266 of your bill take appropriate steps in this direction.

2. The filing of federal habeas corpus petitions should be subject to a strict time period or statute of limitations (say, 120 days). Below, I discuss the question of when that period should begin running. (See item 10.) But for the recent *McCleskey* decision, the 60-day period in Section 2263 of your bill might have seemed reasonable. *McCleskey*, however, puts an overwhelming investigative burden on habeas corpus counsel that requires some additional time.

3. Upon filing a federal habeas corpus petition, the state should have only a short time period (7 or 14 days) to file the answer provided for in existing Rule 5 of the Rules Governing §2254 cases.

4. In that answer, the state's attorney should be required to elect between two procedures: a special procedure for capital cases, or the existing procedure. If the state elects the special procedure, a set of stringent time limits should kick in. In return, the state's attorney would give up the following procedural complications that now take up most of the courts' time in capital habeas corpus proceedings: (a) procedural default; and (b) nonretroactivity (Teague). The state's attorney would retain the defenses that can be adjudicated quickly and easily on the basis of the record: (a) waiver; (b) *Stone* v. *Powell* (removing 4th Amendment claims from habeas corpus); (c) the defenses in 28 U.S.C. §2254(d); (d) restrictions on successive petitions (beefed up, as discussed in item 9 below); and (e) failure to meet time limits.) If the state's attorney does not elect the special, expedited process, the state would not get the benefit of the new *post*-filing time limits, although the state still would benefit from the new *pre*-filing time limit in point 2 above.[1] This step is critical because it, alone, will strip enough procedural complexity out of the habeas corpus process to speed up the process in a real and substantial way. This step also will make the process more fair because, by removing complex and distracting procedural obstacles, it will assure that judicial relief is available when constitutional violations are proved. State's attorneys will oppose this provision, but their basis for doing so—that it will cause them to lose more of their cases—amounts to an argument that violations of fundamental constitutional law in the process of deciding who lives and who dies should be ignored on procedural grounds even when doing so actually slows down the process. Moreover, providing better counsel at trials will help assure that there are fewer violations to cure in post-trial proceedings.

5. If the state's attorney elects the special, expedited process in the answer (and only if so), the petitioner then would only have a short period (7 or 14 days) in which to file a "case plan." That "case plan" would inform the district court about what needs to be done in the case, and on what schedule, within the time limits set by statute, those procedures may be completed. If the petitioner feels that a hearing is necessary, he should be required, with particularity, to explain why.

6. If the state's attorney elects the special, expedited process in the answer, a set of stringent time periods like those in Section 2268 of your bill would kick in. Those time periods would be longer (say 180 days) or shorter (say 120 days) depending upon whether the petitioner convinces the district court that an evidentiary hearing is required. This feature is necessary to avoid a constitutional challenge to your bill on grounds that it deprives litigants of a meaningful opportunity for an evidentiary hearing. There is extensive case law saying that the denial of a hearing on factual issues critical to the adjudication of constitutional questions is itself unconstitutional. There is a simple solution: provide explicitly for a hearing in those (few, probably) cases in which the petitioner can establish the need for a hearing; but limit the time available for the hearing to, say, 60 additional days. In many or most cases, section 2254(d) in the existing statute gives judges a clearly constitutional reason for denying an evidentiary hearing based on the state record. The extra 60-day period, then, would be the exception, not the rule. The "rule" would be that proceedings would occur within the time limits set for cases that do *not* require a hearing. Although the defense side will oppose these strict time limits, the sting can be taken out of their criticism by an extension provision for exceptional cases, and by stripping out of the process some of the existing procedural obstacles to relief.

7. By ruling on the petitioner's request for a hearing (in cases in which the state elects the expedited procedure), the court will determine which set of time limits will govern the case—the set of time limits without the extra 60 days (typically), or the set of limits *with* the extra period. The case would then proceed on whatever schedule is set.

8. The strict time limits on appellate and certiorari proceedings in your bill also would be invoked by the state's attorney's election of the expedited process.

9. The state's election also would give the State the benefit of a truncated successive petition process. I don't think the successive-petition proposal in Section 2262 of your bill will achieve this goal. In a real sense, that provision adds a step—the initial application to the Court of Appeals. This added step is very much like the "certificate of probable cause" requirement that Congress added to habeas corpus proceedings early in the century to speed up cases. Regrettably, that reform had precisely the opposite effect of complicating and slowing down the system. I fear that your successive petition procedure will have the same effect. Moreover, I've read virtually every successive-petition in the federal courts during the last five years and my strong impressions are these: (a) very few successive petitions are currently winning in any court; (b) the tiny proportion that are winning are doing so in the courts of appeals, not the district court. This latter impression leads me to fear that your proposal could backfire. An easier step, consistent with the Court's recent McKleskey decision, would simply be to require district courts to deny successive petitions within some short period (7 days), unless the petitioner's papers establish that the claim being raised is one that the petitioner, with due diligence, could not have raised at an earlier time. This approach would permit successive petitions only in the very rare "horror"-case situations that the defense side always speaks about—the situation, for example, in which the prosecutor withheld evidence showing that the defendant is innocent.

10. The only remaining question is when the initial time-period noted in point 2 above should begin to run. My view on this question is that the time for filing the federal petition should be tolled during sate post-conviction proceedings that the petitioner diligently pursues (not including a certiorari petition to the United States Supreme Court). I know that this runs counter to Section 2263 of your bill, but I think any other approach will raise serious constitutional problems. Twenty-five years ago, the Court (in *Case* v.

[1] By the way, Congress could decide to *Impose* these conditions on the State, rather than giving the States a choice. I'm all for doing that: States' attorneys should not be absolved of their contribution to the slowness of the process. I frame the proposal in terms of an election, however, to make the proposal consistent with the opt-in feature of section 2261 of your bill and because the States probably would prefer to choose, rather than being forced into, the expedited process.

Nebraska) came very close to holding that the States are constitutionaly required to provide post-conviction remedies to prisoners. (The case was mooted, but views were expressed in concurring opinions.) See also an earlier case, Ex Parte Hull. Whether or not States must provide post-conviction procedures, if they do so, there is a serious constitutional objection to forcing petitioners to forego one right (the state remedy) as the price of activating the other right (habeas corpus). Moreover, many state's attorneys—including the state's attorney on the ABA Habeas Corpus Task Force—strongly oppose cutting state postconviction courts out of the process. The reason is that, if no state court hearing has been held, a federal hearing is statutorily and constitutionally required (see point 6 above). On the other hand, if a state court hearing is held, that hearing and the state judge's findings preempt any federal court hearing and federal court findings. See 28 U.S.C. §2254(d). As a result, under your approach, postconviction petitioners invariably will opt for federal habeas corpus instead of state postconviction, thus depriving the States of the benefit of state hearings and findings and subjecting them to federal hearings and findings. The removal of the procedural complexities discussed in point 4 above will achieve the necessary streamlining without risking the constitutional problems and potentially counterproductive effects of jettisoning state postconviction. Finally, and most importantly, if Congress sets stringent time limits for federal habeas corpus, then you can bet that state legislatures almost certainly will set similar time limits on state postconviction proceedings. I make this confident prediction based upon a study of 30 years of congressional innovations in habeas corpus procedures, all of which were mimicked by state legislators within a few years after Congress acted. Simply by time-limiting habeas corpus procedures, therefore, Congress can initiate a process that soon will similarly time-limit and speed up state postconviction procedures.

I hope these thoughts are of some use to you in developing a reasoned, fair, and expeditious habeas corpus reform proposal. I would be happy to provide any clarifications or other information that might be of service.

Again, let me express my great admiration for your efforts to pierce through the rhetoric that surrounds this difficult issue and to propose a lasting and meaningful solution.

Sincerely,

JAMES S. LIEBMAN,
Vice Dean and Professor of Law.

Mr. BYRD. I move that the Senate concur in the House amendments.

The motion was agreed to.

NATIONAL LITERACY ACT OF 1991

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 751.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 3 to the bill (H.R. 751) entitled "An Act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.".

Resolved, That the House agree to the amendment of the Senate numbered 1 to the aforesaid bill, with the following amendment:

In lieu of the matter inserted by said amendment, insert:

TITLE VI—LITERACY FOR INCARCERATED INDIVIDUALS

SEC. 601. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or system-wide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; 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 or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(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; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(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; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized 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 and the names and types of testing that were used to determine disabilities affecting 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.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) 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 operating 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.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill, with the following amendment:

Strike out "67" and all that follows, and insert: "57, line 7, strike "$60,000,000" and insert: "$100,000,000".

Mr. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The hour of 3:30 having arrived, morning business is closed.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS FISCAL YEAR 1992

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 2622. which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms/Thurmond amendment No. 734 (to committee amendment beginning on page 59 line 7), to make it a Federal crime for a doctor, dentist or other health care professional who has AIDs and knows it to perform invasive medical procedures without informing the patient.

The ACTING PRESIDENT pro tempore. Under the previous order, amendment No. 734 to the committee amendment on page 59, line 7, is laid aside until Thursday. The pending question is the remaining committee amendment on page 59, lines 13 and 14.

Is there further debate on the committee amendment?

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the committee amendment be laid aside in accordance with the unanimous consent agreement. I believe the only amendments in order to H.R. 2622, the Treasury Appropriations Act, are the Helms amendments and other amendments in relation to those amendments on which votes will occur on Thursday, July 18; a Kohl amendment taking money from Customs drug interdiction and putting those funds into the IRS for tax audits, for which there is a 1-hour time agreement which is to be equally divided; a Dodd amendment on locality pay for Federal law enforcement officials; a Burns amendment on postcard mail sent to Members of Congress for lobbying purposes; and a Smith amendment on Federal collection of State taxes at a shipyard in Portsmouth, NH.

I think the first amendment according to that order is the amendment from the Senator from Wisconsin [Mr. KOHL].

I yield the floor.

Mr. KOHL. Mr. President, I wish to send an amendment to the desk.

The ACTING PRESIDENT pro tempore. Will the Senator suspend?

Mr. DECONCINI. Mr. President, if the Senator will yield, I ask unanimous consent that none of this time apply toward the Senator's debate on either side. Because the amendments of the Senator from North Carolina [Mr. HELMS] has been taken care of under the unanimous consent agreement, I urge the adoption of the pending committee amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the committee amendment is adopted.

The committee amendment on page 59, lines 13 and 14 was agreed to.

Mr. DECONCINI. I thank the Chair very much. Before I yield to the Senator from Wisconsin, I do want to give the ranking member an opportunity to speak.

Mr. DOMENICI. Just to table a motion to reconsider.

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

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank the Chair.

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

AMENDMENT NO. 748

(Purpose: To increase appropriations for Internal Revenue Service tax law enforcement and reduce appropriations for Custom Service operation and maintenance)

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

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. NUNN, and Mr. GLENN, proposes an amendment numbered 748.

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

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

The amendment is as follows:

On page 10, line 23, strike out "$176,932,000" and insert in lieu thereof "$128,432,000".

On page 14, line 3, strike out "$3,582,485,000" and insert in lieu thereof $3,612,124,000".

Mr. KOHL. I yield myself such time as I may consume.

Mr. President, the amendment I am offering today will partially restore the funds cut from the IRS enforcement account. Specifically, it provides an additional $30 million to that account to partially restore it to the levels requested by the administration and approved by the House.

Now I know the IRS is far from popular, but I think this amendment will be because it will increase the ability of the IRS to go after the bad guys, the people who owe but do not pay their taxes, and there are a lot of bad guys.

These bad guys are not the average, middle income Americans who pay their taxes every year. They pay them on time and they pay every dime they owe, and if they do not the IRS knows about it because the IRS has developed systems that check on most taxpayers.

But in hearings before the Governmental Affairs Committee, it was determined that annually over $100 billion is owed to the Government but not paid because it is never reported. We also found that $64 billion in uncollected taxes is sitting in an account called accounts receivable. These taxes are owed, and they have been assessed, but they have never been collected.

These billions are not owed by the average family or the middle-income earner. These billions are mainly owed by high income individuals—people earning over $100,000—and large corporations—those with assets over $10 million.

IRS Commissioner Goldberg has testified that the money we seek to restore with this amendment will be used to go after those high income people and corporations who are not paying the taxes they owe.

To the overhelming number of American taxpayers, it is most upsetting to be paying their fair share of taxes while others do not.

I said this last year, and I stand here again saying it. We are going to work to see that the IRS has the resources to go after these high income tax evaders.

We started to do that last year. At last year's budget summit, the negotiators agreed to fund an IRS initiative to increase the number of revenue agents. Those negotiators rightly realized that if we are to reduce the $100 billion tax gap, and reduce the $64 billion in accounts receivable, the IRS will need more agents. In the 1991 budget, the administration and Congress agreed to provide $176 million as the first part of a 3-year initiative. And for fiscal year 1992, the administration followed through by funding the second part of the initiative in its budget submission. Unfortunately, Congress is on the verge of reneging on this pact, and allowing this initiative to languish: The bill before us drastically reduces the amount allocated by the administration for year 2 of this IRS tax collection initiative, while also cutting back on the funding needed to continue the 1st year's initiative.

In fact, this bill cuts so severely into the tax law enforcement funds that the IRS will have to lay off over 70 revenue agents.

Those 70 agents have 1 year of training. They know how to do the job we are asking them to do. Yet we are telling the IRS to let them go. And if they are let go, we also are going to let go of the over $200 million that the IRS says they are expected to collect in the next 5 years.

Now, I certainly understand the budgetary constraints facing the Appropriations Committee this year. All the subcommittees are under considerable pressure to hold the line on spending, as well as they should be. And this subcommittee has $1.3 billion less to work with than it had last year. That makes things pretty tough—and the committee and Chairman DECONCINI have done a very good job of dealing with those problems. But in this one area, I can not accept their decision. It doesn't make sense to cut funding for a program which is guaranteed to raise revenues for years and years to come.

We have done that in the past and we have paid for it. Over the past 10 years, the number of tax returns has increased by 50 percent, but the number of auditors has not kept pace. This bill makes that ratio even worse. My amendment is not about increasing staffing for the IRS, it is about adequately staffing the IRS so it can oper-

ate at a level of efficiency approximating what we had a decade ago. We are not talking about progress—we are talking about keeping pace. And by keeping pace, we can get a little ahead of the curve and collect more of the $100 billion that people owe.

Mr. President, I think the evidence in support of funding this IRS program is clear and convincing. But under the budget constraints we face, it is not enough to justify the need for additional funding. You also have to take the funds from somewhere else. And that is not so easy.

As I have said, Senator DECONCINI faced a most difficult task—and for the most part he and his committee have done an excellent job of allocating those scarce resources.

In cutting IRS funding I believe they made a mistake. Fortunately, I think they made another mistake—one which will give us the funds to restore the IRS funding. And that mistake was to add—add—$55 million more than the President requested and $67 million more than the House appropriated for the Customs Department Air Interdiction Program.

This program is designed to help us deal with the flow of illegal drugs coming into our country. That is a terribly important goal. But $55 to $67 million is a significant increase above the President's request and the House allocation. So we ought to take a careful look at that money and see if it is going to do as much as we hope it will or as much as we know that a restoration of IRS funding will.

Let us take a look at the evidence. The money in this bill which our amendment would cut is supposed to go primarily for the purchase of a fourth P-3 [AEW] aircraft and for additional helicopters—none of which were requested by the President and none of which are included in the House bill. What do we know about the justification for those addons?

According to OMB, we know that:

> the $10 million for additional helicopters * * * cannot be justified on programmatic grounds. As indicated in the O&M aircraft standardization study Customs provided to the Congress this year, a new helicopter and fixed wing aircraft acquisition program would eventually cost about $140 million and save less than one million annually.

Not a very cost-effective use of scarce dollars.

And what about the P-3 [AEW]? Again according to OMB it isn't a very effective investment.

> The air drug smuggling threat appears to have diminished. The 1992 drug strategy reflects a shift of emphasis to investigations, treatment and prevention and does not call for additional P-3 procurements. Finally, P-3 AEW aircraft sorties produce fewer drugs seizures at higher costs than other methods of drug interdiction such as cargo container inspections.

Again, not a very cost-effective use of scarce dollars.

Let me make it clear that I am not saying that the air interdiction effort ought to be abandoned. Senator DECONCINI virtually created the air interdiction effort and he has every reason to be proud of its success. And it has been a success. In fact, I think it has been such a success—at current levels of funding—that it has already, as OMB suggests, forced the air drug smuggling threat to have diminished.

We are, I suggest, reaching a point of diminishing returns for the P-3 AEW Program. We can invest more in it—but that does not mean we will get more drugs off the street as a result. Compare that to the IRS where we can be sure that we will get more income—a lot more income—for a relatively modest investment.

I am particularly distressed at having to tamper with the work of my colleague because it should not be necessary. The amendment I propose today makes money. According to the Office of Management and Budget, it will raise almost $500 million over the next 5 years. That is a threefold return on investment.

Because of our convoluted budget rules, the chairman of the subcommittee that has to fund the IRS does not get credit for that phenomenal return. So why should the Senator from Arizona—or the Congress—put money into tax enforcement when the payoff goes into the totally separate revenue account?

The way the budget process is set up today, there is more incentive for Congress to increase taxes than there is for us to go after the huge pool of uncollected taxes out there. More bluntly, the present system pushes us toward using new taxes to take more money from the honest taxpayer—and away from collecting old taxes from the big money tax cheats. I certainly hope that this Congress takes a close look at the destructive incentive system we set up, and the bad decisions we are forced to make, by our nonsensical budget process rules.

Let me conclude, Mr. President, by making it clear that this amendment is not about whether you are for the war on drugs or for collecting uncollected taxes. It is about the best way to spend Federal dollars. I say we ought to spend them to capture some of that $100 billion in taxes owed, right now, to the U.S. Government. If we collect that money, we'll have additional resources to pour into drug interdiction and drug treatment. And, we'll have that money without having to raise taxes on the already overburdened, honest American taxpayer.

Mr. President, I yield the floor and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I yield myself 10 minutes on the time of the manager of the bill.

I rise in strong opposition to the amendment offered by the Senator from Wisconsin, my friend HERB KOHL Let me say I know his intent here is to do everything he can to be sure that every American pays their fair share of taxes and I respect him immensely for this.

If adopted, however, this amendment would result in a serious setback to the Nation's war on drugs.

I want all of my colleagues to make no mistake about it—this amendment is antidrug enforcement and prointrusion on this Nation's taxpayers.

Simply stated, the Kohl amendment would take all of the increases the committee provided, $48.5 million out of a very small account of $176 million, to the Customs Service drug air and marine interdiction account, and give those funds to the Internal Revenue Service, which has a budget of $6.7 billion, to increase audits on the Nation's taxpayers. It would gut the Customs air and marine account by virtually one-third and seriously jeopardize the continued effectiveness of national and international efforts to keep cocaine and other illegal drugs from entering the United States.

What the Senator from Wisconsin seeks to do is increase fundings for IRS examinations and audits of taxpayers by $29.6 million above the amount provided by the committee. He states that his amendment will reduce the backlog of the IRS accounts receivables inventory and generate increased revenues for the Federal Government. Mr. President, the fact is that the committee rejected the IRS requested increase of $45.0 million for the very purpose the Senator from Wisconsin proposes to restore for fiscal year 1992 because:

First, in the past, it has been demonstrated that the IRS projected revenue yield from these initiatives has not been realized for many reasons, one being that the IRS shifts funds from revenue compliance into other activities. For the current fiscal year, the committee provided the IRS with an increase of $191 million for a revenue compliance initiative that was supposed to yield an additional $537 million in revenues. Of the $191 million provided, the IRS expects to expend only $134 million on revenue compliance. Because of the IRS history with these initiatives, for fiscal year 1992, the Congressional Budget Office refused to score any increased revenue from the new exams and audits the IRS proposed to fund from this initiative.

Second, the increase the committee has recommended for the IRS total 9.4 percent above the fiscal year 1991 enacted level, an amount which is 5.2 percent above the rate of inflation or $570 million above the current year funding level. Mr. President, this is a very large increase for the IRS at a time when the Congress is operating under

very restrictive spending caps for domestic discretionary programs.

Third, the committee bill includes funds for the second-year implementation of the fiscal year 1991 revenue compliance initiative to the tune of $172 million. We took this action not because we think the revenues will be realized, but we did so to comply with the provisions of the 1991 Omnibus Budget Reconciliation Act which assumed these revenues.

Fourth, the funding provided to the IRS for fiscal year 1992 meets the Service's highest priorities. It funds the modernization of the Nation's antiquated tax systems to enable IRS to develop revenue accounting systems which are reliable and efficient; it funds all mandatory pay, other labor, postage, printing of tax forms, and increased workload costs so that refund checks can be sent to taxpayers on time, so that taxpayers can get quick and accurate responses to their tax questions, and so that IRS can continue the programs already underway to cope with the accounts receivables inventory and tax collection from those individuals who attempt to evade the tax laws.

Fifth, in addition, the committee retained the provision in the House bill sponsored by Congressman GEPHARDT which requires IRS to transfer any increases in the information reporting program, estimated to be $13 million in fiscal year 1992, from correspondence audits into audits on high income, high asset taxpayers, and

Sixth, the committee bill includes a $28 million increase for the IRS to hire, train and equip an additional 200 special agents and support personnel for tax fraud investigations so that IRS can investigate money laundering and other criminal activities carried out by drug traffickers. These funds were not requested by the President, they were added by the committee to the Office of National Drug Control Policy's special forfeiture fund.

Mr. President, the Senator from Wisconsin would have you believe that IRS audits of the highest income earners would significantly increase if his amendment is adopted. The fact is that IRS is already auditing a larger percentage of taxpayers in the high income category. According to the IRS, of the approximately 62 million returns filed for income under $25,000, the audit coverage is 2.38 percent; for the estimated 10 million returns filed for income of $50,000 to $100,000, the audit coverage is 6.51 percent; and for the estimated 2.2 million returns for income of $100,000 and over, the audit rate is 12.81 percent. In addition, even if the committee had funded the IRS compliance initiative for fiscal year 1992 in its entirety, $46 million, IRS estimated it would have had a minimal impact on the audit coverage or 0.001 percent. The reason for this is that it takes more time to complete more complex audits. What is more, during the time the IRS is hiring individuals to conduct these audits, IRS has to take trained and experienced revenue agents away from existing accounts to train the new hires. This results in an immediate loss of revenue.

Last year when the Treasury bill was on the floor, we were confronted with a similar amendment offered by the Senator from Ohio [Mr. GLENN]. At that time, we argued about the amount of the accounts receivable inventory. For the record, I want this body to know again, that the $100-billion figure that is being bandied about is deceptive. The fact is that IRS itself admits that this amount could be overstated by as much as 40 to 60 percent due to inaccurate account balances, duplicate receivables, and uncollectible accounts which the IRS will never be able to recover due to bankruptcies and other facors. The best thing we can do for the IRS is give it the funds it needs to get its fiscal house in order and develop tax systems which can give the Service more reliable information on taxpayer accounts so that back taxes can be collected before it is too late. That is exactly what we have done in the bill pending before this body. The bill contains $427 million for tax systems modernization, an amount which reflects an increase of $167 million above the amount provided in fiscal year 1991.

Now, let me tell you the reverse effect this amendment will have on this Nations' drug interdiction efforts. The Senator's amendment would reduce the U.S. Customs Service's air and marine interdiction programs by $48.5 million. The U.S. Customs Service has lead jurisdiction for air drug interdiction and has had that role since 1988. For those of you who do not know what that role involves, I would like to briefly describe it. It means that the Customs Service has the lead role at the Federal level for stopping illegal drugs from entering the United States, thereby keeping drugs from infiltrating U.S. communities and reducing the availability of cocaine, marijuana, heroin and other drugs for use in the United States. Customs accomplishes this role through a series of programs, the most sophisticated and successful of which are the air and marine interdiction programs. Through a system of advanced but economical aircraft and vessels equipped with radar and forward-looking infrared devices, the Customs Service is able to identify aircraft and boats, normally general aviation aircraft and pleasure boats, destined for the U.S. from drug source countries. Through surveillance, detection, monitoring, and interdiction, the Customs Service identifies and monitors clandestine landing strips, targets suspect aircraft and boats, to track and apprehend narcotics traffickers before their illicit drugs can penetrate U.S. borders.

Customs has had a great deal of success with this program. The air program alone in fiscal year 1990 is directly responsible for the seizure of approximately 100,000 pounds of cocaine, 40,000 pounds of which were seized outside U.S. borders with the help of the P-3 surveillance aircraft. So far this fiscal year, the program has been responsible for the seizure of 50,000 pounds of cocaine. The success of this air interdiction program is to the point where it is predominately responsible for the antidrug efforts initiated by the Office of National Drug Control policy in Central and South America under the so-called Andean initiative. Key to this initiative are the Customs P-3 aircraft with Airborne early warning radar systems which have a range of 300 to 400 miles and can detect and track low-flying aircraft. The P-3 AEW aircraft operate at a cost cheaper than any other drug surveillance aircraft being used today: It costs the Customs Service about $3,500 per flight hour to operate and maintain the P-3 AEW while the Department of Defense AWACS aircraft cost between $7,000 and $8,000 per flight hour. The Customs air programs' sole mission is drug interdiction—as a result, it does not have to worry about competing or conflicting priorities as does the Department of Defense. During Operation Desert Storm when DOD mobilized virtually all of its assets to fight the war in the Persian Gulf, there would have been no drug interdiction outside United States borders had it not been for the United States Customs Service. DOD pulled all of its AWACS aircraft out of drug interdiction to the south and Customs was the only agency conducting drug survelliance the interdiction missions in the region.

Customs is singularly responsibile for the cooperative program which is currently underway in Mexico. Customs Commissioner Carol Hallett personally intervened with the Government of Mexico and despite years of rejections from the Mexicans, was given permission to fly Customs P-3 aircraft in Mexican airspace with Mexican northern border response force personnel on board to detect illegal drug aircraft entering Mexico from Colombia and offloading drugs for transport overland to the United States through the United States-Mexico border. Since the beginning of this year, this joint United States-Mexico program has been responsible for the seizure of 40,000 pounds of cocaine which may have made its way into the United States if not for this unique cooperative law enforcement program. In addition, because of the success of the P-3 program as demonstrated to leaders in other Central and South American countries, Customs presently has authority to overfly the countries of Panama, Belize, Colombia, Guatemala, and others in Central and South America to

target drug aircraft and help those countries' law enforcement personnel interdict shipments of drugs into their countries. Stopping drugs shipments outside the United States reduces the amount of drugs which are entering the United States.

Mr. President, because Customs is a civilian agency, it is able to formulate agreements with law enforcement agencies in drug-source countries which the military would be hard-pressed to achieve due to national security and sovereignty reasons.

Customs currently has two P-3 AEW aircraft and another is presently under modification for delivery sometime in late 1992. To properly carry out its drug interdiction mission, it requires at least four and probably six to implement the changing strategies to the south. General Joulwan, the commander in chief of SOUTHCOM stationed at Howard Air Force Base in Panama City, Panama, is one of the most ardent supporters of the Customs P-3 Program. General Joulwan is responsible for the deployment of U.S. aircraft and vessels for drug interdiction purposes in this region as well as the training of foreign military and law enforcement personnel in host countries. I have discussed with General Joulwan the missions being conducted in Central and South America by the Customs P-3 Program and he tells me he will take all of the P-3's he can get because the program is so successful he cannot keep up with all of the requests he is getting for drug interdiction assistance from host nations in the region. These aircraft are presently flying in tandem with P-3 slicks—P-3's without the rotodomes—and on average are flying 120 hours per month. Customs is literally flying the wings off these aircraft and requires more so that gaps are not left when the aircraft have to be taken down for preventive or scheduled maintenance.

The amendment sponsored by the Senator from Wisconsin would eliminate all funding for a fourth P-3 AEW for the Customs Service. If adopted, it would send a signal to drug-producing nations that the United States is not serious about this so-called war on drugs, instead that our priority is on auditing the income of well-meaning law-abiding taxpayers in the United States. I say to my colleagues, this is a misguided priority and one which will send the wrong message to drug-source nations who are trying their best to cooperate with U.S. antidrug efforts. This drug war has not been won and despite rhetoric to the contrary that the supply in the United States is declining, that is not what I hear when I talk with Customs, DEA, Border Patrol or FBI agents who are on the front lines. They say they are doing their best to keep one step ahead of the drug traffickers but they cannot make a serious dent in this war without a concentrated effort from all sides. There is increasing evidence that heroin use is on the rise. Interdiction is just one part of the strategy, but is just as important to reducing drug use in this country as is drug treatment and education. You cannot win a war where so much money is at stake for so many without a comprehensive multifaceted strategy. According to the 1991 national drug control strategy:

> * * * To fight drugs successfully we must, as a nation, exert pressure on all parts of this problem simultaneously. * * * No single tactic, by itself, is sufficient.

The drug strategy goes on to state that—

> The notion that funds be evenly divided between supply reduction and demand reduction * * * ignores the fact that much of our interdiction effort occurs offshore, on the high seas, or in international airspace, and requires the use of expensive assets, including ships, aircraft, and sophisticated air, sea, and land-based radar systems.

I agree with those statements. If you simply devote resources to one area, it creates a hole somewhere else. Interdiction is a deterrent—the only way you can really measure its effectiveness is by monitoring the changing behavior of the narcotraffickers. You make them spend more time and money trying to outsmart interdiction enforcement efforts so it becomes unprofitable.

Also at stake in this amendment is funding for replacement of vessels for the U.S. Customs Service Marine Interdiction Program. In the Caribbean Basin, the number of boats, freighters and other sea-borne vessels being used to bring drugs into the United States continues to grow. Yet, 72 percent of the Customs Service's marine fleet has outlived its useful life and is in need of replacement. These old vessels are also expensive to operate and maintain. As we attempt to respond to the changing behavior patterns of drug traffickers, the Federal agencies responsible for interdicting narcotics must be given the tools they need to keep narcotraffickers on the defensive. Customs has not received any funds for replacement of marine interdiction assets since 1986. Since that time, the strategy has dramatically changed as have the tactics of the drug traffickers. For example, there are new hotspots in the Caribbean. Puerto Rico and the Virgin Islands have become serious threats as drug-transit areas. Aircraft are air-dropping drugs onto pleasure boats near these two territories which are destined for the United States. Freighters from Central and South American countries are arriving at U.S. ports with drugs hidden in compartments and underneath ship hulls. Drug enforcement agencies must respond to changing patterns and cannot do so if they are being outrun and outmaneuvered because they do not have the proper equipment to respond to the changing drug patterns.

Lastly, Mr. President, the Southwest border continues to be the No. 1 transit area for the cocaine coming into the United States. All intelligence reports that I have seen indicate that this trend is continuing and drug traffickers are using every means available to escape law enforcement efforts. The 2,000-mile stretch along the United States-Mexico border is one of the most difficult to patrol. Wide open spaces between ports of entry have made it virtually impossible for the Border Patrol and other Federal, State, and local law enforcement officers to apprehend drug traffickers. To make this job a little easier, the Customs Service is providing helicopter support to Federal, State, and local law enforcement operations on the Southwest borders. The UH-60 Blackhawk helicopters which the Customs Service currently uses are not adaptable to undercover operations and are designed for apprehension, not support operations. The committee bill includes $10 million for the purchase of smaller utility helicopters equipped with FLIR radar to provide support to law enforcement investigations and other operations on the Southwest border. These helicopters will permit Customs to provide interception support in urban as well as remote desert areas at a cost which is much lower than that to operate the Blackhawks or DOD Hueys. The amendment offered by the Senator from Wisconsin will eliminate funding for this very modest but critical drug support activity.

Mr. President, in closing, I want to repeat again to my colleagues who may be listening in their offices, the amendment offered by the Senator from Wisconsin will have a crippling effect on the Nation's drug war at a time when we should be doing everything we can to interfere with the flow of drugs and make drug trafficking more expensive and risky to those who seek to profit from it. The threat is still there and the traffickers are becoming more sophisticated. Results from recent investigations suggest that the traffickers have graduated from single and twin engine aircraft and are now using turboprop aircraft and jets to transport their drugs into the United States and other markets in convoys. We have got to give our drug enforcement agencies the tools they need to shift gears and outsmart the traffickers. The Congress must demonstrate that it is serious about this war on drugs and that it is not just talk. The committee bill contains small increases for drug enforcement—much less than they need to do the job. The amendment offered by the Senator from Wisconsin will serve as a serious blow to the continued assault on drug traffickers. On the other hand, it will have little or no effect on reducing IRS accounts receivables but send a message to this Nation's taxpayers that the Congress would rather spend

money chasing them for back taxes than chasing drug traffickers.

Mr. President, it seems ironic to me that after many weeks of debate on a crime bill to establish tougher penalties for criminals, that we should be faced with an amendment immediately following those weeks of debate to roll back enforcement efforts which protect American citizens from the dangerous influence of illegal drugs.

I urge my colleagues to oppose this amendment.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Wisconsin.

Mr. KOHL. I yield 5 minutes to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized for up to 5 minutes.

Mr. NUNN. Mr. President, I rise in support of Senator KOHL's amendment to H.R. 2622.

In my opinion, for the reasons outlined below, I believe that the more than $50 million in budget authority that Senator KOHL's amendment restores to IRS, can be put to better use in supporting increased IRS enforcement and collection efforts than for its present purpose of supporting additional equipment purchases—including one P-3 [AEW] aircraft and two helicopters—for the Customs Service air interdiction program.

The amendment is consistent with recent hearings held by the Permanent Subcommittee on Investigations, which I chair. In the mid- and later 1980's, the subcommittee held a series of hearings that demonstrated emphatically that Federal drug interdiction efforts are among the most expensive and least effective means for reducing the amount of illegal drugs entering our country. We have heard from a vast array of witnesses—including law enforcement officials, drug treatment and education experts, and leaders of the military's anti-drug effort—who question the wisdom and ultimate productivity of continued increases in interdiction efforts. For example, in our hearing 2 years ago, the bottom line of the testimony presented by the General Accounting Office [GAO] was that "air interdiction programs are very costly and have limited capabilities."

Similarly, hearings the permanent subcommittee held in April of this year disclosed significant problems in the area of IRS' collection of corporate income taxes. The subcommittee heard testimony that IRS can no longer effectively assure that our Nation's largest corporations voluntarily comply with the tax code and that as a result hundreds of millions of dollars are not being collected. The record suggests that among reasons for IRS' failure to adequately carry out its responsibilities in this regard is insufficient staff and other resources. Indeed, Commissioner Goldberg testified that IRS has $100 billion on the books that is not being collected, and that he believes that any additional moneys appropriated by Congress in this regard would result in a 10 to 1 return on each dollar invested.

The action by the Treasury, Postal Service, and General Government Subcommittee to reduce the IRS budget and give those funds to the Customs Service is opposed by OMB and the administration. A July 11, 1991, "Statement of Administration Policy," urges the Senate to adopt a budget consistent with the 1992 National Drug Control Strategy, which proposes a shift away from interdiction programs. The statement emphasizes that, in its 1992 National Drug Control Strategy, the Administration specifically did not request funds for the additional interdiction assets called for in the Appropriations Committee bill.

In addition, the administration believes that the $50 million reduction in IRS' budget would result in enforcement revenue losses of almost $900 million over a 5-year period. The policy statement also notes that the Appropriations Committee action undercuts one of the administration's key efforts to control the growth of delinquent IRS accounts receivable—identified by OMB as one of the Federal Government's high-risk areas. Moreover, according to the administration, loss of these funds will severely hamper IRS' ability to perform examinations of corporate and other high-income taxpayers.

In conclusion, Senator KOHL's amendment constitutes a wiser and more productive use of Federal budget outlays. It contains the promise of a substantial return on the dollars invested and makes it more likely that all American taxpayers—individual as well as corporate—will be paying their fair share of taxes owed. I have long supported the importance of strong IRS enforcement efforts, particularly in tracking illegal narcotics profits, going back as far as my amendment to the Tax Equity and Fiscal Responsibility Act of 1982—and believe that Senator KOHL'S amendment, in supporting IRS efforts in those and other critical areas, will result in greater overall benefits than the present Appropriations Committee language.

I thank my friend from Wisconsin. I congratulate him on this amendment and I hope our colleagues will support this amendment.

I understand the position of the Senator from Arizona. I know he has been very diligent in working to improve our interdiction efforts. We have, indeed, improved those interdiction efforts. I have spent an awful lot of time on this myself. One of the things we have done in the defense authorization bill is to make available for drug interdiction, large quantities of DOD equipment and also a huge amount of Department of Defense effort in terms of fighting drugs and particularly interdiction.

I do now know the number of P-3 aircraft we have, but we have a lot of P-3 aircraft in the military. It seems to me rather than spending scarce resources now, to shift money into customs way above what the administration requested, we would be better served to see if any parts of the DOD inventory could be utilized better than they are now, although it is my understanding they already are doing a considerable amount in this effort.

Unfortunately, even though I favor our interdiction efforts and have supported them and will continue to do so, they are almost at the bottom of the list in terms of effectiveness in terms of drug enforcement. I think there are a lot of other ways that should have higher priority.

I do think we ought to continue interdiction efforts. We ought to emphasize them where we can, but I do not believe we ought to start another Air Force in the Customs Service when we have a huge number of inventoried aircraft in the Department of Defense and when the Soviet submarine threat is receding. These P-3's are for the purpose of ASW. We certainly do not have the submarine activity around our shores that we did have and that means to me we simply can take aircraft that are already in the Department of Defense and utilize them for this purpose.

I agree with the thrust of the Senator in shifting this money to the Internal Revenue Service. We had a hearing in the last several months, indicating the Internal Revenue Service is not collecting anything like the corporate income tax that they have, in terms of effectiveness, in past years. It is very apparent that they have some significant room for improvement in this respect.

The record suggests that among the reasons the IRS fails to adequately carry out its responsibilities in this regard is because of insufficient staff and other resources. So, if we really want to do something about improving the tax collection, I think this would be a good place to spend the money.

I might add on that I think one of the most effective ways we can fight the kingpins and the drug traffic is to increase the capability of the Internal Revenue Service.

When you get an aircraft coming into this country you are not getting the people who put the big money in their pockets. But when you go after them with IRS resources, you are going after the people who put the big money in their pockets.

For all these reasons, I urge the support of the Kohl amendment, and I hope my colleagues would agree.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from New Mexico requires.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from Arizona have?

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 18 minutes and 35 seconds.

Mr. DOMENICI. I yield myself 8 minutes. Would the Chair please advise me when I have used 8 minutes.

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

Mr. DOMENICI. Mr. President, I do not believe the Senate ought to adopt this amendment. Let me tell you why.

First of all, the Internal Revenue Service, believe it or not, has been faring fairly well, last year and the year before, and more so this year in the bill that is before us.

I will talk in a minute about the really great things that are going on there, not the least of which is to put more money into increased compliance, the old-fashioned compliance. The IRS Commissioner now says, if you want to make sure we make some real headway on compliance—that is making more people pay what they owe—the answer is not to put more into audits, but make sure that the total tax system is modernized so that the Internal Revenue Service has up-to-date computers and everything else to do its job. That is how you are going to get compliance down to a reasonable level someday, someplace, sometime.

Having said that, the administration for all of IRS asked for $622 million in new money, over and above the fiscal 1991 level. That is a 10.2-percent increase.

In a year with extremely tough budgets, when we have a bill before us that does a lot of things for the American people, about half the discretionary money goes for the Internal Revenue Service. We increased the Internal Revenue Service 9.4 percent; a $572 million increase.

If you look at what they wanted by way of increased items, let me go down the list and make sure everyone understands that we do not need to take any money out of the Customs Service to put it in the IRS.

You have a couple Senators, the Senator from Arizona and the Senator from New Mexico, who understand that the Internal Revenue Service is very important to the future of this country. So we fund it to the very best of the ability of this Appropriations Subcommittee, and we have been doing that. We are never reluctant to say the first responsibility is to fund the IRS in this bill. We have done it.

We gave the IRS the $172 million in compliance money as agreed to last year to bring in more revenue. Mr. President, frankly, the Internal Revenue Service and the administration have not—and I repeat, have not—proved that they are entitled to additional money of that type because of two things. They have not used what we gave them before for that purpose. They always shaved it and did not use it all. Second, they have never proved that the revenues which come in when you give them new money are what they had predicted.

So what did we do? We said, nonetheless, we will give them what was agreed to in the budget summit agreement. If anyone wants to dig up last year's Budget Reconciliation Act specifying IRS resource compliance funding for the 5 years, they will find that in this year, in order to meet the tax receipt goal, we were supposed to give IRS $172 million. We have. They wanted more. Even though last year we gave them more, and they did not use it for that, nonetheless, we gave them $172 million as we were to do for fiscal year 1992.

Let me explain to my colleagues specifically how we arrived at the IRS funding recommendation. The administration's request included the following increases above fiscal year 1991, offset by $141 million in nonrecurring costs and savings:

A $450.5 million increase to fund base requirements and maintain current programs;

A $161.8 million increase for tax systems modernization;

A $93.7 million increase for other information systems requirements;

An $11.2 million increase to strengthen IRS's internal audit and financial management systems; and

A $45.9 million increase for new IRS compliance initiatives.

Obviously, funding IRS's base requirements and maintaining current programs was the first priority. This funding is needed to address mandatory costs and inflationary items required to support base staffing levels. This increase covers such things as personnel benefit costs and the January 1992 pay raise, increases in postage and supply costs, and the additional cost of workload increases resulting from tax return filing growth, et cetera.

It also includes the fiscal year 1992 cost of prior-year revenue enforcement initiatives, including the second year of funding associated with the $191 million fiscal year 1991 IRS resource compliance initiatives required to achieve the increase in revenues assumed in the bipartisan budget deficit reduction agreement of last year.

The next priority in our view, and one of the highest priorities in this bill, is the fiscal year investment requested for IRS' tax systems modernization effort.

IRS is currently working off of a computer network which was put into place in the late 1950's. IRS has essentially been using the same computer and telecommunications systems design for more than 25 years. This system can no longer handle the scope and size of our Nation's tax processing functions. IRS spends millions each year processing paper, reworking errors, maintaining outdated equipment, and patching its systems together.

This capital investment over the next year is mandatory or we risk total breakdown of our existing system of tax administration.

Tax systems modernization will reduce taxpayer burdens and produce cost savings in the long term. It will give IRS personnel ready electronic access to return and account information, increase information security, and lower tax administration costs. It will improve taxpayer service functions.

I might add that many of my colleagues have expressed concern about the backlog of accounts receivable. I would just say to my colleagues that the Commissioner of the IRS in speaking to this problem last year testified that all efforts to improve the way we deal with the accounts receivables occur against the backdrop of our need to invest in the long-term health of our tax system. IRS is currently handicapped by outmoded computer systems. It cannot identify and track the sources and aging of its accounts receivables. We are trying to turn this situation around by investing in tax systems modernization. We fund that at the full request level.

We also approved the requested increase for IRS information systems requirements. This investment is required to maintain and upgrade IRS' existing systems in order to keep them functioning while we make the transition to tax systems modernization. If not, we risk potential disruptions in the filing season, processing delays for taxpayers, as well as IRS's capability to make timely deposits of tax receipts, issue refunds, and conduct effective and timely enforcement actions.

Given all this, the subcommittee recommended the following reductions in the administration's budget request—it deleted the $45.9 million requested to undertake new compliance initiatives over and above those begun last year; it reduced the requested increase for administration and management by $2.85 million; and it held the fiscal year 1992 funding for the fiscal year 1991 resource compliance initiatives to the $172 million level assumed in the Omnibus Budget Reconciliation Act of 1990, $4 million below the requested amount.

I must tell my colleagues that we worked with the IRS in putting this funding recommendation together. If IRS cannot have the full amount requested, it is in agreement with this subcommittee that the proposed new compliance initiatives take lowest priority.

In other words, we did not fund the requested new IRS revenue compliance

initiatives only because these were the subcommittee's lowest priorities. The Commissioner of the Internal Revenue Service, I say to my good friend from Wisconsin, said that if you are going to fund things, fund all these that we requested and the matter that is of least importance in this entire agenda is the additional increase for new IRS compliance initiatives.

So we gave them everything they wanted, including money for a new tax system. We gave them a huge increase to maintain current base programs, which includes many new personnel, at much higher wages. Believe it or not, for the first time in years the Internal Revenue Service is getting the very best talent in America signing up, wanting to work for it again. They were able to raise wages, and they are receiving the best lawyers, the best CPA's, and the best accountants. IRS could not attract qualified personnel before. It is costing some money and we gave them the money to pay for that.

I am not going to go through those individual items any further. I am merely going to say that from this subcommittee's standpoint—and we take testimony on all of this—frankly, the Senator from Arizona is absolutely right. We should not take this money out of Customs.

We have heard so much about engaging ourselves in a war on drugs, and we are trying in this subcommittee, where we have some part of that war, to fund that war. Indeed, the new P-3 AEW and other interdiction assets that we are funding are less than Customs has justified it could use. So we do not want to conduct yet less of a war on drugs than we were able to in this bill by taking money out of the Customs Service.

The Customs Marine Program has been stripped to the bare bones. Currently, 72 percent of the Customs vessel fleet is beyond its expected useful life. The current vessels are maintenance intensive and are becoming safety risks. The funding recommended by the committee represents the first year of a 3-year replacement program.

For the air program, the committee has recommended the remaining funds required for the Customs Service to procure its fourth P-3 AEW drug surveillance aircraft and three additional support helicopters.

Customs' need for additional support helicopters to support its interdiction mission on the southwest border is greater than what we could afford. Too often, because of lack of a sufficient number of helicopters and scheduled maintenance requirements on existing aircraft, needed support aircraft are unavailable.

Threat assessments indicate that more than 50 percent of the illegal drugs entering the United States are coming over the southwest border from Mexico. Drug traffic has shifted to the ground between ports as a result of Customs air interdiction efforts. The Customs mission has expanded to supporting Federal, State, and local enforcement efforts between the ports. Additional helicopters are required in the Customs fleet to support this mission.

The Customs P-3 AEW aircraft have proven to be vital components of our Nation's war on drugs. We have been working toward fulfilling Customs need for four of these aircraft over the last years to meet its operational requirements. Last year, we were only able to provide the downpayment on the fourth aircraft. This bill recommends the remaining funds required.

The Director of the Office of National Drug Control Policy recently directed that DOD transfer to Customs the airframe required for the fourth P-3 AEW. The funding in this bill will cover the conversion costs for this aircraft.

Customs' P-3 AEW aircraft, which have been specifically designed for the mission of drug surveillance, are already making a significant contribution to our Nation's interdiction efforts in the South American source countries.

Customs is working in cooperation with DOD to support counternarcotics activities with the Andean initiative countries and other drug source nations. These aircraft are being successfully utilized to track aircraft between production and processing areas, to identify and monitor clandestine airstrips and illegal drug processing sites, and to provide valuable intelligence information to host drug source countries to enhance their enforcement operations and disrupt cartel operations.

DOD is doing a lot. However, Customs is the only civilian agency with the necessary expertise to conduct air interdiction activities beyond the borders of the United States. As such, it often can fulfill a mission the military cannot in the international arena.

Have I used my 8 minutes, Mr. President?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from New Mexico has a minute-and-a-half remaining.

Mr. DOMENICI. Customs P-3 AEW aircraft have increased our ability to detect, track, and interdict aircraft with loads of narcotics destined for the United States. However, the threat continues. The United States remains a primary target for those in the business of producing, transporting, and distributing illegal narcotics. Aircraft continue to be the most quick and efficient means for delivering this contraband.

Delaying the acquisition of the fourth Customs P-3 another year will not only increase its cost to the Government to detect and monitor drug smuggling activities along our Nation's borders and in international transit zones.

I am going to summarize again. I am not one, and I am sure a lot of Senators join me in this, to give the Internal Revenue Service an inordinate amount of money. In fact, there were times when we underfunded the IRS. In fact, my friend from Wisconsin may have alluded to the difference between enforcement and personnel capability today versus 6 or 12 years ago. But in the last 3 or 4 years, and in particular last year and this year, we are making tremendous strides in putting the Internal Revenue Service back where it ought to be. They ought not to have a lot of extra agents to run around and harass Americans, but they ought to have adequate personnel levels to collect what is due the American Government as taxes from the American people, individual and corporate.

I am personally convinced, having worked on this, that this subcommittee this year is doing right. The mere fact that we have not given the IRS every single thing they want is truly irrelevant. We are giving them a $572 million increase in a time of tight budgets—9.4 percent above the current funding level. There are not very many accounts of this Government getting that much of an increase.

Frankly, the argument that we are not giving them exactly the amount they want for compliance and new tax collection and investigating more returns because they will make more money for us, I have grown weary of defending them on that account. In fact, we are giving them the $172 million which is what we agreed to in the Budget Reconciliation Act of last year and we ought not have to cut any other account to give them more.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. Mr. President, Senator GLENN is on his way to make a statement, but I would like to make a couple comments until he gets here.

It is a fact that money has been allocated, $572 million, to the IRS for the purpose of system modernization. There has not been an allocation for the purpose of seeing to it that the program which was put in place a year ago to add more agents, to see to it that we collected uncollected taxes from high-income American taxpayers and large corporations, is pursued with vigor, dynamism, and success.

The IRS has said that if this program, which was instituted last year, which we are talking about gutting today, is left in place, the additional amount of taxes collected over a 5-year period will be $500 million.

Now, it is also a fact, and the Senator from New Mexico and the Senator from Arizona know well, that the number of people who are audited today versus a decade and 2 decades ago has gone way

down in our country. It has gone down from well over 2 percent of all of those who file tax returns to 1 percent. Would anybody argue that there is a correlation between that decrease in audits which has taken place because of the fact we have fewer people working in that part of the IRS and the vast increase in the amount of uncollected taxes that exists today in our country.

This amendment is aimed directly at seeing to it that we collect a greater share of uncollected taxes that we are not collecting. It undermines the confidence of our American tax system for Americans to see, to the extent they do, that high-income Americans and large corporations of considerable assets are not paying their taxes and getting away with it. This undermines confidence in our system, our system of Government, our system of tax collection.

It seems to me that when you can increase the amount of confidence that people have in our tax system and at the same time collect more tax dollars, it is a win-win situation. This is not an investment which is intended to pay off 10 years, or 20 years, or 30 years from today. This is an investment which is intended to pay off next year. Assurances come from the IRS that this investment will pay off. So why is it that we need to gut this part of the IRS allocation? It seems to me this is not a smart thing for us to be doing.

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

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold, the Chair recognizes the Senator from Arizona.

Mr. DECONCINI. Mr. President, the distinguished chairman of the Armed Services Committee spoke in favor of the amendment and he is correct that the DOD does provide a lot of support for drug interdiction. He deserves a great deal of credit for his leadership in this area and the Senator from Georgia. It so happens the P-3 aircraft we are talking about will come from the Department of Defense just as the past P-3's have come from the Department of Defense.

But somebody has to retrofit the aircraft so they can be used to survey low flying aircraft and track drug planes. That costs some $30-plus million per plane. So who does it? The Customs Service does it, not DOD. We are not building an air force. We are building some strategic airplanes that are much more cost effective than the DOD AWACS. During the Persian Gulf war if we had relied on the AWACS and the military to provide drug surveillance along the border, we would have had zero surveillance because DOD took all their aircraft to the gulf. And yet the P-3 was the only defense we had along our borders in addition to the aerostat balloons.

Even if full funding for the 1992 compliance initiative was fully funded, the increase in audit coverage would only increase 0.001 percent because of the complexity of the cases.

The Senator from Wisconsin wants to go after those high income taxpayers. I do, too. That is exactly what the IRS does. That is what the Commissioner has been able to convince this committee. Of the 62 billion returns filed for income under $25,000 a year, the audit coverage rate is 2.38 percent. For the 10 million returns filed for income of $50,000 to $100,000, the audit coverage is 6.51 percent. And for the 2.2 million returns for income of $100,000 and above, the audit rate is 12.81 percent.

So the audit coverage is more than double on high income taxpayers, and rightfully so. The Senator is correct. I support him. We should devote more time and resources to those taxpayers. We are doing just that. The funds are included in the bill to accomplish just that.

Mr. DOMENICI. Mr. President, I just want to tell my friend from Wisconsin that I would normally agree with him. Frankly, however, the Congressional Budget Office has looked at this new proposal regarding field audits and additional collections staff which the administration maintains would score a batch of new revenues. CBO, in its analysis of the President's fiscal year 1992 budget, indicated that neither it nor the Joint Tax Committee will not credit these proposed new initiatives with any revenue gain above baseline levels either in fiscal year 1992 or over a 5-year period. CBO indicates it has seen this over and over again, and experience says it should not score because there is no assurance that it will produce any new revenues.

I ask unanimous consent that the appropriate section from the CBO report be printed in the RECORD.

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

Excerpt from CBO Analysis of the President's FY 1992 Budget (March 1991)

OTHER REVENUE PROPOSALS

The Administration proposes to increase the number of staff positions for Internal Revenue Service enforcement (IRS). In addition, an early budget proposal to extend special tax treatment to participants in Operations Desert Shield and Desert Storm has already been put in place through executive and legislative action.

PROPOSAL TO INCREASE FUNDING FOR INTERNAL REVENUE SERVICE ENFORCEMENT PROCEDURES

In addition to the pay-as-you-go revenue proposals, the President's budget proposes an increase in IRS enforcement funding and credits the initiative with revenue gains, above baseline levels, of $35 million in 1992 and $708 million over the 1992-1996 period. Because of problems in carrying out past proposals and generating net revenue gains, CBO does not credit the proposal with revenue gains (see Table III-8).

TABLE III-8.—CBO/JCT AND ADMINISTRATION ESTIMATES OF THE PROPOSED INTERNAL REVENUE SERVICE INITIATIVE

[By fiscal year, in billions of dollars]

Proposal	1992	1993	1994	1995	1996
Increase Enforcement Funding CBO/JCT	0	0	0	0	0
Administration	(1)	.1	.2	.2	.2

[1] Revenue increase of less than $50 million

Note.—The cost of the initiative, estimated at approximately $0.2 billion over the 1992-1996 period, is not included in the revenue estimate.

Sources: Congressional Budget Office; Office of Management and Budget.

The initiative contains two components: an increase of 94 positions in the examination staff to increase the number of field audits, and an increase of 671 positions in the collections staff to reduce the backlog of delinquent accounts ("accounts receivable"). Although the Administration has provided details of the components of the estimated revenue gain resulting from the staff increase, these details are not based on historical evidence documenting how similar initiatives were put in place or what additional revenues were collected.

The General Accounting Office (GAO) published three reports in 1990 addressing implementation and revenue effects of like IRS initiatives.[1] These reports document problems with implementation and analyze shortcomings in data on IRS enforcement initiatives and in estimating methodology. Based on these reports, CBO concludes that revenue gains above baseline levels cannot be relied on and does not credit the proposal with revenue gains.

Mr. DOMENICI. Mr. President, for the fiscal year 1991 resource compliance initiatives the Senator from New Mexico went personally last year to the chairman of the Appropriations Committee and asked for the $191 million required, that it be sent to this subcommittee with a line item on it to be used only for IRS compliance initiatives. Because we informed the chairman of what it would do, we got it. We put it in the appropriations bill.

I might say to the Senate, after all that work, the Treasury Department did not use it for that. They used only $134 million instead of the $191 million provided. Instead of getting revenues of $6.457 billion over the next five years, they will only get $6.189 billion. I ask unanimous consent that IRS's table showing the original and unmixed compliance initiatives be printed in the RECORD at this point.

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

[1] General Accounting Office, "Tax Administration: IRS' Improved Estimates of Tax Examination Yield Need to be Refined" (GAO/GGD-90-119, September 5, 1990); GAO, "Tax Administration: IRS Needs More Reliable Information on Enforcement Revenues" (GAO/GGD-90-85, June 20, 1990); GAO, "Tax Administration: Potential Audit Revenues Lost While Training New Revenue Agents" (GAO/GGD-90-77, April 6, 1990).

FISCAL YEAR 1991 COMPLIANCE INITIATIVES

[Dollar amounts in millions]

	FTE	Fical year 1991 budget authority	Total collection fiscal year 1991–95
Original compliance initiatives:			
Collect additional taxes owed	1,050	$55.5	$1,608.4
Exam field audit	1,176	77.1	1,081.7
Exam service center	640	27.3	1,037.0
Exam contract training	0	7.5	517.6
Exam claim audit	146	7.9	712.1
Returns processing dependent social security number monitoring	84	2.9	339.2
Returns processing mortgage interest monitoring	14	0.5	143.6
Returns processing noncustodial parent dependent monitoring	366	12.3	1,018.1
Collection tax delinquent inventory			
Total	3,476	191.0	6,457.7
Remixed compliance initiatives:			
Collect additional taxes owed	798	42.2	1,113.6
Exam field audit	892	58.9	818.8
Exam service center			
Exam contract training		5.7	492.0
Exam claim audit	111	6.0	675.5
Returns processing dependent social security number monitoring	64	2.2	257.3
Returns processing mortgage interest monitoring	11	0.4	64.1
Returns processing noncustodial parent dependent monitoring			
Collection tax delinquent inventory	360	18.7	2,767.7
Total	2,236	134.1	6,189.0

Mr. DOMENICI. Mr. President, so they will not get the increase that they expected.

I do not believe we will get any revenue increase with the additional new compliance initiatives requested. I do not think they need to do this. I do not think we have shortchanged them one bit. I do not think the war on drugs ought to be cut $48 million in budget for that transaction. I hope the Senate does not do it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to support the proposal by the distinguished Senator from Wisconsin. I know there are arguments, as the Senator from New Mexico brought up, about scoring and the agreements under the economic summit and so on. But I am far more concerned about the proper expenditure of taxpayer dollars than anything else.

We worked for a number of years, particularly on the Governmental Affairs Committee, to get IRS authorizations up and to work with the Appropriations Committee to try to get appropriations out there for the Internal Revenue Service. The rough rule of thumb that has been used through the years—and even if you can argue as to its validity—it still is an impressive figure—is that for every dollar spent for new IRS agents, you get back about 5 to 1.

Even if that is debatable under some of the studies, as has been pointed out here, it may go as low as 3 to 1. That is still a pretty good investment, I think, of Government dollars.

The point that the distinguished chairman of the Armed Services Committee made a few moments ago here—Senator NUNN, is that with the changes in the world situation and with the changes in our requirements for patrol aircraft we are already assigning more patrol aircraft to the Customs Service for use along our borders that we previously used at sea and for other types of military patrolling.

So it is not that we are cutting back on or doing with less surveillance of our borders. In fact, that is being increased.

So to put more money into that function where we already have existing aircraft that are going to be used for that purpose, it does not seem necessarily to be the best way to go.

In fact we can do it cheaper with Government aircraft that we already have in the armed services which are being reassigned for that purpose and do without this additional funding which was going into separate funding of aircraft.

The Senator from New Mexico makes the point that we are upgrading in the IRS, and we are. We are doing a great job on that. We fought for funding for that for a number of years to finally bring the IRS into the modern days of computer, keeping up with the accounts and crosschecking of accounts and doing a far better job than we have been able to do up to now. And the modernization program that they have under way runs something like 8 to 10 years down the road before the whole thing will be complete. That is being funded. It is proceeding along. We cannot just throw more money at it and expect to get a lot of advantage from that. But it is proceeding. It was a long, difficult task getting money for computerization modernization in the IRS, but it is proceeding.

In this interim period, however, what is to happen in this 5- to 8-year period before that modernization of computers really comes on line and begins to be really effective?

Well, there is only one answer you can come up with. In this interim period, we need more IRS agents. Even if it is debatable as to whether they gain 5 to 1, or 3 to 1, or 2 to 1, that is a pretty good advantage, I would think. We can move some money that is not needed in customs because we are already putting more patrol aircraft out of the military on to our borders. We are already doing that. We can better use the taxpayer money in the IRS to gain more advantage for our budget. It just seems to me to be common sense that is the direction we would move.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Wisconsin, Mr. KOHL. This amendment would add $30 million for the Internal Revenue Service, principally for improved collections operations. Faced with a tax gap in the neighborhood of $100 billion, we have every reason to make this investment.

Last year, as part of the 1990 budget agreement, the IRS received funding for a revenue initiative. A total of 2,300 new enforcement personnel have been hired, and many are close to the completion of their training. The administration's budget request sought to fully maintain this effort, and launch some modest additional initiatives in the areas of collections, examinations, criminal investigations, bankruptcy cases, and retirement plans.

While I know that my colleagues on the Appropriations Committee had to operate under a very tight budget constraint in crafting the bill before us, it is regrettable, in my view, that the committee decided to cut the funding for enforcement by $50 million. At a minimum, we should sustain the investment in improved compliance that is now underway. As my colleague from Wisconsin has pointed out, it takes time to train new enforcement agents, and many of those hired last year are just becoming productive. As I understand it, $4 million of the amount sought by Senator KOHL's amendment is needed to retain about 70 of these recent hires; if they are laid off, as envisioned under the committee bill, we lose the benefit of their training and about $200 million of additional revenue that they would have collected over the next 5 years. Altogether, this amendment is estimated to generate nearly $700 million of additional revenue—not bad for an investment of $30 million.

As my colleagues know, I have consistently advocated a comprehensive, multiyear effort to improve enforcement and taxpayer services at the IRS. The big issues, to me, are how effectively and how fairly we are generating the revenues required to operate the Federal Government. Massive Federal budget deficits should force us to be rigorous, to set priorities, and to make hard choices on expenditures. But at the same time, the country must have fair tax laws and an equitable system for enforcing them, to make sure that everyone pays a fair share.

Disturbing new evidence that we do not have such a system came to light this spring in a front page story in the Wall Street Journal entitled "Taxing Disparity: IRS Excels at Tracking the Average Wage Earner, But Not the Wealthy." Its main point was this: while working and middle-income people pay what they owe, largely because

of tax withholding and the ability of IRS computers to match billions of information documents to tax returns, upper-income individuals and corporations are slipping beyond the reach of an inadequate, overloaded enforcement system. The more complicated tax returns of high-income individuals and large businesses require the attention of highly trained personnel rather than computers, and the IRS simply doesn't have the people to get the job done.

As these charts show, the chance of being audited has declined dramatically since the mid-1960's. For individual taxpayers, the audit rate dropped from over 5 percent in 1964 to less than 2 percent in the early 1970's. After rebounding in the late 1970's, the rate continued to fall during the 1980's; by 1990, this rate was down to 0.8 percent.

For corporations, audits covered 13.5 percent—or one out of every seven corporate returns—in 1964; by the early 1970's, this rate had fallen to below 8 percent. After rising back toward 10 percent in the second half of the 1970's, the corporate audit rate plummeted throughout the 1980's, to reach a low of 2 percent in 1989. In 1990, the IRS was able to bring the corporate audit rate back up to 2.59 percent, but—by historical standards—this fraction remains extremely low.

Turning to the total audit rate which includes categories like partnerships, estates, fiduciaries, as well as individual and corporate taxpayers, the trend is much the same from a rate of 5.24 percent in 1964, the total audit rate fell below 2 percent in the early 1970's. Total audit coverage rose to about 2.5 percent in the late 1970's, but then declined again in the 1980's until the rate reached a low of 0.84 percent last year.

Mr. President, allowing these trends to go unchecked could completely undermine our system of voluntary compliance. Already, we face a substantial—and growing—tax gap: as this next chart shows, there is currently about $100 billion that taxpayers legally owe under existing law but do not voluntarily pay. Under current estimates, the tax gap is expected to grow to $114 billion by 1992 if nothing is done about it.

Mr. President, I served as tax commissioner in North Dakota for 6 years prior to my election to the Senate in 1986. I am extremely concerned that the conditions described by the Wall Street Journal article—showing how our tax laws are unevenly enforced—will lead people to cheat. While the average taxpayer cannot get away with it—computers will spot the discrepancies after matching amounts reported on W-2 and 1099 forms against what is on the tax return, higher income taxpayers with more complex finances could easily be tempted to cut corners.

According to a study by the General Accounting Office, the IRS is not able to investigate half of the taxpayers with incomes above $100,000 who haven't filed tax returns. These are nonfilers that the agency knows about; but simply does not have the resources to track down and collect what is owed. Taken together with the audit trends, report like these send a terrible signal to potential tax evaders: The chances of getting caught are slim.

We should be sending a very different message. We should strive for a system that encourages improvements in compliance—rather than one that breeds cynicism. Honest taxpayers who pay what they owe deserve to know that the law will be enforced fairly, and that all taxpayers in all tax brackets will pay their fair shares. According to a study by the California Institute of Technology, the IRS would have collected an additional $47 billion of revenue in 1985 if the audit rates from the mid-1970's had been maintained.

The committee retained a provision approved by the House which requires that some of the revenues generated by the document-matching program be used to audit high-income returns. The amendment before us complements this effort by committing additional resources for collections, focusing on the returns of individuals with incomes above $100,000 and corporations with incomes above $10 million. IRS accounts receivable in 1990 were $72.2 billion—almost triple the level they were in 1983. With this amendment, we are saying we want to halt this trend, and stop letting these huge sums continue to slip through the cracks of our enforcement system year after year.

Since coming to the Senate, I have pushed for a multiyear fair share initiative to upgrade the resources of the IRS in all major divisions. The increased funding would be used to hire additional examiners, collections personnel, and attorneys. The general aims would be to improve audit coverage, reduce very high levels of accounts receivable, and resolve disputed cases more promptly.

My proposal would also provide greater funding for computer modernization, to hasten the agency's transition to a state-of-the-art system. And significant new resources would be devoted to taxpayer service, including training, equipment, and supplies that employees need to provide prompt, courteous, and accurate assistance.

Over time, investing in this kind of comprehensive program to improve tax compliance will produce substantial revenue—well in excess of the amounts spent. In North Dakota, we implemented a fair share program which generated $14 of additional tax revenue for every $1 invested. I am certain that a Federal program, if properly implemented, would yield equally impressive returns.

Former Commissioners of the IRS have advised me that the agency could absorb 4,000 to 5,000 additional enforcement positions for each of the next several years. If we want to correct the problems and inequities described by the Wall Street Journal story, we must be willing to make this kind of investment.

Mr. President, the problems of tax fairness and tax compliance are very tightly linked. We cannot claim that existing law is fair if wealthy individuals and large profitable corporations can avoid paying what they owe. And it is fiscally irresponsible to allow the Federal tax gap to keep on growing, when there are prudent investments we can make to reverse such trends. The amendment before us is certainly a step in the right direction. I urge my colleagues to join me in supporting it.

I ask unanimous consent that the Wall Street Journal article to which I have referred be printed in the RECORD.

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

[From the Wall Street Journal, Apr. 15, 1991]

TAXING DISPARITY: IRS EXCELS AT TRACKING THE AVERAGE EARNER, BUT NOT THE WEALTHY

(By Paul Duke, Jr.)

WASHINGTON.—As many of you rush to finish your tax returns today, consider this:

For the vast middle class, the Internal Revenue Service has become a more effective collector than ever before, deploying computers to make sure the average family pays nearly every penny of its taxes. But for wealthier people and corporations—especially foreign corporations—the IRS is increasingly a paper tiger.

The 1980s produced a momentous but little-noticed change in the way the IRS goes about its business. A blizzard of "information returns" filed to the agency by employers and businesses has enabled the giant IRS computers to keep track of nearly every facet of the average wage-earner's tax affairs. But at the same time, the agency's ability to track the more complex taxes of rich people and companies has severely declined: The paper trail doesn't begin to cover their financial ventures. Personal audits are still in the IRS's most important enforcement tool for monitoring these tax returns, but a decade of tight budgets has left the agency with nowhere near enough people to do a thorough job.

EQUAL TREATMENT?

"There are really several different tax systems," says Paul Posner, a top IRS-watcher for the General Accounting Office, Congress's watchdog agency. "For the wage earners the IRS has so much information it can almost do their taxes. But with corporations and high-income people the picture is not so bright. The IRS is playing catch-up."

Even IRS Commissioner Fred Goldberg Jr. admits there is a problem—one, he says, the agency is now trying to correct. Enforcement efforts since 1980 "have fallen woefully behind in dealing with large corporations, partnerships, and upper income, self-employed individuals," he says.

Kimberly Scott is one of millions ensnared by the IRS's new efficiency in dealing with the less-well-to-do. As a college student in Connecticut in 1987, she held several part-time jobs but didn't file a tax return, thinking she was exempt, she says. Last year, the IRS's computers used the information in its

files to compile a tax return for her, and the agency billed her for $125 in back taxes and another $125 in penalties and interest.

TECHNICAL KNOCKOUT

The IRS was far less efficient, however, when it came to Don Elbaum, a former high-flying boxing promoter in Atlantic City. Beginning in 1983, Mr. Elbaum stopped filing tax returns. But it was seven years later before the Justice Department caught up with him. The agency claimed he hid $570,000 in income from 1983 to 1985 alone. Mr. Elbaum is now serving a jail sentence for his transgression.

Mr. Elbaum was one of the unlucky ones who got caught. A recent study by the General Accounting Office found the IRS isn't investigating nearly half the people it pinpoints with incomes over $100,000 who failed to file tax returns. The reason: a paucity of agents. Notably, when some of those non-filers filed a return in later years claiming a refund, the IRS sent off checks to 11% of them.

Another report, which will be released by the GAO this week, will show that corporations are also getting an easier ride. The very biggest companies in the U.S. still are audited virtually every year. But, in the broader picture, only 2.5 companies out of every hundred is subject to an IRS audit, down from 6.5 a decade ago. According to the new report, big corporations are appealing 80% of the extra tax that the IRS claims in its audits, and the government is losing 75% of those appeals.

IT PAYS TO BE COMPLEX

In contrast, the GAO found that the tax agency used its computers to compile a tax bill for every person it discovered with an income under $100,000 who failed to file a return. And in that lower income group, anyone who later filed for a refund didn't get it until the IRS had subtracted the amount of taxes previously assessed.

The IRS says it can explain the disparity. Individuals earning over $100,000 and big corporations, the agency says, tend to have complex tax matters that require the personal attention of agents, and there simply aren't enough agents to go around. People with lower incomes, on the other hand, are more easily evaluated by the tax collector's computer: They tend to get their income from wages and simple interest, much of which is reported separately to the IRS on W-2 and 1099 forms. The IRS will get more than 1 billion W-2s and 1099s this year and its computers will spit out 4.7 million notices telling people their tax returns don't account for all the information on these forms. The agency figures it now gets so much information that its computers could work up standard tax returns for about 40% of the country's taxpayers—particularly middle-income wage-earners with simple returns.

To be sure, plenty of less well-to-do-people can still easily escape the IRS. Cab drivers, independent contractors, self-employed people and others still receive much of their income in a way that is never reported to the IRS. "Compliance by waiters and waitresses is terrible," says IRS Commissioner Goldberg. "It's isn't only rich people" who are outside the clutches of the tax paper trail.

Wealthy people of course, can also get snagged by the IRS computer when their tax returns, for instance, fail to account for payments that have already been reported to the IRS. Interest and stock dividends, which go disproportionately to high-income people, are now automatically reported to the IRS. The agency thus knows when a filer doesn't own up to the income.

Still, while the IRS does receive reports on stock sales, it can't figure the taxable capital gains on such sales, which account for a large part of the incomes of many wealthy people. The IRS also receives extensive information on partnership income, but the forms are so complicated that it hasn't been able to use its computers to check the forms against tax returns. The resources simply weren't there to manually enter all the information into the system. The IRS says, however, that it will have the means to check partnership income this year.

Lawrence Gibbs, IRS, commissioner from 1986 to 1989, says it's important for the IRS to focus on compliance among average taxpayers because they pay most of the country's taxes. "If you ever get massive noncompliance at the low- and middle-income levels it's a disaster," he says.

But other tax experts say the focus on the middle class seems unfair in a society with the tradition of progressive taxation. Perceived unfairness, in turn, could lead more people to cheat on their taxes, they insist.

The IRS's problems with corporate tax returns, meanwhile, stem in large part from the growing globalization of business, which has created issues of mind-numbing complexity for the tax collector. Indeed, many of the biggest tax cases the IRS is now battling in tax court involve accounting tactics that foreign companies have used to shift profits overseas and thus drive down their U.S. tax liability. In 1987, the agency settled two of these so-called transfer pricing cases against Toyota and Nissan for a reported total of $600 million, according to the Japanese press. It has claimed $66 million in back taxes, interest and penalties from Fujitsu and an undisclosed sum from Yamaha. Both Fujitsu and Yamaha are challenging the IRS's claims.

Some experts estimate foreign companies could be ducking nearly $30 billion or more a year in taxes. "The government is losing money by the ton," says James Wheeler, a professor at the University of Michigan business school and an IRS consultant on transfer pricing.

U.S. multinationals are being charged with evading the IRS as well. Just a few days ago, the tax court began hearings in the IRS's nearly $7 billion tax claim against EXXON, EXXON says it doesn't owe any back taxes.

Given the low corporate audit rates, there are undoubtedly countless other companies that never catch the IRS's attention. "With limited resources, the IRS can't fight every battle," says Susan Long, director of Syracuse University's Center for Tax Studies.

At the same time, the percentage of taxpayers audited in person by the IRS is nosediving. The decline in audit rates for high income individuals is especially striking: the IRS now audits only 1.8% of all individuals with incomes over $50,000, down sharply from 7.8% a decade earlier.

In the academic world, there is considerable debate over whether the decline in audits has spurred cheating and noncompliance. Some experts believe it has cost the government big sums. Michael Graetz, deputy assistant Treasury secretary for tax policy, estimated that the IRS could have collected an extra $15.6 billion from individuals alone in 1986 if audits had held steady at mid-1970s levels.

"The very aggressive types are thinking 'let's spin the audit lottery wheel,'" says Thomas Ochsenschlager, a tax partner with the accounting firm Grant Thornton. "When the audit rate was 4% or 5% the word filtered around that the chances of getting audited weren't that great. Now it's less than 1%."

The IRS has looked for ways other than audits to assure compliance. The 1986 tax revision helped to some degree by wiping out tens of thousands of complicated tax shelters. And partly to compensate for the drop in audits, the government jacked up the penalties it assesses, making it all the more painful for tax cheats who are caught. Total IRS penalties on individuals rose to $6 billion in 1988 from $1 billion in 1978, and penalties charged to corporations rose to $118 million from $18 million.

Moreover, when the IRS does catch wealthy people who haven't paid up, it can be merciless: Ask country-singing star Willie Nelson, whose Dripping Springs, Texas, ranch was auctioned by the IRS in January to pay part of what the agency says was a $16.7 million tax bill.

For corporations, especially large independent contractors, Rep. Doug Barnard, a Georgia Democrat who heads a subcommittee that oversees the IRS, advocates a business documents program that would give the IRS a paper trail of payments to these concerns. Until that happens, he says, "it looks like we are willing to accept the word of corporations but not individuals." At the very least, Rep. Barnard says, the IRS should be evaluating the information it already receives on interest payments to businesses, as it does for individuals. Others, including the Treasury's Mr. Graetz, however, think a business information program would create lots of paperwork for little gain.

And that would burden an already overburdened IRS. When the IRS takes on a giant case like its $7 billion claim against EXXON, its resources can be quickly sapped. Already, the agency has assigned 35 lawyers, paralegals and other personnel from its litigation division of 2,200 to the case. And that's just one of 50,000 cases the IRS is currently handling in tax court. Fully 80 of those cases involve claims averaging more than $200 million.

Mr. Goldberg is committed to trying to right some of the imbalance in the IRS's compliance efforts, and he has won praise from Congress for resisting a recent effort by the Office of Management and Budget to pour more resources into audits of low- and middle-income taxpayers. He has promised to investigate every one of the wealthy nonfilers. And he has succeeded in bringing some audit rates—particularly for corporations—up slightly in the past year. But even he says it will take five years to get audits to a level he feels is adequate. Other tax experts suspect it will take far longer.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, in my judgment, if we do not pass this amendment, fewer tax evaders will be caught and more people will be tempted to cheat. The more we let people off the hook on taxes they owe, the more we will have to go somewhere else to get the funds to pay for Federal activities or to reduce the deficit.

I am opposed to any more tax increases on the hard working men and women of our country, especially when I know that multimillion-dollar corporations are not paying the money that they already owe.

My amendment is antitax increase, antideficit, and profairness. I believe it is a policy that all Senators can support.

Mr. GLENN. Mr. President, I have indicated my support for Senator KOHL's amendment. It would restore $27.7 million to the IRS tax law enforcement account.

In addition to the remarks I made a few moments ago, I would like to add these: Last year, Mr. President, I came to the Senate floor with a similar amendment to restore to the IRS $55.5 million needed to hire 1,050 additional IRS collection personnel. This amendment was necessitated by the failure of the IRS over the past decade to keep up with the staggering increase in unpaid taxes owed by individuals, corporate, and other deadbeat taxpayers; that is what they are.

I add that there is nothing that makes people any unhappier about April 15 every year than to think they are paying their taxes, and they read accounts in the paper about how many other people are getting away with not paying theirs.

Last year I reported that since fiscal year 1983, the total inventory of taxes assessed but not collected by the IRS had jumped from $26 billion to over $60 billion. That is money out there that is owed the Government but is not collected, because we do not have the people to do it. On top of that was the approximately $30 billion in unpaid taxes, interest, and penalties, which IRS has written off as currently not collectable.

As of June 1990, with interest and penalties accruing each day, the total rose to somewhere around $96 billion that the IRS said was owed to the Government but which had not been paid by over 10 million delinquent taxpayers.

Because my amendment to last year's Treasury, Postal appropriations bill contained no budgetary offset, it failed on a vote to waive the Budget Act. However, during the long, drawn-out negotiations culminating in the budget summit agreement of last fall, the issue was ultimately resolved in favor of fully funding the President's fiscal 1991 request for IRS, including the needed additional 1,050 IRS collection personnel.

Unfortunately, as we make decisions about funding for fiscal 1992, we find the situation concerning IRS collections has not improved much at all. As the amount of uncollected taxes creeps up to $100 billion, the GAO testified recently before the Governmental Affairs Committee that the IRS may only collect about one-third of that amount during the 10-year statute of limitations period if the IRS continues its current strategy for collecting those moneys.

Last year we also moved to take action to extend that period from 6 to 10 years, where the statute of limitations would not run out.

Clearly what is needed here is more revenue officers to do the job. That is what Senator KOHL's amendment would do.

So I support air interdiction efforts to fight the drug problem; I have all along and still do, including assignment of more military aircraft, now that we do not need them for these other purposes.

I also believe that the issue before us today deserves a higher priority than just another P-3 aircraft, which the administration has not requested.

So I think we are better off spending the taxpayers' money trying to collect some of these back taxes assessed, but not collected. And we can assign more of our military aircraft for some of these border protection purposes. So I urge my colleagues to vote in favor of this amendment.

I thank my colleage from Wisconsin.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. Mr. President, have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. The Chair advises the Senator the yeas and nays have not been ordered.

Mr. KOHL. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes and 11 seconds remaining.

Mr. DECONCINI. Mr. President, I think a couple of things need to be pointed out. The Senator from Ohio offered an amendment last year on this same subject without any offsets, and we had this same discussion last year.

The Senator from Wisconsin talks in this amendment about adding more revenue agents to go after taxpayers in the higher income bracket. We have added money for 200 new agents to go after people who launder drug money and conduct other criminal and fraudulent activities. Those funds are already in the bill.

Yes, I want to get taxpayers who are not paying their fair share. But over 12 percent of the above $100,000 annual income taxpayers are being audited. Maybe that is not enough, but that is twice what it is for $50,000 annual income taxpayers being audited to date.

I do not know about the Senator from Wisconsin, but I am sick and tired of IRS agents coming in and knocking on the door of innocent taxpayers and telling them, "I am from the IRS, I am here to help you." That is what they do. And they help you. They cost you hundreds of thousands of dollars in delay and the cost of auditors and attorneys to fight them I am sick and tired of it.

We have care of the areas that are necessary to go after those individuals who are committing fraud and illegal activities without paying income tax.

The Federal Government has a commitment to this war on drugs, and the Congress has been a partner in it and has literally led the charge.

The Department of Defense plays a major role. As I said before the P-3 airframes come from the Department of Defense. But the equipment that comes over from the Department of Defense, particularly the P-3 airplane, does not come with any money to retrofit it so it can be used along the border and in Central and South America to detect the aircraft carrying illegal drugs flying in from Mexico and other South American countries.

Mr. President, I hope that at the proper time we will move to table this amendment and that we will table it. I wish we had more money, but we are $300 million in outlays below the current services level in our allocation for this bill. We cannot fund everything. We added $570 million to the IRS. What more does anybody expect, when nobody gets full funding on almost anything they try to accomplish?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much times does Senator DECONCINI have?

The PRESIDING OFFICER. Two minutes and 34 seconds.

Mr. DECONCINI. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say that I am very, very pleased that a number of Senators came to the floor today to talk about the plight of the IRS. I really did not think we had very many people around, including Senators, who worry about the IRS.

When this subcommittee started worrying about them 3 or 4 years ago, I do not remember getting very much support as we began to dramatically increase the IRS's budget.

Let me tell my fellow Senators that I will not take a back seat tor anyone in terms of giving the IRS money they need to carry out the laws of this land. There are so many needs in this bill that we have not paid for, simply because we gave the Internal Revenue Service a 9.4-percent funding increase. If you look at the budget for domestic accounts, we are a little under inflation for this year, for everything, from education to water and sewer grants, to highway programs; just slightly over a 4-percent increase. This got a 9.4-percent increase on a huge base of over $6 billion. It got a $572 million increase above the current year.

I repeat: For enforcement, enhanced revenue compliance initiatives of last year, $172 million is in this bill to continue those. It is in there because that is what we agreed to when we put together the 5-year deficit reduction agreement. And, as I said, the Senator from New Mexico has done more than anyone else to get that money each year for the Internal Revenue Service.

And frankly, I told the IRS if they did not spend the $191 million we got for them last year, we would not be able to sustain that kind of money.

They did not spend it. They spent $134 million. Enhanced recovery, a 5-to-1 return, whatever is being talked about here, spend a dollar, get five back—when we are in a deficit, you would think the maximum would be spent. We have put the $172 million in to continue the initiatives of last year, the agreed-upon amount. We are not going to lose any revenues under this bill if we do not rob the war on drugs to pay for the IRS. I do not think we ought to.

The marine vessels that we are paying for that would be cut are almost in a shambles for lack of maintenance, and that is what the Customs has to use. We increased that a measly $4.5 million. It will go with this amendment. I think we ought to leave the bill alone.

Mr. DECONCINI. Mr. President, I think we have spent a lot of time here, 3 weeks plus the week of recess, that we were on the crime bill chasing the criminals, and that is what this bill does as it is before us now. If we take money away from chasing the criminals and put it into chasing taxpayers, I do not think that is a fair trade nor good national policy for this country.

We need to go after the criminals that are money laundering, the criminals that are committing fraud against the Federal Government, and the taxpayer who is high income, high asset, and not paying his/her fair share. This bill does that already. The funds are included to permit the IRS to do its proper job, and I hope our colleagues will not agree to the Kohl amendment.

Mr. D'AMATO. Mr. President, I rise today to oppose, along with Senators DECONCINI and DOMINICI, the Kohl amendment which seeks to shift funding from the Customs Service to the Internal Revenue Service.

The Kohl amendment would strike the $31 million earmarked for the Customs Service acquistion of a P-3 airborne early warning aircraft [AEW] and shift the moneys to the IRS tax enforcement personnel account.

By taking away funding designed to enhance the Customs air interdiction account, the Kohl amendment would have a detrimental impact on the Customs defense-in-depth drug interdiction strategy that is integral to the Andean initiative and to the overall national drug control strategy.

Aircraft such as the P-3 can detect, using long-range 360-degree surveillance radars, the slow, low-flying aircraft commonly used by drug traffickers to evade ground-based radars.

Early detection and classification of suspect aircraft increase the opportunity for interdiction and Customs officials view the P-3 AEW, with its long operating range and high endurance, as the ideal surveillance aicraft to support this strategy. Further, the P-3, AEW supplements fixed detection assets along the Southwest U.S. border and increases mobile detection capability significantly.

The deployment by the Customs Service of this surveillance aircraft deep into the Caribbean basin and off the coast of South America is an important element of the overall drug air interdiction strategy.

In fiscal year 1990, the current inventory of P-3's devoted 3,440 flying hours to drug missions and were respnsible for the seizure of over 50,000 pounds of cocaine. Some of the most significant law enforcement seizures in recent times are directly attributable to Customs P-3 missions. This includes a seizure on October 14, 1990, of 22,273 pounds of cocaine south of the U.S. border.

The air interdiction strategy calls for a minimum of three P-3 aircraft to be flying at any given time. In order to have an optimum effect, a fourth P-3 is necessary so that at least one aircraft can be in maintenance with the other three flying important missions. Without the acquisition of a fourth aircraft, Customs Service will be significantly hampered from meeting mission requirement on a consistent basis.

Mr. President, I urge my colleagues to oppose the Kohl amendment.

The PRESIDING OFFICER. All time allocated for debate on this amendment has expired.

Mr. DECONCINI. Mr. President, I move at this time to table the Kohl amendment, and I ask for the yeas and nays. The vote will be held at 7 o'clock, of course.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote on the motion to table this amendment will occur at 7 p.m. this evening.

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

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, under the unanimous consent agreement, I think the next amendment is that of the Senator from Connecticut [Mr. DODD].

Mr. President, as I was saying, the next amendment, I think, is from the Senator from Connecticut [Mr. DODD]. I ask unanimous consent that Mr. LIEBERMAN, his colleague, may offer that amendment in behalf of both Senators from Connecticut.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 749

(Purpose: To give the President the power to make certain specified law enforcement locality pay adjustments, and for other purposes)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. DODD, Mr. CRANSTON, Mr. SEYMOUR, Mr. BRADLEY, and Mr. LAUTENBERG, proposes an amendment numbered 749.

Mr. LIEBERMAN. 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:

Section 404 of the Federal Employees Pay Comparability Act of 1990 is amended by adding at the end thereof the following new subsection:

"(d) The President, upon the recommendation of a law enforcement agency head, may authorize special pay adjustments under this section to law enforcement officers whose post of duty is located within the geographic proximity of the Los Angeles-Anaheim-Riverside, CA, Consolidated Metropolitan Statistical Area or the New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area, if the agency head determines that such an adjustment is needed to address serious pay inequities for law enforcement officers of the agency. An adjustment authorized by this subsection shall not exceed the maximum rate established for the respective area set forth in this section."

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank the managers of the bill. Senator DODD has unavoidably been detained, and I offer this on his behalf and my own.

Mr. President, I am very much pleased to join with my good friend and senior colleague from Connecticut, Senator DODD—along with Senators CRANSTON, SEYMOUR, BRADLEY, and LAUTENBURG—in offering this amendment to the Treasury-Postal appropriations bill. I also want to thank the distinguished managers of the bill, the Senators from Arizona and New Mexico, and Senators GLENN, STEVENS, and ROTH, for allowing this amendment to be introduced and adopted without opposition.

This amendment addresses an awkward administrative problem created by the special pay adjustment provisions of Federal Law Enforcement Pay Reform Act of 1990. Section 404 of that act awarded statutorily defined special adjustments to eight specific geographic areas. These special pay adjustments will begin on January 1, 1992.

One of the areas that received a special pay adjustment of 16 percent was the New York-New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan

Statistical Area. In Connecticut, this includes Fairfield County, but unfortunately not New Haven or Hartford Counties.

The difficulty for agencies, such as the FBI, is they are not organized according to the statistical area boundaries that are described in the law. The FBI, for instance, has a Connecticut district office in New Haven and covers the entire State; it is the headquarters for the entire State. That district office is a scant 10 miles from the New York Consolidated Metropolitan Statistical Area boundary, with satellite offices of the FBI around the State, including one within the CSMA boundary in Fairfield County.

We have this anomalous situation that developed that officers stationed in Fairfield County in the branch office will be making 16 percent more than agents in the rest of the State, and as a result, the FBI is already finding it difficult to move officers, as the Director wants to do, from Fairfield County to other parts of the State as needed.

This amendment will bring about a commonsense solution in the two areas the FBI has mentioned to us nationally as the most pressing examples of this particular problem. One is the one I described in Connecticut, and the other is in the Los Angeles, CA, area. In these two areas, the President will have the discretion, pursuant to this amendment, to award special pay adjustments to agents stationed in geographic proximity to the New York and Los Angeles consolidated metropolitan statistical areas. The President also has the discretion to determine exactly the amount of the pay adjustment needed.

Mr. President, the term geographic proximity is meant to be a flexible concept. It is not our intent that this be limited to metropolitan statistical areas or consolidated metropolitan statistical areas contiguous to the New York or Los Angeles areas.

In Connecticut, for example, the Hartford CMSA does not border the New York CMSA. But for administrative convenience, the President may wish to grant special pay adjustments to all FBI agents in the Connecticut District Office, which would include agents who are stationed in Hartford.

This amendment is intended to give the President the authority to make such an adjustment, should he deem it necessary. It is certainly our hope in presenting this amendment that once given the authority to make these discretionary special pay adjustments under section 404, the President will promptly respond to Federal law enforcement officials in Connecticut, and I believe in California and nationally, and authorize the appropriate special pay adjustment for those parts of Connecticut outside the New York Consolidated Metropolitan Statistical Area.

Once again, I am pleased to offer this amendment, along with my senior colleague, Senator DODD, who has worked very hard to advance it. It will at least give the administration the statutory discretionary authority it needs to address a very difficult—and I think fundamentally unfair—administrative problem that law enforcement pay reform has inadvertently created in Connecticut and in California.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, the amendment I am offering today with Senators LIEBERMAN, CRANSTON, and SEYMOUR will give the President the discretion to make special pay adjustments to law enforcement officers stationed close to the New York and Los Angeles metropolitan areas.

As my colleagues will recall, last year's Federal Employees Pay Comparability Act, which was enacted as part of the 1991 Treasury-Postal Service Appropriations Act, made significant and much-needed changes in the way we pay Federal employees. It recognized that if we are to attract high-caliber individuals to Government service, we need to pay them competitive salaries.

Unfortunately, while last year's law gave the administration discretion in some cases to make interim locality payments for general schedule Federal employees, it authorized no similar flexibility with respect to Federal law enforcement officers.

The problem here is that the boundaries of metropolitan statistical areas do not always coincide with the divisional boundaries of Federal law enforcement agencies. In once case in Connecticut, for example, two FBI agents live next door to each other and both work at the direction of the FBI's Connecticut division chief in New Haven. One works in Bridgeport, within the New York CMSA, and therefore will receive a special pay adjustment starting next January, but the other works in New Haven, which is just outside of the New York CMSA, and therefore will not receive the special pay adjustment. Similar problems occur in California, and as my colleagues might imagine, these disparities have a devastating effect on morale at affected agencies.

Authorizing the President to make special pay adjustments for Federal law enforcement officers in cases in which agency heads deem it necessary to address serious pay inequities is an enormous step forward in solving this problem. The amendment does not require the President to make these adjustments, but it is certainly my hope that he will do so after listening to the concerns of the officers in the field and of agency heads seeking to maintain operational flexibility.

I think this amendment improves the fairness of the pay system for Federal law enforcement officers. I would like to thank the distinguished managers of this bill, Senators DECONCINI and DOMENICI, for their willingness to consider this amendment, and I am also very grateful for the kindness and generosity of Senators GLENN, ROTH, and STEVENS, in permitting us to move forward with this amendment today.

Mr. President, let me think my colleague from Connecticut for explaining what this amendment does and what it is intended to do. I will not elaborate any further.

I thank the Senator from Arizona, Senator DECONCINI; as well as the Senator from Delaware, Senator ROTH; Senator STEVENS; Senator DOMENICI; and Senator GLENN and others for their cooperation and help in trying to deal with this situation as described by Senator LIEBERMAN. We have been at this for a year or so trying to come up with a solution here. This does allow for discretion.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate?

Mr. DECONCINI. Mr. President, the amendment offered by the two Senators from Connecticut is a good amendment. It does bring some sense into OPM pay raise procedures from the bill we passed last year.

I compliment the Senators from Connecticut for looking after some very needed pay differentials for Federal law enforcement officials who live in different types of economic environments. and I am prepared to accept the amendment on the majority side.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, we on this side concur that it is a good amendment. It is my understanding that Senator STEVENS and Senator ROTH, who are familiar with this, have agreed to it. It is technically an authorizing matter, but it has to be fixed now, according to Senator DODD, in order to do some good in his State. I am willing to accept it on our side and to try to carry it through conference.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 749) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. 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. SIMON. 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. SIMON. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

AID AND MOSCOW'S MILITARY

Mr. SIMON. Mr. President, I am going to bring up several very brief items. One is a column on the op-ed piece of today's Washington Post by our colleague, Senator SAM NUNN. It is about the whole question of aid to the Soviet Union, whether or not we should be providing it and that whole thing. It is as solid and thoughtful a piece as you would expect Senator SAM NUNN to do. He is that kind of a Senator.

It mentions a number of things in the article. One is that "Internal chaos in a country possessing some 20,000 nuclear weapons and consisting of diverse ethnic groups spread across 13 time zones is in no nation's interest." He also says that any kind of "aid beyond essential humanitarian assistance must be considered on basic reform of the Soviet economy." He also says that they clearly have to show that they are shifting from their weapons investment to recognizing they have to right their economy. It is as good a summary of the situation that we face vis-a-vis the Soviet Union as I have read anywhere.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

AID AND MOSCOW'S MILITARY

(By Sam Nunn)

During World War II, our policy framework for U.S.-Soviet relations was clear: military alliance with the Soviet Union against Hitler's aggression. In the Cold War period, it was equally clear: containment of Soviet expansionism by a determined Western alliance.

We need to design a policy framework that will serve our national interests equally well in the new historical setting of the 1990s. I believe the new framework should feature measured cooperation with the Soviet Union to assist its transition from Communist domination to pluralism and democracy.

The framework should have two basic parts: one multilateral, the other bilateral. The entire international community will benefit if the Soviet Union becomes a nonthreatening member of the world community. Internal chaos in a country possessing some 20,000 nuclear weapons and consisting of diverse ethnic groups spread across 13 time zones is in no nation's interest. The international community, therefore, should be prepared to help the Soviet Union develop a market economy, join the international economic system and move toward democracy and greater respect for human rights.

Cooperation with the Soviet Union to these ends should be measured to ensure that it serves our interests as well as those of the Soviet people. The United States cannot afford to waste money on ill-conceived assistance efforts. Substantial amounts of direct aid to today's Soviet Union, for example, would be like throwing money into a cosmic black hole. Unless the Soviet leadership and Soviet people undertake basic economic reforms thus far lacking—including private ownership, realistic pricing, currency convertibility and a market system—large-scale Western economic aid could be totally wasted.

It follows that any aid beyond essential humanitarian assistance must be conditioned on basic reform of the Soviet economy. The process will be painful for the Soviet people. For example, state subsidies for food, housing, education and transportation will have to be cut severely. The Soviet people and their leaders will have to reach agreement on how this is to be accomplished. Western conditions should reinforce but not supplant this process. They should be instituted and administered on a multinational basis by such organizations as the International Monetary Fund and the World Bank. The United States should not impose or be perceived as imposing onerous conditions on the Soviet Union in return for large amounts of aid.

The international community must give top priority to economic reform in Eastern Europe. The most compelling example for the leadership and people of the Soviet Union will be the economic future of Eastern European countries—above all Poland, Czechoslovakia and Hungary. We must help them to succeed.

The bilateral part of the framework should continue our focus on arms control, but I believe the centerpiece should be U.S. cooperation with Soviet efforts to convert military production of civilian uses. Military conversion is pivotal to the success of Soviet economic reform in a country that spends close to one-quarter of its GNP on defense.

The Soviet economy as it exists today was built by Stalin in the form of a rigid pyramid. The military-industrial complex occupies the top one-quarter or so and receives the best human and material resources to the severe detriment of the nonmilitary sectors occupying the bottom three-quarters. With the Soviet economy on the verge of breakdown, the Stalinist pyramid must be upended.

Soviet military conversion is clearly in our national interest. Measured cooperation with the U.S.S.R. on conversion can reduce Soviet military production capabilities. It can expose this traditionally bellicose, closed sector of Soviet society to the thinking and experience of American counterparts in the public and private sectors.

One aspect of conversion presenting an opportunity for close U.S.-Soviet cooperation is the cleanup of nuclear, chemical and other wastes that plague both countries. After years of military confrontation, the two superpowers should work together to eliminate the massive physical contamination caused by the Cold War.

Our assistance on conversion must take place in the context of verifiable overall reduction of Soviet military capabilities and must reinforce rather than impede the growing economic and political sovereignty of the republics vis a vis the central government.

If pursued wisely, the two parts of this policy framework can work together to accelerate the desired transition of the Soviet Union. They can help shape the Soviet defense establishment so that it is proportionate to the country's legitimate requirements. This would be a truly historic transformation that would benefit the Soviet people and the cause of world peace.

INDEPENDENT OIL PRODUCERS

Mr. SIMON. Mr. President, I rise today on a matter that I know is of interest to the Senator from Arizona, Senator DECONCINI. I rise today to address an increasingly troubling situation in the oil industry, one that will have serious impact on consumers.

There is growing evidence to suggest that the major oil companies are selling motor fuel to their own affiliated service stations at wholesale or below wholesale prices, undercutting and squeezing the wholesalers who purchase oil from the major oil companies and supply the independent service stations. This means that service stations affiliated with the major oil companies are obtaining motor fuel—and selling it—sometimes at prices below those charged to the independent service stations.

This is a disturbing trend for several reasons.

First, it means that one set of consumers will pay higher gasoline prices than others. Most smaller cities and virtually all rural areas are served by small business sellers who supply service stations. These "jobbers" do not get the same preferential rates provided by the major oil companies to their own service stations. This means that consumers in smaller cities and rural areas will be paying higher prices for gasoline, and will be, in effect, subsidizing cheaper gasoline prices for consumers who can buy gasoline from service stations owned and operated by the major oil companies.

Second, this practice is forcing the independent petroleum marketers out of business. Both wholesalers and retailers are perishing. The Wall Street Journal on March 20 reported that petroleum marketers led the small business community in bankruptcies with an astounding 78.9-percent increase over last year. The July 8 issue of Oil Week quotes a survey showing that gasoline wholesaler net income dropped 73 percent during the first quarter of 1991 with 51 percent showing a net loss.

I would say, that is in distinct contrast to the major oil companies who are the big producers, who have shown huge profit increases.

The decline of the independent marketers could seriously hurt the availability of gasoline in smaller cities and rural areas. It could lead to reduced availability and higher prices for consumers in these areas.

Also, if the independent marketers are forced out and the majors gain even more control over sale and distribution of motor fuel, we may see increased monopoly exercised by the big oil companies. Once they have greater control over the market they will not be checked by competition with the independents. They will be free to control price and availability without any competitive market discipline. This,

Mr. President, is not in the long-run interests of consumers anywhere.

Finally, this practice by the majors seems to violate the intent of the antitrust laws. Current antitrust law, the Robinson-Patman Act, bars price discrimination on sales of goods of like grade and quality to competing customers. Unfortunately, the letter of the law does not define as a sale a transfer from a major oil company to an owned and operated retail service station. The law does not apply to sales to consumers because the law does not treat consumers as competitors. In other words, a transfer from a major oil company to its own service station is not considered a sale by the Robinson-Patman Act.

Mr. President, this problem can be fixed by a simple change in the Robinson-Patman Act making clear that the antitrust law does apply to internal transfers of motor fuel by refiners to integrated retail outlets. Such a change would ensure that the major oil companies could not unfairly force the independent oil wholesalers out of business, could not force rural and small city consumers to subsidize cheaper motor fuel for consumers in big cities, and could not use this pricing method to increase their power over the motor fuel industry.

I plan to explore legislation in this area in the near future.

LITERACY

Mr. SIMON. Mr. President, some weeks ago I spoke in Omaha, NE, at a literacy dinner. I am pleased that just earlier this afternoon I happened to be presiding over the final conference effort—it was not a formal conference—but the final effort between the House and the Senate on the Literacy Act, which was worked out and passed and will be on its way to the President in a matter of days, and I have every reason to believe the President is going to sign it.

I spoke at this dinner in Omaha, NE, and a man named Robert Kabourek, a 38-year-old mechanic, got up and told about learning how to read and what it has meant in his life. It was such a moving statement I asked him to send me a copy of it.

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

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

Good evening. My name is Bob Kabourek, I am a 38-year-old mechanic and a high school graduate. Six years ago, I couldn't read.

Our family was middle class and lived in a nice neighborhood, When I was in the second grade, my dad died. Mom was having problems dealing with the death of her husband, and my older brother was just starting high school.

Dad had been a teacher before the war and taught in a one-room schoolhouse in rural Nebraska. During World War II, one of his duties was to teach soldiers how to read and to write. If Dad had lived, I believe he would have recognized my learning problems.

In grade school and junior high I was the big kid and the class clown, I got into fights and just didn't care about school. I spent most of my time in the principal's office; in junior high I held the record for the most detentions in one day—36 hours.

In high school, the kids I sat next to would help me. We filled out file cards on the first day of the school year. The kids next to me would each take a card and fill them out for me. When I wrote a report, I copied it out of the Word Book Encyclopedia and misspelled words to make it look like I wrote it. In speech, I would talk about subjects I knew and write an outline later. I held hands with a girl in biology, and she wrote all my reports.

When I left home and rented an apartment, I paid cash for everything—utilities, rent, food. I didn't have a checking account. I drove to each office, sometimes it took me all day to pay bills. If I needed a check I gave the cash to a friend who then wrote a check for me.

In 1976, I set up a service shop for a forklift dealer. I talked to customers, then somehow did all the paperwork and sent it back to the main office.

I have been a forklift mechanic since 1973. I could understand and figure out schematics and wiring diagrams, but couldn't read the troubleshooting diagnostics for them. I used trial and error and my mechanical skills to figure out problems.

I like to make things run. When you work with things instead of people, it's easier to hide a reading problem.

In 1981, I married and had a son. My wife's reading skills were limited, but they were still better than mine. She used my disabilities against me and took away what little self-confidence I had in myself. We were divorced a year after my son was born.

In 1984, I met a woman who would later become my wife. As we were going together, it became more and more difficult to hide my reading problem. Diane was a college graduate and had lots of books. I was afraid if she found out that I couldn't read I would lose her. Diane read the newspaper every day and was always pointing out articles she thought I would be interested in. I would put her off and when she asked about them, I would give her some excuse why I didn't get to it.

Eventually she figured it out, and asked me about it. I told her I couldn't read. Her reaction was to ask me if I have ever wanted to read. When I said yes, she was there to support me when I finally decided to get help.

My boy was about three at the time. I saw the ad about a man trying to read to his little girl and realized I would have the same problem. That was the ad for the Omaha Literacy Council. When I told Diane, she called the next day and arranged a tutor.

I was lucky that my tutor was Beverly DiMauro. She lived a block away and I walked to her house once a week for my lessons. It surprised me how little I actually knew. I always printed but realized I didn't even know how to write lower case letters.

This time I wanted to learn. The positive reinforcement from Beverly made the time I spent learning to read enjoyable, not the struggle it had been in school. I felt good about what I was doing. Each time I came home, I would tell Diane all the things I had learned. There were even a few things she learned from me!

After a year and a half, we completed all four books. My work is much easier. I can read manuals and testing procedures, and I understand what they are talking about. My work goes smoother because the manuals explain the procedures I only guessed at before. I have changed employers to move to a company where there is a chance for advancement. I now have the skills and the knowledge I need to move to a more demanding position.

I am not the same person I was six years ago. My new skills have given me the confidence to do things I never would have done. Last year my wife and I became the race directors for the Omaha Literacy Run and Walk. We had two months to organize a race. We started out not knowing anything about organizing a race and ended up having a member of a running club suggest we do it professionally.

The Omaha Literacy Council has given me something, I couldn't buy at any price and I will never be able to repay them.

Thank you.

TELEVISION PROGRAM IMPROVEMENT

Mr. SIMON. Mr. President, finally I would like to have something else printed in the RECORD. This is the result of something the Congress has done that could have great impact on the lives of a great many Americans.

We passed, I am pleased to say unanimously, out of this body and it became law, an exemption to the antitrust laws that permits the televison networks to get together to establish standards on violence. The evidence is just overwhelming that violence on television is a factor in violence on our society. The National Institute of Mental Health has twice given us warning on this. The American Academy of Pediatrics has notified us on this, as have the American Psychiatric Association and American Psychological Association and others.

Anyway, we passed the bill. The President signed it. The National Association of Broadcasters have sent me a letter in which they indicated they have had I believe it is three meetings on this subject. They have adopted a statement. It is a general statement.

My hope is they may get a little more specific in terms of standards. The cable industry was invited to those meetings. They declined, although the cable industry is having some separate meetings.

I would like to have printed in the RECORD the letter sent to me by Edward O. Fritts, president and CEO of the National Association of Broadcasters, as well as the statement they have adopted. I think it is a positive thing. It is not a headline-producing thing, but it is a step forward, I think, to protect the American public a little more than we are now being protected.

Mr. President, I ask unanimous consent to have this printed in the RECORD.

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

NATIONAL ASSOCIATION
OF BROADCASTERS,
EDWARD O. FRITTS, PRESIDENT & CEO,
Washington, DC. 1991.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: I wanted to apprise you of the results of a television industry meeting on your Television Program Improvement Act of 1990, which NAB hosted this morning. You have asked NAB to take a leadership role in coordinating the television industry's response to the passage of this law, and to be kept informed of our activities in that regard.

Although this was the third such meeting on the law hosted by NAB, it was the first to which we invited television industry representatives who were not broadcasters. I have attached a list of the attendees. You can see that television broadcasters were well represented. The four principal television networks and their affiliate organizations were in attendance, as was the independent television community. The Motion Picture Association of America also attended. Unfortunately, the National Cable Television Association declined to attend, as did other representatives of the cable industry.

Much of this meeting involved a discussion of the Statement of Principles adopted by NAB's Board of Directors in June, 1990. This Statement reflects the Board's sense of how radio and television broadcasters throughout the nation strive to present programming of the highest quality to their local communities pursuant to standards of excellence and responsibility. This Statement, in addition to addressing depictions of violence, also covers children's programming, drug and substance abuse, and sexually-oriented material. I have attached a copy of this Statement for your review.

The participants at today's meeting felt that it was appropriate to distribute this Statement more widely. The broadcaster representatives will distribute the Statement to their respective groups. MPAA has offered to send this Statement to its member companies, as well as to other elements of the television production community with which it has ties. This Statement also will be sent to those members of the industry who were invited, but could not attend. We hope to gain a better understanding of whether this Statement reflects a constituency broader than that of NAB's Board of Directors, or whether it stimulates further discussion within the television industry.

I will be happy to keep you informed of NAB's activities on the Television Violence Act.

Sincerely,

EDWARD O. FRITTS.

LIST OF ATTENDEES TO THE TELEVISION PROGRAM IMPROVEMENT ACT OF 1990 MEETING HELD AT THE NATIONAL ASSOCIATION OF BROADCASTERS—JULY 2, 1991

Mr. Edward O. Fritts, President, National Association of Broadcasters.

Wade Hargrove, Esq., ABC Affiliates, Raleigh, NC.

Greg Schmidt, Esq., CBS Affiliates, Washington, DC.

Werner Hartenberger, Esq., NBC Affiliates, Washington, DC.

Mr. David Donovan, Vice President, INTV, Washington, DC.

Ms. Molly Pauker, Vice President/Corporate and Legal Affairs, Fox Television Stations, Washington, DC.

Mr. Matt Gerson, Vice President, MPAA, Washington, DC.

Mr. Robert Hynes, Vice President, NBC, Washington, DC.

Mr. Martin D. Franks, Vice President, CBS, Washington, DC.

Mr. Gene Cowen, Consultant, CapCities/ABC, Washington, DC.

STATEMENT OF PRINCIPLES OF RADIO AND TELEVISION BROADCASTING

(Issued by the Board of Directors of the National Association of Broadcasters)

PREFACE

The following Statement of Principles of radio and television broadcasting is being adopted by the Board of Directors of the National Association of Broadcasters on behalf of the Association and the commercial radio and television stations it represents.

America's free over-the-air radio and television broadcasters have a long and proud tradition of universal, local broadcast service to the American people. These broadcasters, large and small, representing diverse localities and perspectives, have strived to present programming of the highest quality to their local communities pursuant to standards of excellence and responsibility. They have done so and continue to do so out of respect for their status as daily guests in the homes and lives of a majority of Americans and with a sense of pride in their profession, in their product and in their public service.

The Board issues this statement of principles to record and reflect what it believes to be the generally-accepted standards of America's radio and television broadcasters. The Board feels that such a statement will be particularly useful at this time, given public concern about certain serious societal problems, notably violence and drug abuse.

The Board believes that broadcasters will continue to earn public trust and confidence by following the same principles that have served them well for so long. Many broadcasters now have written standards of their own. All have their own programming policies. NAB would hope that all broadcasters would set down in writing their general programming principles and policies, as the Board hereby sets down the following principles.

PRINCIPLES CONCERNING PROGRAM CONTENT

Responsibly Exercised Artistic Freedom

The challenge to the broadcaster often is to determine how suitably to present the complexities of human behavior without compromising or reducing the range of subject matter, artistic expression or dramatic presentation desired by the broadcaster and its audience. For television and for radio, this requires exceptional awareness of considerations peculiar to each medium and of the composition and preferences of particular communities and audiences.

Each broadcaster should exercise responsible and careful judgment in the selection of material for broadcast. At the same time each broadcast licensee must be vigilant in exercising and defending its rights to program according to its own judgments and to the programing choices of its audiences. This often may include the presentation of sensitive or controversial material.

In selecting program subjects and themes of particular sensitivity, great care should be paid to treatment and presentation, so as to avoid presentations purely for the purpose of sensationalism or to appeal to prurient interests or morbid curiosity.

In scheduling programs of particular sensitivity, broadcasters should take account of the composition and the listening or viewing habits of their specific audiences. Scheduling generally should consider audience expectations and composition in various time periods.

Responsibility In Children's Programming

Programs designed primarily for children should take into account the range of interests and needs of children from informational material to a wide variety of entertainment material. Children's programs should attempt to contribute to the sound, balanced development of children and to help them achieve a sense of the world at large.

SPECIAL PROGRAM PRINCIPLES

1. Violence.

Violence, physical or psychological, should only be portrayed in a responsible manner and should not be used exploitatively. Where consistent with the creative intent, programs involving violence should present the consequences of violence to its victims and perpetrators.

Presentation of the details of violence should avoid the excessive, the gratuitous and the instructional.

The use of violence for its own sake and the detailed dwelling upon brutality or physical agony, by sight or by sound, should be avoided.

Particular care should be exercised where children are involved in the depiction of violent behavior.

2. Drugs and Substance Abuse.

The use of illegal drugs or other substance abuse should not be encouraged or shown as socially desirable.

Portrayal of drug or substance abuse should be reasonably related to plot, theme or character development. Where consistent with the creative intent, the adverse consequences of drug or substance abuse should be depicted.

Glamorization of drug use and substance abuse should be avoided.

3. Sexually Oriented Material.

In evaluating programming dealing with human sexuality, broadcasters should consider the composition and expectations of the audience likely to be viewing or listening to their stations and/or to a particular program, the context in which sensitive material is presented and its scheduling.

Creativity and diversity in programming that deals with human sexuality should be encouraged. Programming that purely panders to prurient or morbid interests should be avoided.

Where significant child audiences can be expected, particular care should be exercised when addressing sexual themes.

Obscenity is not constitutionally-protected speech and is at all times unacceptable for broadcast.

All programming decisions should take into account current federal requirements limiting the broadcast of indecent matter.

Endnote

This statement of principles is of necessity general and advisory rather than specific and restrictive. There will be no interpretation or enforcement of these principles by NAB or others. They are not intended to establish new criteria for programming decisions, but rather to reflect generally-accepted practices of America's radio and television programmers. They similarly are not in any way intended to inhibit creativity in or programming of controversial, diverse or sensitive subjects.

Specific standards and their application and interpretation remain within the sole discretion of the individual television or radio licensee. Both NAB and the stations it

represents respect and defend the individual broadcaster's First Amendment rights to select and present programming according to its individual assessment of the desires and expectations of its audiences and of the public interest.

Mr. SIMON. Mr. President, if no Senator seeks the floor, I suggest the absence of a quorum.

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

The bill clerk proceed to call the roll.

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

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

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

AMENDMENT NO. 750

Mr. DOMENICI. Mr. President, Senator CONRAD BURNS had a reservation in the unanimous-consent agreement to offer the next amendment. In his behalf, I am going to offer an amendment. I am just going to quickly read it, send to to the desk, and then reserve whatever time I might have.

I understand the distinguished Senator from Arizona is trying to find out whether there is going to be formal opposition from the authorizing committee.

Essentially this amendment says:

Organizations preparing preprinted materials fitting the United States Postal Service's description of "postcare", which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards.

That is essentially is the amendment of Senator BURNS.

Mr. President, on behalf of Mr. BURNS, I send the 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. DOMENICI], for Mr. BURNS, proposes an amendment numbered 750.

Mr. DOMENICI. 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 section:

SEC. . POLITICAL MAILING DISCLOSURE AMENDMENT

"Organizations preparing preprinted materials fitting the United States Postal Service's description of 'postcard', which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards."

Mr. DOMENICI. Mr. President, I reserve whatever time Senator BURNS has, and I yield the floor to Senator DECONCINI.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I talked to the chairman of the Governmental Affairs Committee, Senator GLENN, earlier today about this amendment. He indicated to me he did not think he would oppose it. I am trying to reach him now. I understand he is in a hearing with staff.

I hope the Senator is listening and we can get him to send a note to the floor as to whether or not he wants to come over and debate this amendment. I got the clear indication talking to him earlier he was not going to debate it. He did not think the world of it. I hope we hear from him shortly.

As I understand it, Mr. President, the amendment offered by Senator BURNS will require preprinted postcards mailed to Members of Congress as part of a grassroots lobbying campaign to identify the organization which is behind the communication. That is the potential effect of this measure. Of course, we could always question one side or the other. From experience, I know I get a lot of mail—we all do—and we do not know where it comes from. I think there is some benefit to having identification on the mail.

I think the only problem here is, as the Senator from New Mexico pointed out, on other amendments, that it is legislation clearly that the authorizing committees should handle. I do not know a lot about the problem. But since Senator BURNS is not here to argue the case, I quite frankly would be prepared to take the amendment and go to conference to give us time to find out a little bit more about it and see whether or not we want to retain the amendment in conference and do our best to keep it.

But with that, I am going to put in a quorum call for just a couple minutes, and then I am prepared to take the amendment.

Mr. DOMENICI. I wonder if the Senator will reserve on that. I wonder if we might just set the agenda. As I understand it, the distinguished Senator from Texas [Mr. BENTSEN] does not intend to call up his amendment; is that correct?

Mr. DECONCINI. That is what I have been advised.

Mr. DOMENICI. I wonder, if the Senator will advise the Chair of that, then he will not be ruled out of order; that rather, it would be withdrawn by the Chair because the distinguished Senator does not intend to offer it.

Mr. DECONCINI. Yes; I have been advised by the Democratic Policy Committee staff and the cloakroom staff that the Senator from Texas is not going to call up the reservations he has on any of these amendments.

Mr. DOMENICI. Then I understand that, once we know the disposition of the pending amendment, there is only one remaining amendment.

Mr. DECONCINI. The Senator from New Mexico is correct, and that is the amendment of the Senator from New Hampshire.

Mr. DOMENICI. I assume the opposition to the amendment of the junior Senator from New Hampshire comes from the majority leader; is that correct?

Mr. DECONCINI. I think that is fair to say.

Mr. DOMENICI. I hope he is aware of that.

Mr. DECONCINI. If the Senator will yield, we could set aside the Burns amendment for a few minutes and let the Senator from New Hampshire offer his amendment.

Mr. DOMENICI. Does the Senator from New Hampshire desire to wait awhile while we try to dispose of the Burns amendment, or does he want us to set it aside and start the debate?

Mr. SMITH. I will be happy to wait.

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

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

Mr. DECONCINI. Mr. President, I have had an opportunity to talk to the chairman of the Governmental Affairs Committee, Senator GLENN, and he has some problems and some reservations about this amendment. However, he, quite frankly, is not prepared to debate it today. I indicated to him that I would welcome hearings on this matter in his committee before we conference the bill. Senator GLENN also plans to send a letter to myself and the ranking member on this subject. In the meantime, I am prepared to accept the amendment.

Mr. BURNS. Mr. President, I want to thank Senators DECONCINI and DOMENICI for accepting my amendment. I want to take a few minutes to describe that amendment for the RECORD.

Mr. President, Federal laws currently exist requiring disclosure of activities by political action committees and lobbying organizations aimed at influencing the positions of Members of Congress, that is, the Federal Regulation of Lobbying Act of 1946.

Each year, Senators and Representatives receive hundreds of thousands of prepared postcards, seeking to influ-

ence Members' positions on a wide variety of issues that span the political spectrum.

My amemdment adds a disclosure requirement to these preprinted postcards. It is a truth-in-lobbying requirement.

By far, the majority of these postcards do not identify the organization which has prepared the postcard and which seek to influence Members' positions.

Oftentimes, the postcard is specific to a particular concern in a Member's State or district.

It is important for Senate and House Members to know which organization is seeking influence on matters before Congress, especially matters having a strong impact in their districts.

For the furtherance of good government, Members of Congress must be as fully informed as possible.

To make a fully informed decision, a decision in the best interest of the people he or she represents, a Member must be able to discern if the prepared postcards are part of a grassroots effort or if the prepared postcards are astroturf—nongrass—a part of a larger, nationally oriented campaign. This amendment will help a Member gauge the out-of-State influence on a particular concern and determine the grassrootsishness of the effort.

We all appreciate it when a concerned citizen takes the time and effort to share his or her opinions. Their input—no matter how expressed—is important to every Member. I just believe it is also important for Members to know where the lobbying campaign originated so that we can all more effectively respond and address the concerns of our fellow citizens.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 750) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, the next order of business, if I am correct, is the amendment by the Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Chair has been informed by the manager that Senator BENTSEN has chosen not to offer his amendment under the agreement.

The Senator from New Hampshire is recognized.

AMENDMENT NO. 733

Mr. SMITH. Mr. President I call up amendment No. 733 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. SMITH], proposes an amendment numbered 733.

At the appropriate place, add the following:

"No funds appropriated pursuant to the provisions of this Act may be used for the purpose of authorizing or enforcing any agreement under section 5517 of title 5, United States Code, with respect to any employee of the United States with a regular place of employment at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire."

Mr. SMITH. Mr. President, it is interesting that the statement refers to the Portsmouth Naval Shipyard at Portsmouth, NH. For the information of my colleagues, section 5517 specifically authorizes the Secretary of the Treasury to enter into agreements with States concerning the withholding of State income taxes with respect to Federal employees within those States who work within those States.

At present, the Federal Government is withholding Maine State income tax from the Federal paychecks of over 4,000 New Hampshire workers at the Portsmouth Naval Shipyard. The shipyard actually sets on Seavey's Island in the middle of the Portsmouth Harbor between New Hampshire and Maine.

Regarding withholding State income taxes, it says under the agreement that I just referred to, in section 5517:

The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the States withholding statute in the case of employees of the agencies who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made.

"Within the State with which the agreement is made."

In May of this year, I took to the floor of the Senate to explain the current controversy surrounding this whole issue of where the shipyard is located, whether it is in Maine or whether it is in New Hampshire. In short, Mr. President, it is very unclear as to whether or not it is in Maine, and it seems to me very overwhelming evidence can be shown that in fact it is in New Hampshire.

I would like to briefly discuss some of that evidence—although this is not the time, nor do I want to take the time, to debate the controversy as to whether or not this shipyard is in Maine or New Hampshire. That is for another time, perhaps the Supreme Court, or some other time at the discretion of my colleagues where we might debate it. That is not the purpose today of my amendment.

The purpose of the amendment today, I might also add, is not to repeal a tax at this time. It is simply to stop the withholding of a tax because of the fact that this boundaryline is in dispute. Let me briefly explain why it is in dispute just for historical perspective to help some who may be undecided as to what to do on this amendment.

By the way, I spent 2 years of research on this issue, compiled the data over the past 2 years using all kinds of records, deeds, and historical documents at the Federal, State, and local level. And what I found was, first, that the original grant and charter from King Charles of England to Capt. John Mason for setting up the province of New Hampshire includes all islets and islands in the Piscataqua River. The charter is dated August 19, 1635. Seavey's Island, where the Portsmouth Naval Shipyard sits, is in the middle of the Piscataqua River. So the charter from King Charles to John Mason, who was the founder of New Hampshire, clearly said all islands and islets in the Piscataqua River. The province of Maine charter from the King does not include any islands in the Piscataqua River or any jurisdiction over any portions of the river. Those two documents are both very, very clear. They are a matter of historical record.

Second, the original dwellers on the island in the harbor were New Hampshire residents who came over on Captain Mason's ship from England to settle in the province of New Hampshire. Many of the names are very well recognized. Dr. Regnald Fernald, the first doctor to settle in New Hampshire, and his sons, Thomas and William, as well as Mr. Thomas Withers.

Third, New Hampshire, as my colleague from Massachusetts, Senator KENNEDY, reminded me when I spoke, was once part of Massachusetts when Maine was still a separate province. So during this period, the river of Piscataqua was entirely under the jurisdiction of Massachusetts, not Maine. Portsmouth, as established, comprised the Piscataqua and Strawberry Banke, Kittery, and York County is established consistent with that portion of lands beyond the River Piscataqua northerly.

York, of course, and Kittery are Maine towns on the northern side of Piscataqua River.

Early deed records confirm that crooked line, that portion of the Piscataqua River that runs to the north of the island, has always been considered part of the river, and is still a navigable channel today, in 1991.

The entire early deed history, to Clark Island—another island that is part of the Navy shipyard—is recorded in New Hampshire. The entire deed history of Clark Island, a portion of the Portsmouth Naval Shipyard, is in New Hampshire; recorded in New Hampshire. In several of the early deeds, probate records and depositions for other parts of the Seavey's Island complex and Badger's Island are recorded and attested to by the New Hampshire Commissioners and Recorders of Deeds.

Two hundred and fifty years ago, in 1740, the King of England decided that the boundary between New Hampshire and Maine would pass up through the mouth of the harbor and so on up the "middle of the river." However, boundary records clearly show that the boundary around the islands in the middle of the river has never been laid out. After the 1740 decision, New Hampshire increased its use of the islands in the harbor which today comprise the Navy yard.

So what you had was a boundary agreement in 1740, imposed on New Hampshire and Maine by the King, and then we began to see the use of these islands by the State of New Hampshire which clearly shows what the intent of that agreement was.

During the War of Independence through the colonial period which followed, and into the 1800's, New Hampshire built and maintained ports on the islands in the harbor, including Seavey's Island, and Badger's Island, again part of the naval shipyard which were recognized as part of the State of New Hampshire.

Badger's Island belonged to Gov. John Langdon, Governor of New Hampshire. The Governor, council and legislature of New Hampshire passed official acts to fortify the entire harbor and regulate all shipping coming into Portsmouth harbor.

Mr. President, Portsmouth, NH, has always been recognized the world over as the birthplace of the American Navy. And when you have a naval ship being built or launched or taken care of or maintained, it is usually done at a shipyard, and that was done in Portsmouth, NH. All shipbuilding in Portsmouth, for the United States, was conducted on the island in the harbor, mainly Badger's Island, a part of the Portsmouth Naval Shipyard.

The U.S. Navy Yard, at Portsmouth was established in the year 1800 because of Portsmouth's reputation for shipbuilding. The Federal Government records the purchase of the island—I emphasize the Federal Government—in 1800 records the purchase of the island in the harbor as ground purchased at Portsmouth, NH.

The citizens of New Hampshire, Portsmouth, presented petitions to the Navy and Congress for improvements at their Navy yards during the 1800's. All improvements in the Navy yard in 1800 to the late 1900's are the result of involvement and support of the New Hampshire congressional delegation and the State of New Hampshire. There was never any involvement by the State of Maine, as the shipyard was considered always by the Federal Government and anybody else to be in the State of New Hampshire. Maps of both Maine and New Hampshire, dating back to the 1700's, show the Navy yard as part of New Hampshire.

I want to repeat that. There are Maine maps, drawn by Maine mapmakers, who list the Portsmouth Naval Shipyard as being part of the State of New Hampshire.

Old histories, publications, newspapers all say the navy yard was part of Portsmouth, NH. Federal Government records for nearly 200 years have always listed the shipyard as New Hampshire, not Maine. It includes appropriation measures in the Congress, documents at the shipyard. Also, up until last month, New Hampshire was a State for 35 years that established, paid, and administered Federal unemployment compensation programs for people who got laid off at the shipyard, including people who reside in Maine. So, New Hampshire pays the unemployment compensation, even though some maintained the yard belongs in Maine.

The New Hampshire State Port Authority continues to exercise jurisdiction over Portsmouth Harbor, and the State of New Hampshire is currently paying $4.7 million for dredging projects in the northern channel adjacent to Badger's Island. New Hampshire, not Maine, has always been involved with dredging in the harbor since 1878.

The boundary where the shipyard was located was not laid out by the Supreme Court in the 1976 ocean fishing dispute, as some are going to say. Nor does the 1976 consent decree by New Hampshire and Maine prevent litigation to settle the boundary involving the shipyard and Badger's Island. The navy yard, Badger's Island, and the harbor of Portsmouth, NH, comprise a proud part of New Hampshire's heritage spanning more than 300 years. Indeed, our State seal, the State seal of New Hampshire, show the U.S.S. *Raleigh* being launched at Portsmouth Naval Shipyards.

Surely our Founding Fathers would not place a Maine property on the State seal of the State of New Hampshire. The whole argument that somehow Maine has a hold or talons into our shipyard is preposterous. There is very little if any documentation to substantiate it.

As a matter of fact, Mr. President, there is a very interesting statement. I do not see the distinguished majority leader on the floor just yet but I am sure he will be coming here. It was very interesting. Mr. MITCHELL on July 11, 1991, asked for unanimous consent to put it the RECORD the discussion of this amendment today. Here is what he said.

> A Smith amendment regarding the Naval Shipyard at Portsmouth, NH.

That was the majority leader from the State of Maine, indicating my amendment regarding this naval shipyard at Portsmouth, NH. It is because that is where it has always been. That is what it has always been called. So the majority leader was simply stating a fact.

The American law division of the Library of Congress has concluded that there are several historical areas of ambiguity regarding this line. The question we have before us with my amendment is, when there is ambiguity as to where the line is located, and the statute clearly says that you can withhold a tax when it is within the State boundary, is it fair to continue to withhold these taxes when there is ambiguity? I maintain it is not. The American law division also concluded that the issue of the location of the shipyard has never been settled by the Supreme Court of the United States, despite some claims to the contrary.

The infamous lobster dispute concerned a decision in 1976 over lobster fishing rights between the two States. There was some argument there as to where the line should be as far as lobster fishing between the two States, and the line was drawn. But it was clearly drawn up to a point and stopped in the middle of the Piscataqua River, long before it got to the area of contention here, the Portsmouth Naval Shipyard.

Let me read from the Congressional Research Service, Library of Congress, a memorandum to me from the American law division. I would like to quote one paragraph from that document. This is regarding this so-called lobster dispute.

> The 1976 litigation between the two States, New Hampshire and Maine, focused on the meaning of the middle of the river, for purposes of determining the lateral marine boundary. Although the court articulated with care where the line began, at the coast, and how it proceeded with respect to certain marine islands, it did not make similar detailed determinations with respect to the progress of the line as it moved up the river.
>
> Therefore, how to locate the line up river, given the fact that there is a large island in the middle of the mouth of the river and various islands up river from it, appears to be a question beyond the scope of the consent degree of the court in the previous litigation—i.e. the 1976 lobster dispute. Though the rule to be applied may be settled, the application of the rule to particular instances of ambiguity may await future litigation.

That is the point. There will be future litigation. This matter most likely will go to the Supreme Court. It is contested and therefore this tax should not be withheld from the workers who are now working for the Federal Government at the Portsmouth Naval Shipyard who are residents of New Hampshire.

The attorney general of New Hampshire also concluded that there is no evidence that the boundary where the shipyard is has ever been definitively established. Additionally, the State of New Hampshire passed legislation urging that this dispute involving the shipyard be resolved.

Mr. President, here is where we are. We have requested of the State of Maine that we have an interstate compact. I had legislation to that effect.

However, there has been no response from Maine. They did not wish to sit down and discuss this via, I believe, the most amicable route, which is an interstate commerce pact.

The second option is the Supreme Court of the United States, which is most likely where we will go unless Maine chooses to sit down and work this out amicably, and as I have suggested to them and as our State has suggested to them, bring your evidence. Bring your evidence and sit down and we will discuss this.

But there are innocent people caught in the web of this dispute, Mr. President. That is why I am present on the floor or the Senate right now. There are innocent people caught in the web, 4,000 innocent people, and in some cases their spouses. It is not fair for the Federal Government to continue to assist one State, Maine, in collecting State income taxes from New Hampshire workers at the shipyard until the dispute is settled.

So what we have here is the Federal Government taking sides in a dispute. That is unfair. There are a number of other very interesting things about this issue that are unfair.

I appeal to my colleagues to pay close attention because it is a tax fairness issue, not a boundary line dispute. It is a tax fairness issue. We know there is a boundary line dispute. That is obvious. I have just made that very clear in my remarks. There is a dispute.

The question you have to decide today when you vote is, Is it fair that we take sides in this dispute or should we step aside and let this thing be resolved? And then if it turns out that the shipyard is in the State of Maine, withhold the taxes; you have a perfect right to do it. If it turns out it is in New Hampshire, you cannot withhold taxes. But let us not take sides in the meantime, while this is being discussed. That is what my amendment proposes.

Let us discuss these 4,000 people. These are men and women who go to work every day. They are labor union people, my friends on the Democratic side, most of them. They are not rich fat-cat Republicans. They are hard-working men and women, blue collar workers who go to work every day for the Federal Government and do one heck of a job on ship repairs, submarine repairs, and other matters associated with the Portsmouth Naval Shipyard.

The State of Maine withholds $8.8 million a year out of their paychecks, and we do not even have it established that this shipyard is in their State. That is simply wrong. That is the issue before us today. Do you agree that this should be done or do you not?

Now, I am not asking, nor am I commenting, on whether or not we should repeal the tax. I feel we should repeal the tax. That is not the issue before you today. You are not repealing a tax with this amendment. You are simply stating on the record in the Senate that this tax cannot be withheld involuntarily from these paychecks of people who live in New Hampshire and work in a shipyard which is in dispute as to its location. That is the issue. Two thousand two hundred dollars per worker, $8.8 million. This is an average, $2,200 per worker, $8.8 million per year into the Maine Treasury from New Hampshire citizens who are simply working in a shipyard that has always been considered to be in New Hampshire but Maine says it might be in their State. The Federal Government had no business whatsoever being involved in this dispute and withholding these taxes.

I lived this personally, as one of my female employees a few years ago, when I was then a U.S. Congressman representing the district of the Portsmouth Naval Shipyard, she worked for me, and her husband worked at the shipyard. Her income, under another portion of this tax called the spousal tax, was factored into the equation. The tax tables were worked out so that both of those incomes were used to compute the tax, and so not only income that was earned allegedly in Maine but also income that was clearly in New Hampshire was put into the equation. So that Maine imposed a tax on the rate that applies to the joint income of the two people, which is wrong, clearly. That is just another dimension. So in essence, if a woman makes $25,000 a year working somewhere in New Hampshire, and her husband works at the shipyard and makes $25,000 a year, then the tax rate is based on the $50,000 income, not the $25,000. That is wrong.

Mr. President, I am pleased to say that the Department of Treasury by letter dated September 26, 1990, has expressed no objection to this amendment. At that time it was legislation that I had before the Senate. That legislation is this amendment. They have no objection to this legislation. Additionally, the Department of Justice by letter dated October 22, 1990 has made it clear that it never gave direction to the Navy to impose and collect Maine income taxes at the Portsmouth Naval Shipyard.

So let me recap. Justice never gave direction to the Navy to withhold the tax. Treasury has no objection to us suspending the withholding. I ask unanimous consent the two documents be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY
Washington, September 26, 1990.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN, This is in reply to your request for the views of this Department on H.R. 4946, introduced by Representative Robert C. Smith, "To amend section 5517 of title 5, United States Code, to prohibit the mandatory withholding of State income taxes by a Federal agency in the case of employees whose regular place of employment is located within a disputed area."

Section 5517 of title 5, United States Code, authorizes the Secretary of the Treasury to enter into agreements with States concerning the withholding of State income taxes with respect to Federal employees. Under an agreement with Maine, Maine income taxes are withheld from Federal employees at the Portsmouth Naval Shipyard. There is a dispute between Maine and New Hampshire concerning the State in which the Shipyard is legally located. H.R. 4946 would preclude any section 5517 agreement from applying when the location of the Federal facility is in dispute.

During our review of H.R. 4946, Representative Smith provided the Department with revised draft legislation (copy enclosed), which would suspend the agreement with Maine with respect to employees at the Shipyard. Although the Department has serious reservations with the broad approach taken by H.R. 4946, the revised draft legislation is narrowly drafted to address only the dispute concerning the Shipyard. As such, we view the revised draft legislation to be in the nature of a private relief bill. The Department has no objections to the approach taken by the revised draft legislation and defers to the Congress on whether it is appropriate to suspend application of the agreement with Maine with respect to Federal employees at the Shipyard.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,

JEANNE S. ARCHIBALD,
Acting General Counsel.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC., October 22, 1990.

Hon. ROBERT C. SMITH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SMITH: This is in response to your letters of September 10 and 19, 1990, concerning the Department of the Navy's withholding of Maine income taxes with respect to the wages paid to residents of the state of New Hampshire who work at the Portsmouth Naval Shipyard.

By letters dated March 16, 1982 and August 6, 1990, the Navy expressed its position that pursuant to federal laws, a 1977 agreement between the Secretary of the Treasury and the state of Maine, and directions of the Attorney General, it is obligated to withhold Maine state income taxes at the Portsmouth Naval Shipyard.

A search of our records indicates that the views of the Department of Justice were expressed by letter dated April 14, 1981. It should be noted that these views concerned the jurisdiction of Maine to tax income earned on federal property within the state of Maine. This department did not express an opinion or give direction that specifically concerned the imposition and collection of

Maine state income taxes at the Portsmouth Naval Shipyard. A copy of our letter is enclosed.

We also note that the Buck Act (4 U.S.C. 106) and the federal government's withholding authority (5 U.S.C. 5517) apply only to the extent an employee's place of federal employment is "within the State." The withholding agreement between the Secretary of the Treasury and the state of Maine likewise encompasses the same wording provided by the statute.

The New Hampshire/Maine dispute over the Portsmouth Naval Shipyard necessarily involves interpretation of the term "within the State" inasmuch as the tax withholding practice is concerned. If this facility is not within the political jurisdiction of the state of Maine, as you have suggested, then the Navy should reexamine its withholding practice.

Determination of the political jurisdiction is resolvable either through an original action filed in the United States Supreme Court or through an interstate compact approved by Congress. The Department of Justice would take no position on the merits of such a resolution and would advise the Navy to abide by that resolution. Indeed, we note that the Department of the Treasury, by letter dated September 26, 1990, has expressed no objection to legislation suspending application of the agreement with Maine with respect to federal employees at the facility.

Please let me know if you have any questions concerning our views.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

Mr. SMITH. Let me quote briefly from the U.S. Department of Justice in a letter to me dated October 22, 1990.

This Department did not express an opinion or give direction that specifically concerned the imposition and collection of Maine State income taxes at the Portsmouth naval shipyard.

They simply never gave such direction. This is the Department of Justice speaking, not Senator SMITH. This is the Department of Justice of the United States of America.

The Department of the Treasury in a letter dated September 26, 1990, signed by Jeanne Archibald, acting general counsel, said:

The Department has no objection to the approach taken by the revised draft legislation and defers to the Congress on whether it is appropriate to suspend application of the agreement with Maine and respect to the Federal employees at the shipyard.

It defers to the Congress. That is why I am here. They said we have to settle whether or not we want to suspend the withholding.

That is why I am here. That is why I am asking for your support for this amendment. It is the right thing to do.

Some of my colleagues are going to have a tough decision. I know the majority leader represents the State of Maine, but the right thing to do is to suspend this tax until it is resolved. If it is resolved in favor of the State of Maine, they can withhold their taxes.

(Mr. KERREY assumed the chair.)

Mr. SMITH. Mr. President, I want to make it clear that I am not here to debate the merits of the shipyard. If some take the floor and wish to do that, I would be happy to engage them in debate. But I have tried to point out the historical background of this withholding up to the point where we are now. It is up to the Supreme Court or the two States to work it out in an interstate compact.

As I mentioned before, Maine is reluctant to engage us in an interstate compact, or even to discuss one, which is going to force us through our attorney general in the State of New Hampshire to take this matter to the Supreme Court, which we will do.

I again want to repeat that I do not think this is the time to debate the whole issue of the boundary line, only to point out that it is in dispute.

Mr. President, this is, frankly, a noncontroversial amendment. You have the letter from the Justice Department and the letter from the Treasury Department, both indicating in one way or another that it ought to be before the Congress. If we want to suspend the withholding of the tax, then we have the power do it right here today.

Mr. President, that is the purpose of this amendment.

That essentially concludes my comments for the moment on this matter. I ask for the adoption of the amendment.

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. COHEN. Mr. President, the Senator from New Hampshire says this is not a controversial amendment. Indeed, nothing could be further from the truth. If ever there were a case in which this type of legislation ought not to be considered on an appropriations bill, today is the day.

This is, indeed, controversial because it involves taxes. That is something that is really controversial in New Hampshire. New Hampshire, to say the least, is composed of hard-working people—I concede that to my friend from New Hamsphire—and contentious lot. Certainly, the granite State symbolizes the people of New Hampshire.

This matter at issue in this amendment has been a contention for literally hundreds of years, and was resolved back in 1740 by King George II with respect to setting the boundary lines. The interpretation of the location of certain points along that boundary line has been a matter of dispute since 1740.

So, for the Senator from New Hampshire to suggest this is simply a little amendment which is noncontroversial could not be further from the truth itself.

Mr. President, I would describe this amendment as almost violating the rule against perpetuities where, for the lawyers who might be in the Chamber or who are listening, interest must vest within lives and being plus 21 years. The matter of the boundary between Maine and New Hampshire has been going on for literally hundreds of years and was finally resolved, notwithstanding what the Senator from New Hampshire said, dating back in 1976 with the Supreme Court decision. At that time the dispute arose over lobsters. We nearly had a lobster war between New Hamsphire and Maine because in Maine we tend to have stricter conservation laws pertaining to lobster. They have different sizes in New Hampshire. It was a very serious, contentious issue.

Finally, the two States got together. They had an agreement. They made certain stipulations as to facts. They had a consent decree that went before the Supreme Court. It is interesting to note that after that consent decree was entered, and the agreement was entered, New Hampshire did not like the results. They did not like what happened when the Special Master starting specifically referring to those points of the map itself.

For the Senator to come in and say that all we want to do is have Congress take this issue is inappropriate. The appropriate thing to do would be to have hearings on the Senator's amendment. There have been no hearings on the legislation, not a word of testimony, no new evidence introduced, and we come here at this hour on an appropriations bill to say we simply want to open this matter up to congressional intervention.

The appropriate way to do this is to have a hearing and to introduce the evidence that the Senator from New Hampshire finds so persuasive that would overturn or extend the Supreme Court decision of 1976.

Second—and the Senator is correct in this point—they can go to court. My question is, if New Hampshire has disputed the 1976 ruling of the Supreme Court, why have they not gone to court since that time? Why have they not filed a suit between those years and now and had the issue relitigated before the Supreme Court?

I cannot answer for the Senator from New Hampshire, but if they propose to do so, I would welcome it if they file their lawsuit and once again litigate this boundary dispute—not come before the Senate in the final hours of deliberation upon this appropriations bill and say we would like to have Congress intervene and force Maine to engage in a compact negotiation with the State of New Hampshire.

The right thing to do is not to accept the Senator's amendment. The right thing to do is reject it. The right thing to do is to say that we should have hearings on this particular proposal of the Senator from New Hampshire. If we do not have hearings, the right thing to do is to file a suit and send it through the Federal court system, all the way up to the Supreme Court, so

once again the Supreme Court can reaffirm its earlier decision and resolve the issue in favor of Maine.

There may be 4,000 people in New Hampshire who work at that shipyard. I daresay there are as many people working there from Maine. They, just like the New Hampshirites are hardworking, dedicated people who put out a wonderful product in behalf of the people of this country. They, too, are human beings. They, too, have to pay taxes to the State of Maine.

There is one thing that we know that New Hampshire people do not like to do, and that is pay taxes. They have a license plate that is quite familiar to us. It says "Live Free or Die." That is what license plate says. They also mean live free of taxes or die politically, as our colleague from Kansas found out during the last Presidential race.

But on this particular case, these New Hampshire people happen to be working in the State of Maine, as defined in those boundaries of the Supreme Court decision. And as such, they are required to pay Maine taxes. As such, the Federal employer, consistent with the policy followed in many other instances, is withholding the State taxes that are due to the State of Maine.

The Senator from New Hampshire may find that to be unfair in his judgment. I would say there are two ways to try and relieve this situation:

First, hold hearings on the Senator's proposal. Let us take testimony on his amendment. Let us see whether the Supreme Court was in error. Let us see whether or not there is additional evidence.

By the way, regarding the citation of the Library of Congress, the Library of Congress did not say they should go back to Congress. It says:

> Whatever the course of the main channel of navigation, and whatever were the earlier acts of sovereignty that New Hampshire might have exercised over the islands that later comprise of Portsmouth Naval Shipyard, the Court—

It did not say "Congress." It says the "Court"—

> might also probe more recent actions of the two states.

Let me suggest to my friend from New Hampshire that the reason Maine is not eager to be forced into negotiating some kind of a compromise or compact with New Hampshire is, No. 1, it believes that after years, decades, hundreds of years, the issue has in fact been resolved once and for all by the Supreme Court.

Interestingly enough, the advocates in that particular decision involved our colleague from New Hampshire, Senator RUDMAN, and David Souter, now Justice David Souter. They argued that the Master and Special Master in his findings were in error. The Supreme Court overruled their particular objections and affirmed the findings of the Special Master.

So let us not come in here, 15 years later and say, "Well, they made a mistake back in the Supreme Court." The answer is go to the Court or go to Congress in an appropriate fashion, not with an amendment on an appropriations bill, but rather after there has been full and fair and complete debate within the congressional system.

The Senator from New Hampshire has indicated there is not time to argue this dispute about boundaries and this forum. I agree.

So the appropriate thing to do is defer this, to defeat this, and to send it to a committee where we can have the kind of hearings that such an issue warrants. Barring that, if there are no hearings set, then I would recommend that the State of New Hampshire file its lawsuit against the State of Maine and relitigate this issue before the Supreme Court.

The letters from the Justice Department and Treasury Department do not support the Senator's amendment. They, basically, do not endorse Maine policy, and they do not impose Maine policy. They simply say leave it up to Congress.

Well, leave it up to Congress in the appropriate fashion. Make sure that there are full and fair hearings, and a body of evidence that can be presented to the Senate before taking this kind of action.

Mr. President, at the appropriate time, I intend to move to table the amendment of the Senator from New Hampshire. But at this point, I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, in response to my distinguished colleague from Maine, first of all, as the issue of hearings, I would agree, were we to agree to go with the interstate compact concepts so we could get this information out regarding the disputed boundary line. But that is not the issue before us. The issue before us is withholding tax, withholding an income tax, when in fact the location of the site where the taxes are withheld is in dispute. That is the issue.

This is not legislation on an appropriations bill. I cleared this with the Senate Parliamentarian. The Senate Parliamentarian has assured me it is not legislation on appropriation. The amendment specifically says no funds appropriated pursuant to the provisions of this act may be used for the purpose of authorizing or enforcing this agreement. That is what the amendment states. So it is not legislation on appropriation.

Also, I want to point out again that the issue here—in the 1977 Supreme Court decision, the famous lobster case, lobster dispute—the distinguished Senator has not read his history very carefully, nor has he read the case very carefully, because the 1976 litigation between the two States focused on an area that was not the area that we are contending with today. It was on the lateral marine boundary, deep in the mouth of the harbor, where the lobster fishing dispute was dealt with, and there is a map accompanying that decision, which was not a Supreme Court decision. It was settled out by consent decree.

In that decision there is a map, and the map clearly shows that the line stops somewhere in that lateral marine boundary, far away from the area, the Piscataqua River, that is in contention.

The truth of the matter is that this 1976 or 1977 Supreme Court decision did not resolve this disputed area at all. It clearly resolved the area of dispute regarding the lobster fishing, and it stopped, and the line is specified on the map accompanying that decree.

So the 1976 litigation, repeating, from a document which was provided by the Congressional Research Service on April 5, when I asked for an interpretation—and that is all it is—of that decision says:

> The 1976 litigation between the two States focused on the meeting of the middle of the river for the purpose of determining the lateral marine boundary. Although the Court articulated with care where the line began at the coast and how it proceeded with respect to certain marine islands, it did not make similar detailed determinations with respect to the progress of the line as it moved up the river.

This area, again, as the Senator from Maine, [Mr. COHEN], suggested, is an area that we could get into a hearing or in a Supreme Court decision or someplace in the courts. That is correct. The issue, though, before the Congress today is, is it fair to withhold taxes; is it fair for the State of Maine to withhold taxes from New Hampshire workers when this area is in dispute?

We do not have an income tax in the State of New Hampshire, I am pleased to say, and, therefore, we do not retaliate against the State of Maine. We could, if we had an income tax, and I am certainly not going to propose one; I am not in favor of one. So the point is, if we wanted to retaliate by putting a tax on, that could be done, although we have no interest in doing any such thing.

The point is, what do we do now while this matter is in the process of being resolved? That is the issue before us today—not the boundary line dispute.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I hope all the Senators will understand what is at stake in this amendment, because while it may appear to be a

controversy involving just Maine and New Hampshire, adoption of this amendment threatens the right of every State to enjoy and exercise its rights under the Constitution, free of this type of unwarranted effort.

Mr. President, under Federal law, there is a procedure for the Secretary of the Treasury to reach agreement with States providing for the withholding of State income taxes in connection with Federal civilian employees. The amendment now pending would prohibit the Treasury Department from withholding any taxes in the case of employees of this shipyard.

Because the shipyard is located in Maine, the State of Maine collects nonresident income taxes from those individuals who worked at the shipyard. Therfore, all persons who work at the shipyard, but who do not live in Maine, are subject to withholding of that income tax.

This affects only those at the shipyard, because it deals with a law dealing only with Federal civilian employees. But as the Senator from New Hampshire knows, every resident of New Hampshire who works in Maine is subject to the Maine income tax. That is true of every State in this country. Every State which has an income tax imposes that tax upon all persons who earn their income within that State, regardless of the place of residence of the person.

The amendment before us is based upon an alleged dispute between the States of Maine and New Hampshire as to the location of their boundary. If such a dispute existed, this appropriations bill is not the proper place to try to settle that dispute. But in fact there is no dispute as to the boundary. This is an alleged dispute by one side which did not like the results of a court case in which they engaged.

This could better be characterized as a "sour grapes" amendment, or a "sore loser" amendment. There is no dispute about the boundary between Maine and New Hampshire; that was settled 251 years ago and confirmed by an agreement between the States of Maine and New Hampshire, and finalized by the Supreme Court of the United States in 1975, which entered the settlement reached between the two States as the proper location and method of determining the boundary.

That was the ruling of the Supreme Court of the United States, and that is where the matter rests today. I repeat: No matter how many times the Senator from New Hampshire gets up and says there is a dispute over the boundary, that does not create a dispute. This is a table before me. If I call it a horse, it does not become a horse, no matter how many times I repeat the allegation.

Of course, there are some who are unhappy with the outcome by which the boundary dispute was settled, and this amendment before us is based on that unhappiness. It would again, prevent the Federal Government, as an employer, from withholding Maine State income taxes from the salaries of Federal employees working in the State of Maine, and at a shipyard which is located in Maine.

Leaving aside the unfounded contention that there is a boundary dispute between the two States—and there is no such dispute—this amendment does not even seek to resolve that dispute. Instead, what it does is ask the Senate to declare one side of the argument victorious and directs the Federal Government to act accordingly even though that side lost in the Supreme Court.

This dispute is between those who want to live in New Hampshire, work in Maine, and not be subjected to Maine income taxes. But that is the law all over this country. If you live in one State and work in another, you pay taxes in the State in which you work. If that State imposes an income tax, you pay taxes on that portion of your income that is earned where you work. Maine has a State income tax system; New Hampshire does not. Everyone who works in Maine has to pay that tax, no matter where they live. The same is true in every other State in this country.

Mr. President, this amendment would not even be considered if the people involved were engaged in private employment. It does not make it valid because the employer is the Federal Government.

I ask Senators to think about this: If States can dictate the tax policies that must follow their residents, wherever their residents work, even outside of their State, think of the fiscal chaos that would result in this country. If every State could say its residents cannot be subject to a tax in another State, even if they work in the other State, think of the chaos that will result.

I want to repeat; the facts are simple. Allegations have been made repeatedly, political allegations by politicians in New Hampshire, that new evidence will be found to alter the boundary between Maine and New Hampshire. No such evidence has come to light. None of the existing facts and agreements have been altered. The boundary under the law is the boundary as it was confirmed by the agreement between the States and entered by the Supreme Court in 1975. Nothing has changed that reality.

This amendment, this amendment, is based on the unfounded allegation that someday, somehow, maybe someone will find some evidence, and that will alter the boundary. It is based on a series of suppositions, each of which is entirely without merit and which in the aggregate are completely without merit.

And it proceeds from these suppositions that are without merit to the very concrete prohibition on the ability of the Federal Government to implement its agreement with Maine, the same agreement it has with every other State where a similar situation exists.

Mr. President, this amendment has no factual basis. This amendment has no moral basis. This amendment has no logical basis. This amendment has no legal basis. Its only basis is political within New Hampshire. There is no boundary dispute between New Hampshire and Maine. That has been settled, legally, finally, and permanently. The only place where a so-called boundary dispute exists is in the minds of a few New Hampshire residents who do not like the results of the final settlement of the boundary.

And I repeat: Every single Senator should consider what he or she is doing when he or she votes on this amendment. If a Senator from a neighboring State can, by merely alleging the existence of a boundary dispute, no matter how devoid of merit, no matter how devoid of substance, if by making an unfounded allegation, a Senator can persuade the Senate to deny to another State its rights under the Constitution and the laws of this country, then no State is safe from this kind of political effort.

So this does not just involve New Hampshire and Maine; this involves every State. And any Senator who votes for this amendment should recognize that he or she may be establishing a precedent which can come back to haunt them, because it could subject his or her State to having its rights undermined by a similar effort by a Senator from a neighboring State.

This amendment does not have merit, and I wish to conclude by reading from the Supreme Court's decision in 1975, and this is from that decision, 426 United States—page 370—Supreme Court.

> New Hampshire and Maine are not here adjusting the boundary between them. The boundary was fixed over 2 centuries ago by the 1740 decree, and the consent decree is directed simply to locating precisely this already existing boundary.
>
> Accordingly, neither State can be viewed as enhancing its power in any sense that threatens the supremacy of the Federal Government. The boundary defined by the proposed decree takes effect not as an allegation of territory, but as a definition of the true and ancient boundary.

The U.S. Supreme Court, 1975.

Mr. President, I will join my colleague from Maine when he moves to table this amendment, and I urge all Senators to join us in tabling this amendment. Not only is it without merit, but here is a tax matter, never having been presented to the Finance Committee, never having had a hearing, coming before the Senate in an effort to persuade Senators to join in this effort.

Every Senator ought to ask himself if they vote for this, their State may

be subjected to the same type of effort. We ought not to be passing tax laws without even submitting them through the regular legislative process. We ought not to be passing tax laws without having come kind of examination by the committee of jurisdiction. We ought not to be passing tax laws that are so devoid of merit as is this proposal.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, some response to the distinguished majority leader. This is a rather contentious issue between the two States, and I have tried to point out in my remarks that the issue, as contentious as it is, regarding the boundary line is not the issue before us today.

I would certainly agree, as I stated before, that appropriately the issue should be dealt with in the courts or through some hearings. But to say that the argument for this tax issue has no merit, is not factual, and is indeed not moral, is simply incorrect. It is very simply incorrect.

It is a good legal argument to make, I guess a somewhat intimidating legal argument, to use comments like that to try to intimidate one in a court situation, perhaps a plaintiff or defendant intimidating one or the other in a court of law. But this is not the situation before us at all.

Again, the law that the distinguished majority leader referred to says very clearly, as the majority leader knows and understands full well, that this means that this tax—nobody is arguing whether or not a tax can be assessed when one State's worker works in the other State. That is not the issue at all. It is whether or not the tax can be assessed in a place of Federal employment that is not within the bounds of the State.

Now, if you say it is, and it is in Maine, and you agree that it is, then you can take sides and you can vote against the amendment. I am not trying to take sides. I am simply saying that this tax now is being withheld. It is being withheld from New Hampshire workers, even though this issue is being contested.

And to say that there is no record of this being contested is also wrong. The New Hampshire Legislature, in May of this year, voted formally on the record that the Attorney General proceed to resolve this matter.

The attorney general from the State of Maine and the attorney general from the State of New Hampshire met last year and discussed this matter. The subject of an interstate compact was discussed. It was not resolved, nor was it agreed to. But it was discussed as to how we might proceed on this matter.

Indeed, as of this moment, the attorney general of the State of New Hampshire has this matter before him and has been directed by his legislature and the Governor to move this matter wherever it takes, whether it is the court, the Supreme Court, or an interstate compact.

Again, referring back—and this is very important. I want to take very strong issue to the statement by the majority leader regarding one State should be threatened or feel threatened because of the fact that we could simply arbitrarily say that we are going to claim a piece of land in another State and therefore stop the withholding.

It is hardly arbitrary when you have had 350 years of contention, and it has never been resolved. What is arbitrary about that? It has been going on for 350 years. There is a long history of contention on this issue.

And both Senators from Maine know full well that in 1975, 1976, or 1977—there seems to be some difference of opinion as to when that litigation was. But that litigation—again I repeat—dealt with a lateral marine boundary. The mouth of the harbor is one place, and the lobster fishing in that harbor, and then you move up the river. It did not deal with the upper part of the river.

In order to clarify that and make certain that everybody understood it did not deal with it, they drew a map and they put a line on the map that indicated where this lobster dispute would stop, desist. They drew it and put it on the map to show it. So, the matter was not resolved.

I happen to believe that the yard is in New Hampshire, I am sure the Senator from Maine believes it is in Maine. That is not the issue before us today. The issue before us today is again, do you want to take sides and say that Maine could continue to withhold this tax while this matter is being resolved? That is the issue before us today.

And another issue regarding taxes is the spousal tax, a particularly onerous side tax that is added into this $8 million-plus factor. Is it fair if you are working at a shipyard, even if it is in Maine—even if it is in Maine—and you live in New Hampshire, is it fair that your wife's income, earned in New Hampshire, should be placed in the tax table and computed on Maine's tax table?

Is that fair? If you think that is fair, then vote against my amendment.

That is not fair. Not a nickel of that spousal income was earned in the State of Maine. As a matter of fact, we are encouraging people in some cases to file separately to avoid it when in fact it is much more beneficial to them to file jointly at the Federal level. You cannot file a Federal joint return separately in the State of New Hampshire. You cannot do that. That is unfair and it puts a lot of hard-working families who do not make one heck of a lot of money in a tough situation to have to pay those taxes, and it is plain wrong. That is the issue before us, not the boundary line, but the issue of taxes, unfair taxes.

All I am asking you to do today with this amendment is to decide whether or not the State of Maine should withhold these taxes, not whether or not we should repeal them, withhold them involuntarily on the part of these people until this matter is resolved. That is the real issue before us.

Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I think it is clear from the debate that this is a complex issue. It has been a contentious issue. The Senator from Maine, Senator MITCHELL, and myself believe the issue was resolved finally back in 1976. I would just quote:

> The consent decree therefore proposes a wholly permissible final resolution of the controversy both as to the facts and law.

Final resolution of the controversy. So since 1976 the Supreme Court has said it had been final, and now the Senator from New Hampshire comes in an says it is a matter of dispute and, therefore, let us open it up on the floor of the Senate.

There are two or three options: First, the Senator from New Hampshire can and should go to a congressional committee or, second, go to court. But do not bring a matter of this complexity up on this bill.

Mr. President, I now move to table the amendment of the Senator from New Hampshire and 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. MITCHELL. Mr. President, I ask unanimous consent that the vote ordered on the motion to table the Kohl amendment No. 748 occur today at 7 p.m. and further that, upon disposition of the Kohl amendment, the Senate proceed to vote without intervening action or debate on the Cohen motion to table the Smith amendment.

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

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. The time for the two leaders has been reserved. The Republican leader is recognized.

HIV-INFECTED HEALTH CARE WORKERS DISCLOSURE

Mr. DOLE. Mr. President, the Centers for Disease Control has today published guidelines for health care workers who are infected with the HIV virus. I thank them for their efforts to address this challenging issue.

Included in these guidelines are provisions which recommend the use of universal precautions, such as sterilization of equipment and the careful handling and disposal of needles and

other sharp instruments; and which advise health care workers who perform exposure-prone procedures to know their HIV status.

If these workers test positive, then the guidelines suggest they should refrain from performing exposure-prone procedures, until they seek the advice of an expert review panel. If, in fact, they are permitted to continue to do such exposure-prone procedures, CDC then recommends that they notify prospective patients before performing such procedures.

As thorough and far-reaching as these guidelines are, there is still no legal duty for the States to comply with them.

Therefore, Senator HATCH and I will be proposing an amendment which, in effect, will mandate compliance. Under our amendment, States that do not incorporate the requirements into their licensure laws will be prevented from receiving public health grant funds from the Federal Government.

This issue is not an easy one for any of us. Admittedly, we do not know all there is to know about this deadly virus, and I acknowledge that we have to proceed very carefully .

Our amendment does just that. It is not some sort of witch hunt, nor an over reaction. We are simply asking the States to follow the guidelines which have been recommended by the Centers on Disease Control.

AIDS is a national tragedy. This Senator has supported increased funding for AIDS research in the past, and I will continue to do so. All of us here in this Chamber pray for the day when a cure is discovered.

Until that day, however, all of us have a responsibility to take reasonable actions to prevent the spread of AIDS.

Mr. President, I ask unanimous consent that the amendment—I am not going to propose the amendment now—that I have described which will be proposed by myself, Senator HATCH, and probably others on Thursday to the bill now pending be printed in the RECORD.

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

AMENDMENT NO. —

(Purpose: To require States to adopt the recommendations of the Centers for Disease Control concerning the transmission of the HIV virus by health care professionals to patients.)

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of law, a State shall, not later than 1 year after the date of enactment of this Act, enact legislation to adopt the guidelines issued by the Centers for Disease Control concerning recommendations for preventing the transmission, by health care professionals, of the human immunodeficiency virus and the hepatitis B virus to patients during exposure-prone invasion procedures. Such legislation shall apply to health professionals practicing within the State and shall incorporate such recommendations into the health professional licensing laws of the State.

(b) Except as provided in subsection (c), if a State does not enact the legislation required under subsection (a) within the 1-year period described in such subsection, such State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 et seq.) until such legislation is enacted.

(c) The Secretary of Health and Human Services shall extend the time period described in subsection (a) for a State, if the State legislature of such State meets on a biennial basis and has not met within the 1-year period beginning on the date of enactment of this Act.

THE 75TH ANNIVERSARY OF THE BOEING CO.

Mr. DOLE. Mr. President, today, is Boeing's 75th anniversary, a remarkable success story in which Kansas has proudly played a major role.

While the Seattle-based aerospace giant became famous for its unrivaled production of commercial aircraft, it is Boeing's Wichita plant that led the way when it came time to roll out America's airborne arsenal of democracy. The superb Wichita work force has built more than 15,000 aircraft during the past 50 years, many of them directly responsible for defeating the forces of tyranny around the globe. For most of the 20th century, the worst letter in the alphabet for America's enemies has been the letter B—as in B-17, B-29, and B-52.

When America went to war in 1941, most of our young pilots learned to fly in B-1 plane trainers built in Wichita.

Later, these same pilots would be taking off from airbases in every corner of the world, flying the famous Boeing bombers that helped win the war in Europe and the Pacific. By the end of World War II, Wichita was cranking out more than four bombers a day, setting sky-high standards for production efficiency.

But the end of the war did not signal the end of Wichita's frontline defense role. By the early 1950's, there were disturbing new challenges—Korea, the cold war, and the growing Soviet threat. The men and women on Boeing's production line in Wichita responded by tooling up to build the B-47 bomber, America's first strategic jet bomber. Two years later, it launched a historic new project, the B-52, the mighty backbone of our airborne strategic deterrent—then, and now.

When America had to go to war in the Persian Gulf, the good work at Wichita's Boeing plant again paid big dividends, as the B-52 and the KC-135 tanker became real heavyweights in the smashing allied victory over Saddam Hussein's vaunted military machine.

The KC-135, thanks to an ambitious 5-year modernization program in Wichita, became the Middle Eastern backbone for history's greatest display of airpower, keeping our fighters in the air, and in Saddam's face, 24 hours a day.

Meanwhile, there has been plenty of topnotch commercial jetliner work also going on in the air capital. In fact, Boeing of Wichita recently completed work on a very special 747—it is called Air Force One.

Kansas is proud of its status as headquarters to America's aircraft industry, and the thousands of highly skilled workers who get the job done day after day—year after year—building everything from private planes to high technology bombers.

In both peace and war, Boeing and Kansas have been a winning combination. On Boeing's 75th anniversary, I know all my colleagues join me today in saying thanks for a job well done—keep flying high.

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.

Mr. AKAKA. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

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

THE DECISION NOT TO ADJUST THE 1990 CENSUS

Mr. AKAKA. Mr. President, today the administration has turned its back on more than 5 million Americans, most of whom are minorities, many of whom are poor, disadvantaged, and even homeless.

I am referring to today's decision by Secretary of Commerce Robert Mosbacher to allow our country to go forward with an inaccurate 1990 census. The postenumeration survey for the census shows that approximately 5 million Americans were not counted. Most of them are blacks, Hispanics, Asian-Pacific islanders, and native Americans.

Sadly, the administration has chosen to ignore these Americans by deciding not to adjust the 1990 census.

Once again, the administration is turning its back on minorities. Minorities make up 25 percent of the total U.S. population. Yet, Mr. President, they comprise almost 60 percent of those not counted in the 1990 census. Today, the administration had the opportunity to rectify this inequity. It chose not to.

In the eyes of the administration, these people do not exist. I am not surprised. For 10 years, two administrations have been turning back the clock on civil rights and ignoring our Na-

tion's neediest. This is one more example of this distressing tendency.

When it comes to the census, many things are at stake, including the readjustment of congressional, State, and local districts. But for most of those who were not counted, the most important function of the census is that it helps direct vital Federal resources in an equitable fashion, especially to the neediest members of our population.

As a result of the postenumeration survey, we know that the census missed 5 million Americans. We know that minorities were disproportionately undercounted. And today, we have found out that they will be shortchanged by the administration.

Mr. President, to allow the census to go uncorrected undermines the very purpose of our national population count. That is why I have cosponsored legislation introduced by the senior Senator from New York [Mr. MOYNIHAN] that would mandate an adjustment to the census. His enlightened legislation gives me a glimmer of hope that we can overturn the administration's decision.

And speaking of hope, Mr. President, I want to point out one person in the administration who has been the lone Point of Light in this census storm cloud. I want to praise Barbara Bryant, the Director of the Bureau of the Census.

As the person closest to both the census and the postenumeration survey, she has courageously disagreed with the administration's decision to scrap the postenumeration survey. Barbara Bryant has displayed both integrity and courage by urging that these 5 million Americans be counted.

To the Secretary of Commerce and others in the administration, there may only be 248 million Americans, but to Barbara Bryant and many of us in Congress and in minority and urban communities throughout our Nation, there are more than 253 million Americans.

So, while most of the administration will continue to pretend that this segment of our population does not exist, it will be up to us in Congress to address their needs.

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

AMENDMENT NO. 748

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table the Kohl amendment No. 748. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Iowa [Mr. HARKIN], and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Oklahoma [Mr. NICKLES], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—78

Adams	Durenberger	Mack
Baucus	Ford	McCain
Bentsen	Garn	McConnell
Bingaman	Gorton	Mikulski
Bond	Graham	Mitchell
Boren	Gramm	Murkowski
Bradley	Grassley	Packwood
Breaux	Hatch	Pressler
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Helms	Roth
Burdick	Hollings	Rudman
Burns	Inouye	Sanford
Byrd	Jeffords	Sarbanes
Chafee	Johnston	Sasser
Coats	Kassebaum	Seymour
Cochran	Kasten	Shelby
Cohen	Kennedy	Simpson
Craig	Kerrey	Smith
Cranston	Kerry	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dodd	Lieberman	Wallop
Dole	Lott	Warner
Domenici	Lugar	Wofford

NAYS—16

Akaka	Gore	Robb
Conrad	Kohl	Simon
Dixon	Metzenbaum	Wellstone
Exon	Moynihan	Wirth
Fowler	Nunn	
Glenn	Pell	

NOT VOTING—6

Biden	Harkin	Pryor
D'Amato	Nickles	Rockefeller

So the motion to table the amendment (No. 748) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 733

The PRESIDING OFFICER. Under the previous order, the question is on a motion to table the Smith amendment No. 733. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Iowa [Mr. HARKIN], and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Oklahoma [Mr. NICKLES], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—72

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Bingaman	Gorton	Murkowski
Boren	Graham	Nunn
Bradley	Hatfield	Packwood
Breaux	Heflin	Pell
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Seymour
Cranston	Kerry	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Thurmond
Dodd	Lieberman	Warner
Domenici	Lugar	Wellstone
Durenberger	McCain	Wirth
Exon	McConnell	Wofford

NAYS—22

Bond	Gramm	Roth
Brown	Grassley	Rudman
Burns	Hatch	Simpson
Coats	Helms	Smith
Cochran	Kasten	Symms
Craig	Lott	Wallop
Dole	Mack	
Garn	Pressler	

NOT VOTING—6

Biden	Harkin	Pryor
D'Amato	Nickles	Rockefeller

So the motion to table the amendment (No. 733) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agree to.

AMENDMENT NO. 751

Mr. DECONCINI. Mr. President, in accordance with the unanimous-consent agreement, I send a technical amendment to the desk on behalf of the Senator from New Mexico and myself and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. DOMENICI, proposes an amendment numbered 751.

Mr. DECONCINI. 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:

On page 33, line 10, strike the first sum named and insert in lieu thereof, "$4,037,836,276".

On page 44, line 10, in lieu of the sum inserted, insert the following "$4,037,836,276".

Mr. DECONCINI. Mr. President, this only changes some numbers in the GSA account that were brought to our attention. It is purely a technical amendment. I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 751) was agreed to.

Mr. DECONCINI. 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.

Mr. DECONCINI. Mr. President, in accordance with the unanimous-consent agreement that we are operating under on the Treasury-Postal bill, I ask unanimous consent that the managers' further technical amendments, if there be any, next in order on the list of amendments, be in order on Thursday following the Helms amendment with respect to child pornography.

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

Mr. DECONCINI. 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. 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.

Mr. SMITH. Mr. President, I rise in support of the committee amendment to the Secret Service portion of title I of the bill. That language would extend last year's appropriation for protection of the President at his summer White House to include that portion of Pease Air Force Base, NH, through which the President regularly travels on his trips to Kennebunkport.

Mr. President, earlier this year, I wrote the Secret Service, asking for a legal opinion on the question of whether last year's appropriation for local protection of the President might extend to these New Hampshire facilities. I ask unanimous consent that the text of my letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 25, 1991.

Hon. JOHN R. SIMPSON,
Director, Secret Service, Washington, DC.

DEAR MR. SIMPSON: The Treasury-Postal Appropriations Act for fiscal year 1991, Public Law 101-509, sets aside $300,000 for "the protection of one nongovernmental property designated by the President of the United States under the provisions of section 12 of the Presidential Protection Assistance Act of 1976 * * *"

It is my understanding that this language has been interpreted to provide funds not only for the jurisdiction of Kennebunkport, but also other jurisdictions such as Kennebunk whose proximity to the summer White House places additional demands on their law enforcement facilities.

I would like to call your attention to the fact that the communities of Portsmouth, Newington, and Rockingham County, New Hampshire, face similar law enforcement demands because they contain landing facilities for virtually every presidential visit to the summer White House. Furthermore, unlike Kennebunkport, these New Hampshire jurisdictions enjoy none of the financial benefits which come from having the President's residence within their jurisdictions.

As a result, I am writing to request that you investigate whether Portsmouth, Newington, and Rockingham County could qualify for assistance under Public Law 101-509. While I understand your fear of opening a "Pandora's Box," I would point out the President uses the law enforcement resources of our jurisdictions virtually every time he travels to Kennebunkport. Therefore, all of the legal and factual rationales for providing funds for Kennebunk and neighboring communities would seem to apply with equal force in our case. No other communities are taxed in quite the same way.

I appreciate your careful attention to this request and look forward to cooperating with you in trying to reach an acceptable resolution in this case.

With warm regards,

BOB SMITH,
U.S. Senator.

Mr. SMITH. Mr. President, on June 14, 1991, John R. Simpson, Director of the Secret Service, wrote me a letter expressing the opinion that Newington, NH, and other New Hampshire jurisdictions would not be entitled to funding under last year's language. Pursuant to this letter, it had been my intention to offer an amendment to the Treasury-Postal appropriations bill, clarifying congressional intent with respect to appropriate uses of this set-aside. This procedure would have allowed the Senate to debate the issue.

My senior colleague on the Appropriations Committee, Senator RUDMAN, has obviated the necessity for my amendment by adding language in committee which would allow Newington and other New Hampshire jurisdictions to be reimbursed for expenditures made in protecting the President. I commend Senator RUDMAN for his work in connection with this issue, and lend my strong support to his efforts.

And so, Mr. President, I lend my wholehearted support to the Secret Service language contained in the committee amendment, and I urge the adoption of the amendment.

Mr. LEVIN. Mr. President, I would like to ask a question of the bill manager, the chairman of the Subcommittee on Treasury, Postal Service, General Government.

As the chairman knows, traffic at the United States-Canada border has nearly doubled in the past 5 years. The United States-Canada Free-Trade Agreement, and a recent increase in the Canadian sales tax, in particular have contributed to this dramatic increase in traffic at the border.

Unfortunately, the Customs Service staffing has not come close to keeping pace. Staff levels have remained constant while traffic has almost doubled. Not surprisingly, border crossings in Michigan are plagued with chronic delays. Truck delays alone at the Blue Water and Ambassador Bridges in Michigan cost over $11 million last year. A recent study jointly commissioned by the Michigan Department of Transportation and the Ontario Ministry of Transportation concluded that insufficient Customs Service staff was one of the principal causes of delays at the St. Clair and Detroit Rivers border crossings.

On May 8, the entire Michigan delegation sent a letter to Commissioner Hallett asking her to address these staffing shortages which are costing the State so dearly in delays and lost sales and have diminished our ability to attract new businesses to the State. To date, we have not received a response from the Commissioner.

As a result, the House appropriations bill provides eight additional Customs Service positions at the Blue Water Bridge.

My question to my colleague is whether he will consider the House language in conference and will make every effort to relieve the shortage at other Michigan-Ontario bording crossings.

Mr. DECONCINI. I appreciate knowing of the need along the Michigan-Ontario border and will look into it and do what I can in conference to address this matter.

Mr. LEVIN. I thank my colleague for his help.

Ms. MIKULSKI. Mr. President, as a member of the Treasury Appropriations Subcommittee, I want to extend special thanks and congratulations to the chairman of the subcommittee, Senator DECONCINI, and the ranking minority member, Senator DOMENICI, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget.

LAW ENFORCEMENT

As always, Chairman DECONCINI has recognized in this bill the importance of our Treasury law enforcement agencies: Bureau of Alcohol, Tobacco and Firearms, Customs Service and Secret Service. This bill gives these agencies

the resource they will need to continue protecting the public against drug lords, gun runners, counterfeiters, and other dangerous criminals. And we need their protection today more than ever.

BALTIMORE-WASHINGTON FEDERAL PAY

During fiscal year 1991, the President granted geographic pay adjustments to Federal employees in the New York, San Francisco and Los Angeles areas. However, I am concerned that there are considerable pay disparities in other areas of the country as well, including the Baltimore-Washington area.

I have included report language with this bill which instructs the Director of the Office of Personnel Management to consider the problems facing other high-cost areas of the country. The report language also instructs the Director of OPM to recommend to President Bush that he grant additional pay increases in the high-cost areas.

Mr. President, I want to take this opportunity today to urge President Bush to recognize the tough day-to-day realities faced by Federal employees in the Baltimore-Washington area. An April, 1991 GAO report indicated disparities between Federal pay and private sector pay of 20 percent in the Washington, DC area and 18.5 percent in the Baltimore, MD area.

But while Federal employees earn less here on average than their counterparts in the private sector, they don't pay less for housing, groceries, tuition, or medical care. Instead, they just dig a little deeper and squeeze a little harder.

These employees turn the H.R. this and S. Res. that that we adopt here in the Senate into action that makes a real difference in people's everyday lives. They do research on life-threatening diseases. They make sure the Social Security checks get out on time. They give us advance warning of hurricanes and other natural disasters. And during Operation Desert Storm, they made sure our troops had the bullets and bandages they needed to get the job done.

I'd like to see to it that these dedicated public servants make a fair and decent living for themselves and their families. I strongly believe that the Baltimore-Washington area is qualified to receive the pay increase and sincerely hope the President will use the authority provided him in last year's pay reform law, and provide these employees with a pay increase in 1992.

WAGE GRADE EMPLOYEES

Although the Federal Employees Pay Comparability Act of 1990 will benefit a great many Federal employees when it is fully in place beginning in 1994, one significant group of Federal employees do not benefit from this law—Federal wage grade employees. These are the craftspeople and tradespeople who work for the Federal Government. Sometimes they're called blue-collar employees. They're carpenters, painters, electricians and plumbers. They're necessary to the functioning of the Government; we can't do without them.

That's why I included additional report language in the Treasury appropriations bill directing the OPM to study a phaseout of the pay disparity between Federal wage grade employees and their counterparts in the private sector.

BUREAU OF THE PUBLIC DEBT

I also won language in this bill that requires the Treasury Department to help find jobs in other bureaus of the Treasury or other Federal agencies for Bureau of Public Debt employees who do not wish to relocate to West Virginia. I want these employees to know that they can count on me to continue working with my colleagues in the Senate and House, and with the Treasury Department, to make sure that no Bureau employee who does not want to relocate to West Virginia is left without a Federal Government job.

NONPROFIT MAIL

With this bill, the Senate also takes action to protect nonprofit organizations against a steep increase in postage rates. On June 26, I spoke out on behalf of nonprofit organizations in our subcommittee's markup. Nonprofit organizations provide valuable service to the country and play a vital role in our society. I support the longstanding Federal policy which allows these organizations to mail at reduced rates and spend their money helping people, not buying stamps. We need to make sure that America's "thousand points of light" don't have a power failure.

Mr. President, I want to thank Senators DECONCINI and DOMENICI once more for their generosity to me and their willingness to include these important items with this appropriations bill. I urge my colleagues to support the bill, and I yield the floor.

SOURCE TAX

Mr. REID. Mr. President, I have for some time now been fighting against an assault on the fixed incomes of a special group of senior citizens in Nevada, and across the Nation. Certain States in our country tax the retirement pensions of people who do not live within their bounds. For example, someone who worked in California and retired in Nevada must pay taxes on pensions drawn in the State where they spent their working years, rather than the State where they reside—providing their State of residence has an income tax. I know retirees who pay taxes to States regardless of the fact that they do not have the right to vote in that State, and do not benefit from the State services provided there. To prohibit this unfair tax I have offered legislation to prevent States from taxing the pension or retirement income of nonresidents.

I want to point out, however, that my interest in the prohibition of source taxation of retirement income is entirely different from the matter being discussed today. I oppose the source taxation of those on fixed incomes—retired senior citizens. Taxing working people in the States where they earn their wages is not the same thing. These people are willingly working in the States by which they are being taxed. They are using the services of that State on a regular basis and their income is not fixed, as is the case of retired people.

MORNING BUSINESS

Mr. DECONCINI. 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.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,312th day that Terry Anderson has been held captive in Lebanon.

HIV-INFECTED HEALTH CARE WORKERS DISCLOSURE

Mr. HATCH. Mr. President, I applaud the Centers for Disease Control for their publication today of guidelines to prevent the transmission of HIV by health-care workers. I appreciate the work of Dr. Bill Roper, Dr. Jim Mason, and Secretary Sullivan for putting out important guidelines, which I believe help both patients and practitioners.

Specifically, these guidelines encourage health-care workers to adopt certain universal precautions to protect patients and workers from the possible spread of the HIV virus. In addition, these guidelines require health-care workers who test positive for HIV to either refrain from performing exposure-prone procedures or notify prospective patients before performing such procedures.

While these are only guidelines, Senator DOLE and I are anxious to ensure these recommendations are adopted. There are now many examples—too many—of patients being infected with the HIV virus by health professionals who knew they were HIV positive. We know of over 6,000 health professionals, including 700 physicians and 1,350 nurses, who are infected. We do not know how many of them have voluntarily informed their patients of their HIV status. We can only pray that more patients have not been unwittingly infected.

The American people support health-care professionals disclosing this information to their patients. Over 90 per-

cent of our citizens support mandatory disclosure by nurses, physicians, and dentists who are infected with HIV. I believe, as CDC does, that the disclosure must occur when procedures are performed which puts the patient at risk of exposure.

I join Senator DOLE in supporting an amendment to enforce these guidelines. The Dole-Hatch amendment will require each State, as a condition of receipt of Federal public health service funds, to adopt these guidelines in their State licensing laws. We give the States time to adopt them. We give citizens and health care professionals the protection of these guidelines.

I applaud HHS for their actions today and I urge my colleagues to support this amendment. I ask unanimous consent that a summary of the amendment and the text of the guidelines be included in the RECORD.

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

SUMMARY OF THE DOLE-HATCH AIDS AMENDMENT

The Dole-Hatch amendment would require that all States adopt the Centers for Disease Control's "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures." These guidelines offer universal precautions for all health-care workers to follow to protect patients and workers from the possible spread of the HIV virus. In addition, these guidelines require health-care workers who test positive for HIV to either refrain from performing exposure-prone procedures or notify prospective patients before performing such procedures.

Under the amendment, States will be required to incorporate these guidelines as part of their State licensing laws. If they do not, States will lose public health service funding.

[Centers for Disease Control, Morbidity and Mortality Weekly Report, July 12, 1991]

RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS AND HEPATITIS B VIRUS TO PATIENTS DURING EXPOSURE-PRONE INVASIVE PROCEDURES

[Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, GA]

The CDC staff members listed below served as authors of this document:

Coordinators: Jacquelyn A. Polder, B.S.N., M.P.H.; David M. Bell, M.D.; James Curran, M.D., M.P.H.; Lawrence Furman, D.D.S., M.P.H.; Barbara Gooch, D.M.D., M.P.H.; James Hughes, M.D.; Harold Jaffe, M.D.; Harold Margolis, M.D.; Donald Marianos, D.D.S., M.P.H.; William Martone, M.D., M.Sc.; Linda Martin, Ph.D.; Craig Shapiro, M.D.

(This document has been developed by the Centers for Disease Control (CDC) to update recommendations for prevention of transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV) in the health-care setting. Current data suggest that the risk for such transmission from a health-care worker (HCW) to a patient during an invasive procedure is small; a precise assessment of the risk is not yet available. This document contains recommendations to provide guidance for prevention of HIV and HBV transmission during those invasive procedures that are considered exposure-prone.)

INTRODUCTION

Recommendations have been made by the Centers for Disease Control (CDC) for the prevention of transmission of the human immunodeficiency virus (HIV) and the hepatitis B virus (HBV) in health-care settings (1-6). These recommendations emphasize adherence to universal precautions that require that blood and other specified body fluids of all patients be handled as if they contain blood-borne pathogens (1,2).

Previous guidelines contained precautions to be used during invasive procedures (defined in Appendix) and recommendations for the management of HIV- and HBV-infected health-care workers (HCWs) (1). These guidelines did not include specific recommendations on testing HCWs for HIV or HBV infection, and they did not provide guidance on which invasive procedures may represent increased risk to the patient.

The recommendations outlined in this document are based on the following considerations:

Infected HCWs who adhere to universal precautions and who do not perform invasive procedures pose no risk for transmitting HIV or HBV to patients.

Infected HCWs who adhere to universal precautions and who perform certain exposure-prone procedures (see page 4) pose a small risk for transmitting HBV to patients.

HIV is transmitted much less readily than HBV.

In the interim, until further data are available, additional precautions are prudent to prevent HIV and HBV transmission during procedures that have been linked to HCW-to-patient HBV transmission or that are considered exposure-prone.

BACKGROUND

Infection-Control Practices

Previous recommendations have specified that infection-control programs should incorporate principles of universal precautions (i.e., appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments) and should maintain these precautions rigorously in all health-care settings (1,2,5). Proper application of these principles will assist in minimizing the risk of transmission of HIV or HBV from patient to HCW, HCW to patient, or patient to patient.

As part of standard infection-control practice, instruments and other reusable equipment used in performing invasive procedures should be appropriately disinfected and sterilized as follows (7):

Equipment and devices that enter the patient's vascular system or other normally sterile areas of the body should be sterilized before being used for each patient.

Equipment and devices that touch intact mucous membranes but do not penetrate the patient's body surfaces should be sterilized when possible or undergo high-level disinfection if they cannot be sterilized before being used for each patient.

Equipment and devices that do not touch the patient or that only touch intact skin of the patient need only be cleaned with a detergent or as indicated by the manufacturer.

Compliance with universal precautions and recommendations for disinfection and sterilization of medical devices should be scrupulously monitored in all health-care settings (1,7,8). Training of HCWs in proper infection-control technique should begin in professional and vocational schools and continue as an ongoing process. Institutions should provide all HCWs with appropriate in-service education regarding infection control and safety and should establish procedures for monitoring compliance with infection-control policies.

All HCWs who might be exposed to blood in an occupational setting should receive heptatitis B vaccine, preferably during their period of professional training and before any occupational exposures could occur (8,9).

Transmission of HBV During Invasive Procedures

Since the introduction of serologic testing for HBV infection in the early 1970s, there have been published reports of 20 clusters in which a total of over 300 patients were infested with HBV in association with treatment by an HBV-infected HCW. In 12 of these clusters, the implicated HCW did not routinely wear gloves; several HCWs also had skin lesions that may have facilitated HBV transmission (10-22). These 12 clusters included nine linked to dentists or oral surgeons and one cluster each linked to a general practitioner, an inhalation therapist, and a cardiopulmonary-bypass-pump technician. The clusters associated with the inhalation therapist and the cardiopulmonary-bypass-pump technician—and some of the other 10 clusters—could possibly have been prevented if current recommendations on universal precautions, including glove use, had been in effect. In the remaining eight clusters, transmission occurred despite glove use by the HCWs; five clusters were linked to obstetricians or gynecologists, and three were linked to cardiovascular surgeons (6, 22-28). In addition, recent unpublished reports strongly suggest HBV transmission from three surgeons to patients in 1989 and 1990 during colorectal (CDC, unpublished data), abdominal, and cardiothoracic surgery (29).

Seven of the HCW's who were linked to published clusters in the United States were allowed to perform invasive procedures following modification of invasive techniques (e.g., double gloving and restriction of certain high-risk procedures) (6, 11, 13, 15, 16, 24). For five HCWs, no further transmission to patients was observed. In two instances involving an obstetrician/gynecologist and an oral surgeon, HBV was transmitting to patients after techniques were modified (6, 12).

Review of the 20 published studies indicated that a combination of risk factors accounted for transmission of HBV from HCWs to patients. Of the HCWs whose hepatitis B e antigen (HBeAg) status was determined (17 to 20), all were HBeAg postive. The presence of HBeAg in serum is associated with higher levels of circulating virus and therefore with greater infectivity of hepatitis-B-surface-antigen (HBsAg)-positive individuals; the risk of HBV transmission to an HCW after a percutaneous exposure to HBeAg-positive blood is approximately 30% (30-32). In addition, each report indicated that the potential existed for contamination of surgical wounds or traumatized tissue, either from a major break in standard infection-control practices (e.g., not wearing gloves during invasive procedures) or from unintentional injury to the infected HCW during invasive procedure (e.g., needle sticks incurred while manipulating needles without being able to see them during suturing).

Most reported clusters in the United States occurred before awareness increased of the risks of transmission of blood-borne pathogens in health-care settings and before

emphasis was placed on the use of universal precautions and hepatitis B vaccine among HCWs. The limited number of reports of HBV transmission from HCWs to patients in recent years may reflect the adoption of universal precautions and increased use of HBV vaccine. However, the limited number of recent reports does not preclude the occurrence of undetected or unreported small clusters or individual instances of transmission; routine use of gloves does not prevent most injuries caused by sharp instruments and does not eliminate the potential for exposure of a patient to an HCW's blood and transmission of HBV (6, 22-29).

Transmission of HIV During Invasive Procedures

The risk of HIV transmission to an HCW after percutaneous exposure to HIV-infected blood is considerably lower than the risk of HBV transmission after percutaneous exposure to HBeAG-positive blood (0.3% verus approximately 30%) (33-35). Thus, the risk of transmission of HIV from an infected HCW to a patient during an invasive procedure is likely to be proportionately lower than the risk of HBV transmission from an HBeAg-positive HCW to a patient during the same procedure. As with HBV, the relative infectivity of HIV probably varies among individuals and over time for a single individual. Unlike HBV infection, however, there is currently no readily available laboratory test for increased HIV unfectivity.

Investigation of a cluster of HIV infections among patients in the practice of one dentist with acquired immunodeficiency syndrome (AIDS) strongly suggested that HIV was transmitted to five of the approximately 850 patients evaluated through June 1991 (36-38). The investigation indicates that HIV transmission occurred during dental care, although the precise mechanisms of transmission have not been determined. In two other studies, when patients cared for by a general surgeon and a surgical resident who had AIDS were tested, all patients tested, 75 and 62, respectively, were negative for HIV infection (39, 40). In a fourth study, 143 patients who had been treated by a dental student with HIV infection and were later tested were all negative for HIV infection (41). In another investigation, HIV antibody testing was offered to all patients whose surgical procedures had been performed by a general surgeon within 7 years before the surgeon's diagnosis of AIDS; the data at which the surgeon became infected with HIV is unknown (42). Of 1,340 surgical patients contacted, 616 (46%) were tested for HIV. One patient, a known intravenous drug user, was HIV positive when tested but may already have been infected at the time of surgery. HIV test results for the 615 other surgical patients were negative (95% confidence interval for risk of transmission per operation=0.0%-0.5%).

The limited number of participants and the differences in procedures associated with these five investigations limit the ability to generalize from them and to define precisely the risk of HIV transmission from HIV-infested HCWs to patients. A precise estimate of the risk of HIV transmission from infected HCWs to patients can be determined only after careful evaluation of a substantially larger number of patients whose exposure-prone procedures have been performed by HIV-infected HCWs.

Exposure-Prone Procedures

Despite adherence to the principles of universal precaution, certain invasive surgical and dental procedures have been implicated in the transmission of HBV from infected HCWs to patients, and should be considered exposure-prone. Reported examples include certain oral, cardiothoracic, colorectal (CDC, unpublished data), and obstetric/gynecologic procedures (6, 12, 22-29).

Certain other invasive procedures should also be considered exposure-prone. In a prospective study CDC conducted in four hospitals, one or more percutaneous injuries occurred among surgical personnel during 96 (6.9%) of 1,382 operative procedures on the general surgery, gynecology, orthopedic, cardiac, and trauma services (43). Percutaneous exposure of the patient to the HCW's blood may have occurred when the sharp object causing the injury recontacted the patient's open wound in 28 (32%) of the 88 observed injuries to surgeons (range among surgical specialties=8%-57%; range among hospitals=24%-42%).

Characteristics of exposure-prone procedures include digital palpation of a needle tip in a body cavity or the simultaneous presence of the HCW's fingers and a needle or other sharp instrument or object in a poorly visualized or high confined anatomic site. Performance of exposure-prone procedures presents a recognized risk of percutaneous injury to the HCW, and-if such an injury occurs—the HCW's blood is likely to contact the patient's body cavity, subcutaneous tissues, and/or mucous membranes.

Experience with HBV indicates that invasive procedures that do not have the above characteristics would be expected to pose substantially lower risk, if any, of transmission of HIV and other blood-borne pathogens from an infected HCW to patients.

RECOMMENDATIONS

Investigations of HIV and HBV transmission from HCWs to patients indicate that, when HCWs adhere to recommended infection-control procedures, the risk of transmitting HBV from an infected HCW to a patient is small, and the risk of transmitting HIV is likely to be even smaller. However, the likelihood of exposure of the patient to an HCW's blood is greater for certain procedures designated as exposure-prone. To minimize the risk of HIV or HBV transmission, the following measures are recommended:

All HCWs should adhere to universal precautions, including the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments. HCWs who have exudative lesions or weeping dermatitis should refrain from all direct patient care and from handling patient-care equipment and devices used in peforming invasive procedures until the condition resolves. HCWs should also comply with current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

Currently available data provide no basis for recommendations to restrict the practice of HCWs infected with HIV or HBV who perform invasive procedures not identified as exposure-prone, provided the infected HCWs practice recommended surgical or dental technique and comply with universal precautions and current recommendations for sterilization/disinfection.

Exposure-prone procedures should be identified by medical/surgical/dental organizations and institutions at which the procedures are performed.

HCWs who perform exposure-prone procedures should know their HIV antibody status. HCWs who perform exposure-prone procedures and who do not have serologic evidence of immunity to HBV from vaccination or from previous infection should know their HBsAg status and, if that is positive, should also know their HBeAg status.

HCWs who are infected with HIV or HBV (and are HBeAg positive) should not perform exposure-prone procedures unless they have sought counsel from an expert review panel and been advised under what circumstances, if any, they may continue to perform these procedures.[1] Such circumstances would include notifying prospective patients of the HCW's seropositivity before they undergo exposure-prone invasive procedures.

Mandatory testing of HCWs for HIV antibody, HBsAg, or HBeAg is not recommended. The current assessment of the risk that infected HCWs will transmit HIV or HBV to patients during exposure-prone procedures does not support the diversion of resources that would be required to implement mandatory testing programs. Compliance by HCWs with recommendations can be increased through education, training, and appropriate confidentiality safeguards.

HCWS WHOSE PRACTICES ARE MODIFIED BECAUSE OF HIV OR HBV STATUS

HCWs whose practices are modified because of their HIV or HBV infection status should, whenever possible, be provided opportunities to continue appropriate patient-care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge, and skills, HCWs whose practices are modified because of HBV infection should be reevaluated periodically to determine whether their HBeAg status changes due to resolution of infection or as a result of treatment (44).

NOTIFICATION OF PATIENTS AND FOLLOW-UP STUDIES

The public health benefit of notification of patients who have had exposure-prone procedures performed by HCWs infected with HIV or positive for HBeAg should be considered on a case-by-case basis, taking into consideration an assessment of specific risks, confidentiality issues, and available resources. Carefully designed and implemented follow-up studies are necessary to determine more precisely the risk of transmission during such procedures. Decisions regarding notification and follow-up studies should be made in consultation with state and local public health officials.

ADDITIONAL NEEDS

Clearer definition of the nature, frequency, and circumstances of blood contact between patients and HCWs during invasive procedures.

Development and evaluation of new devices, protective barriers, and techniques that may prevent such blood contact without adversely affecting the quality of patient care.

More information on the potential for HIV and HBV transmission through contaminated instruments.

Improvements in sterilization and disinfection techniques for certain reusable equipment and devices.

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[1] The review panel should include experts who represent a balanced perspective. Such experts might include all of the following: a) the HCW's personal physician(s), b) an infectious disease specialist with expertise in the epidemiology of HIV and HBV transmission, c) a health professional with expertise in the procedures performed by the HCW, and d) state or local public health official(s). If the HCW's practice is institutionally based, the expert review panel might also include a member of the infection-control committee, preferably a hospital epidemiologist. HCWs who perform exposure-prone procedures outside the hospital/institutional setting should seek advice from appropriate state and local public health officials regarding the review process. Panels must recognize the importance of confidentiality and the privacy right of infected HCWs.

Identification of factors that may influence the likelihood of HIV or HBV transmission after exposure to HIV- or HBV-infected blood.

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APPENDIX

Definition of Invasive Procedure

An invasive procedure as defined as "surgical entry into tissues, cavities, or organs or repair of major traumatic injuries" associated with any of the following: "1) an operating or delivery room, emergency department, or outpatient setting, including both physicians' and dentists' offices; 2) cardiac catheterization and angiographic procedures; 3) a vaginal or cesarean delivery of other invasive obstetric procedure during which bleeding may occur; or 4) the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists."

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THE INTERNATIONAL COMMUNITY MUST SPEAK OUT AGAINST REPRESSION IN KOSOVA

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues an article by Peter Maass regarding the Yugoslav province of Kosova that appeared in this morning's Washington Post. During the last several weeks, much attention has been focused on Croatia and Slovenia, the two Yugoslav republics that have declared their independence from the federation, as well as on ethnic tension between Serbs and Croats throughout Yugoslavia.

Mr. Maass correctly points out, however, that a Serbian-sponsored crackdown is also occurring in another part of Yugoslavia, in Kosova, where ethnic Albanians comprise 90 percent of the population. He chronicles the most recent Serbian action to repress the Albanians—by denying them access to the university—and reminds us that "the moves come at the end of a decade-long crackdown in which more than 80 ethnic Albanians have been killed and 11,000 sentenced to jail terms."

I would also note that the article mentions that the Democratic Union of Kosova, the largest Albanian political parties "says that it wants to avoid mass protests that could be crushed by Serbian armed forces. Party leaders are

seeking international pressure on Serbia to ease the repression and prevent a potential disaster for their people." Moreover, Radio Free Europe reports that last week, Foreign Minister Kapllani of Albania expressed his concern about the situation in Kosova, saying that repression against Albanians there must become an international issue.

Mr. President, I believe that we should heed the pleas of the democratic forces in Kosova and of Mr. Kapllani by unequivocally condemning Serbian actions against the Albanian people. The issue of Kosova must be part of all internal and international discussions and negotiations on the issue of Yugoslavia's future.

I ask unanimous consent that the entire Washington Post article be printed in the RECORD.

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

[From the Washington Post, July 15, 1991]

SERBIANS PRESSING ETHNIC ALBANIANS IN UNEASY KOSOVO

(By Peter Mass)

PRISTINA, YUGOSLAVIA.—Serbia, the dominant republic of the Yugoslav federation, is bolstering a crackdown on ethic Alabanians in Kosova by sending more security forces into the volatile province and excluding students and professors from the main university here, according to Serbian officials.

Although Croatia and Slovenia have captured international attention, Kosovo is also an ethnic hotbed of anti-Serbian sentiment and could become a second front if fullfledged combat occurs in the northern republics. Ethnic Albanians here are just as determined as the Croats and Slovenes to find a way out of Serbian-dominated Yugoslavia, but they are far weaker, politically and militarily.

Serbia's moves appeared to be aimed at stemming secessionist pressures in a province where the vast majority clearly is dissatisfied with the status quo.

Zivorad Igic, a senior official of the ruling Socialist Party of Serbia, said additional forces and police have entered Kosovo since the independence declarations by Croatia and Slovenia last month, although he would not say how many or from what units.

Armed patrols and roadblocks have increased, becoming as prevalent as stop signs and traffic lights, according to ethnic Albanians here in Kosovo.

[In Croatia, the Associated Press reported from Zagreb, the republic's militia and Serbian militants battled Sunday in clashes that left at least two dead and many wounded in the Banija region, about 30 miles south of the Croatian capital.

[The violence came after the federal government, Croatia and Slovenia gave final approval for unarmed European Community observers to monitor a truce between the national army and the militias of the two secessionist republics.]

The situation here in Kosovo became more tense—and drew fury from neighboring Albania—with the annoucement by Serbian authorities that freshmen enrollment at the University of Kosovo will be cut by more than two-thirds to 3,000. Half of those places will be reserved for Serbo-Croat speakers, even though about 90 percent of Kosovo's 2 million people are ethnic Albanians who speak Albanian.

Albanians here say the Serbians aim to force them out of the university now, eventually, out of Kosovo. Until now, the university was the heart of what remained of Kosovo's Albanian culture and freedom during an era that the locals view as military occupation. It was also the place that Serbian officials pointed to when they told human rights investigators that ethnic Albanians were not being repressed.

"It is the center of our culture and spirit," said Jusuf Buxhovi, a leading politician and historian.

At the end of June, Serbia's government in Belgrade took direct control of the university and replaced its rector with a non-Albanian, who has begun firing Albanian professors. According to Gazmend Pula, an Albanian engineering science professor and member of the Yugoslav Helsinki Watch Committee, about 30 of the university's most prominent Albanian professors were fired last week, and more dismissals are expected.

Serbian officials announced that the university's name is to be changed, and they say it probably will be named after St. Sava, a Serb. It is a gesture that Albanians view as an intentional insult, an act of what one professor calls "Serbian triumphalism." Some Albanian-language books are said to have been removed from the library shelves.

"Tensions have been running very high and will be even higher in September." said Pula, referring to the start of the school year. "If this trend continues, it won't be long until things explode into an open conflict."

Igic, the Serbian socialist, said the changes are part of a "rationalization" program aimed at bringing the university closer into the Serbian educational system. Asked if the shifts amount to a stepped-up Serbianization of Kosovo, he replied, "Absolutely."

The moves come at the end of a decade-long crackdown in which more than 80 ethnic Albanians have been killed and 11,000 sentenced to jail terms, according to Helsinki Watch, a human rights group. A Special Circumstances Law passed by the Serbian Assembly in June 1990 created an undeclared state of emergency, according to a Helsinki Watch report, and led to the disbandment of the Kosovo legislature a few days later.

In practical terms, that meant the end of Kosovo's autonomous status within the Serbian republic. Serbians now run the local government, the police force and virtually all key factories and businesses, according to Serbians and Albanians. More than 70,000 ethnic Albanians have been fired from their jobs, said Pula of Helsinki Watch.

The roots of the Kosovo conflict extend far into the past, which is the direction many Yugoslavs look at when discussing modern problems. Serbians regard Kosovo as their historical heartland, the seat of a great medieval kingdom that Serbian children learn about in grade school. Even though Albanians have lived here for centuries, and few Serbs now call it home, Kosovo is portrayed as inseparable from Serbia.

"Everybody is free to leave but nobody is going to take an inch of Serbian land," said Igic.

Because Serbia's Slavic grip is tightening rather than loosening, the Albanians are looking for a way out. Local leaders say public opinion has swung firmly behind the idea of secession from Yugoslavia to unite with Albania, which is no longer Stalinist.

The Democratic Union of Kosovo, the largest Albanian political party, says it wants to avoid mass protests that could be crushed by Serbian armed forces. Party leaders are seeking international pressure on Serbia to ease the repression and prevent a potential disaster for their people.

The crackdown has raised new tensions between Serbia and Albania, which borders on Kosovo. The Albanian government has accused Serbia of planning genocide. This month Albania sent protest letters to the European Community, the permanent members of the U.N. Security Council and to the 35-nation Conference on Security and Cooperation in Europe.

The Serbian government responded a few days ago by accusing Albania of trying to provoke an armed conflict and capture Kosovo, saying minorities in Serbia enjoy freedoms unparalleled anywhere else in the world. Serbian authorities also accused Albania of beefing up its border forces and starting an exchange of rifle fire with Yugoslav soldiers early last week.

Albanian leaders in Pristina say they will look to Albania for political and military support if, as they fear, Serbian or federal troops initiate violent hostilities.

"We will wait for our chance," said Avni Spahiu, foreign editor of the Albanian-language newspaper Rilindja, which was closed last year by Serbia along with Kosovo's Albanian-language broadcasting. "We are for dialogue and a peaceful solution. But in the end, if this terror continues, we will have to defend ourselves."

ASHA JAINI

Mr. CRANSTON. Mr. President, it is with great sadness that I rise today to pay tribute to a young woman, Asha Jaini, who served on my staff. Asha Jaini died in a tragic accident earlier this month.

The Senate and the Nation are greatly served by the many talented and creative young people who come to Washington to work on public policy issues. We are immeasurably enriched by their contributions and commitment to public service. Asha Jaini was one of those talented young people.

Everyone who worked with Asha and whose life she touched knew that she was a very special person. Asha's parents immigrated to the United States from their native India in order to give Asha and her brother the opportunities and future that America offers. They ultimately settled in California. Her brother became a physician who now practices in northern California. Asha graduated from the University of California at Berkeley in 1980 with a degree in social welfare and went on the earn a law degree from American University in 1984.

Blessed with the talent and ability to succeed at anything, Asha chose a life dedicated to public service, chose to express her concern for people and issues of social justice by working for the welfare of those less fortunate.

Prior to joining my staff in 1989, Asha worked with the Neighborhood Legal Services Program in the District of Columbia and with Montana Legal Services Association, serving as an attorney/adviser to tribal court personnel on the Northern Cheyenne and Crow In-

dian Reservations and working with other low-income clients in Montana.

Her work continued in this spirit when she joined my staff in 1989, serving as my legislative assistant for human services issues, refugee and immigration reform, and finally, health care issues. In her free time, she helped found the Congressional Asian Pacific American Staffers Association and the Conference on Asian Pacific American Leadership.

Mr. President, Asha left my staff earlier this year to return to California to accept a position in the San Francisco city attorney's office. At the time of her death, she was preparing to take the California bar examination. She remained in close contact with my staff, and we all expected Asha to continue her commitment to public service.

Asha Jaini was 32 years old. She was a grifted, talented person. We will miss her greatly. Our hearts go out to her family and loved ones.

A memorial service for Asha will be held on Wednesday evening, from 6 to 7 p.m. in the Mansfield Room of the Capitol, S207. It is open to all Senate staff and friends who worked with Asha.

STOP SENDING ARMS TO THE GULF

Mr. CRANSTON. Mr. President, if we are serious about arms control, we must recongnize that long-awaited United States-Soviet arms reduction agreements are not enough. The rapid-fire proliferation of conventional and nonconventional weapons poses a serious threat the global stability.

I am particularly concerned that the administration is shepherding a multilateral effort to restrain the flow of arms to the Middle East at the same time it is selling hundreds of millions of dollars worth of lethal equipment to that region.

Who are we kidding here? There is little hope that other major suppliers will heed our advice on Middle East arms sales if we continue to arm the region ourselves.

A distinguished group of Senators has joined me in urging the President to hold off on the latest proposed sale of Apache helicopters and Hellfire missiles to the United Arab Emirates on the grounds that our efforts to create an arms control regime for the region are merely empty gestures if we proceed.

Our letter urges that Mr. Bush withold issuance of a letter of offer to the UAE until he has made a good-faith effort to secure the agreement of other suppliers not to make such a sale to the UAE and other regional states.

This arms sale to the UAE is particularly galling. I am deeply troubled by recent reports about the connection between the UAE and the Bank of Credit and Commerce and International, a shady international drug-money laundering operation. The principal shareholder of the notorious BCCI is UAE President Sheik Zayad bin Sultan al-Nahayan.

Can we be certain that money bilked from thousands of BCCI depositors who have been bankrupted by the bank is not now being used to pay for these weapons? Before this sale goes any further the administration should make a determination as to whether drug profits accruing to the Sheik or the UAE are being used to finance the sale.

The official deadline for expedited consideration of a resolution of disapproval on the UAE arms sale may have passed, but momentum in the Senate against arms sales to the region.

Thirty senators have cosponsored a resolution of disapproval that I have introduced on the sale of Apache helicopters and Hellfire missiles, and many others have indicated their opposition to the sale. Only inaction in the House precluded our taking up the resolution of disapproval here in the Senate.

I know there are bigger sales down the road and I urge the administration to defer proposing these transfers of sophisticated weaponry to the Middle East, a region already top-heavy with the instruments of death.

Mr. President, on behalf of this coalition of Senators who want to put a stop to the international arms race once and for all, I am putting the administration on notice. These arms sales must not fly.

I ask unanimous consent that a copy of this letter to President Bush be printed in the RECORD following my remarks.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 15, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you may be aware, joint resolutions of disapproval have been introduced in both the Senate and the House of Representatives to prohibit the sale proposed by the administration to the United Arab Emirates of 20 Apache attack helicopters, 620 Hellfire missiles and related equipment, support, and services.

Regardless of whether Congress acts on this, this remains a serious problem that, we believe, needs to be addressed immediately.

We recognize that some would agree with the administration that there is a defensible military purpose for this equipment, given the vulnerability of and threats to the United Arab Emirates' oil platforms in the Gulf. Moreover, we understand that the Emirates supported the forward-deployments in the war zone, created bases to facilitate U.S. deployments, volunteered other locations, and were among the first to pay their Desert Storm financial obligation, including $500 million to the United Kingdom and $2 billion to Egypt and Turkey.

We note, however, that the equipment proposed for transfer is the most sophisticated and lethal of its type in the United States arsenal, and it is precisely the kind of equipment the 22 nations involved in the CFE process thought it imperative to limit and control in the European theater. A number of experts believe, in the aftermath of the Gulf war, that prospects for stability and movement toward a lasting peace in the region could be enhanced if there could be a major suppliers agreement not to transfer the most sophisticated and lethal weapons systems into the region.

We commend your own initiative to bring about serious efforts by the major suppliers to foster a Middle East arms restraint regime. Frankly, we are concerned that this proposed sale and others now being contemplated by the administration could doom the suppliers effort to failure before it has a chance to demonstrate any prospects for success. Certainly, major arms sales now by the United States and other allies in a new competition would make suppliers conferences to control arms but empty gestures.

Accordingly, we urge, first, that you withhold issuance of a letter of offer to the United Arab Emirates until the United States has made a good-faith effort to secure the agreement of other suppliers not to make such a sale to the United Arab Emirates and other regional states.

Second, we urge that you direct the Departments of State and Defense to work with the United Arab Emirates to identify other, non-escalatory means of ensuring satisfactory defenses.

Finally, we urge that you defer proposing sales of highly sophisticated and capable weapons systems that could destabilize the balance in the region and provoke arms escalation until you have ascertained how much success you can expect in your negotiation with other major arms suppliers.

Sincerely,

Alan Cranston, Paul S. Sarbanes, Paul Simon, Christopher J. Dodd, Brock Adams, Claiborne Pell, James M. Jeffords, Harris Wofford, Charles E. Grassley, Daniel K. Akaka.

Jeff Bingaman, Kent Conrad, Thomas A. Daschle, Tom Harkin, Howard M. Metzenbaum, Arlen Specter, Frank R. Lautenberg, Dale Bumpers, Alfonse M. D'Amato, Bob Graham, Edward M. Kennedy, Barbara A. Mikulski, Paul Wellstone.

VIOLENT CRIME CONTROL ACT

The text of S. 1241, the Violent Crime Control Act, as passed by the Senate on July 11, 1991, is as follows:

S. 1241

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 Biden-Thurmond Violent Crime Control Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

Sec. 101. Short title.
Sec. 102. Grants to State and local agencies.
Sec. 103. Continuation of Federal-State funding formula.
Sec. 104. Grants for multi-jurisdictional drug task forces.

TITLE II—DEATH PENALTY
Sec. 201. Short title.
Sec. 202. Constitutional procedures for the imposition of the sentence of death.
Sec. 203. Specific offenses for which death penalty is authorized.
Sec. 204. Applicability to Uniform Code of Military Justice.
Sec. 205. Death penalty for murder by a Federal prisoner.
Sec. 206. Death penalty for civil rights murders.
Sec. 207. Murder involving firearm.
Sec. 208. Drug-related homicides in the District of Columbia.
TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT
Sec. 301. Death penalty for the murder of Federal law enforcement officials.
Sec. 302. Death penalty for the murder of State officials assisting Federal law enforcement officials.
TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT
Sec. 401. Short title.
Sec. 402. Death penalty for drug kingpins.
TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS
Subtitle A—Aviation Terrorism
Sec. 501. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
Sec. 502. Amendment to Federal Aviation Act.
Sec. 503. Preventing acts of terrorism against civilian aviation.
Subtitle B—Maritime Terrorism
Sec. 511. Short title for subtitle B.
Sec. 512. Findings.
Sec. 513. Statement of purpose.
Sec. 514. Offenses of violence against maritime navigation or fixed platforms.
Sec. 515. Clerical amendments.
Sec. 516. Effective dates.
Sec. 517. Territorial sea extending to twelve miles included in special maritime and territorial jurisdiction.
Sec. 518. Assimilated crimes in extended territorial sea.
Sec. 519. Jurisdiction over crimes against United States nationals on certain foreign ships.
Subtitle C—Terrorism Offenses and Sanctions
Sec. 521. Torture.
Sec. 522. Weapons of mass destruction.
Sec. 523. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 524. Penalties for international terrorist acts.
Sec. 525. Terrorist Death Penalty Act.
Subtitle D—Preventing Domestic and International Terrorist Acts
PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS
Sec. 531. Providing material support to terrorists.
Sec. 532. Forfeiture of assets used to support terrorists.
PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS
Sec. 541. Short title.
Sec. 542. Alien witness cooperation.
Sec. 543. Conforming amendment.
Subtitle E—Preventing Economic Terrorism
Sec. 551. Counterfeiting United States currency abroad.
Sec. 552. Economic terrorism task force.
Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies
Sec. 561. Authorizations of appropriations.
TITLE VI—DRIVE-BY SHOOTING ACT
Sec. 601. Short title.
Sec. 602. New offense for the indiscriminate use of weapons to further drug conspiracies.
TITLE VII—ASSAULT WEAPONS
Sec. 701. Short title.
Sec. 702. Unlawful acts.
Sec. 703. Definitions.
Sec. 704. Secretary to recommend designation as assault weapon.
Sec. 705. Enhanced penalties.
Sec. 706. Disability.
Sec. 707. Study by Attorney General.
Sec. 708. Penalties for improper transfer, stealing firearms, or smuggling an assault weapon in drug-related offense.
Sec. 709. Sunset provision.
TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT
Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 804. Designation of lead agency and submission of State plan.
Subtitle A—Police Corps Program
Sec. 811. Definitions.
Sec. 812. Scholarship assistance.
Sec. 813. Selection of participants.
Sec. 814. Police corps training.
Sec. 815. Service obligation.
Sec. 816. State plan requirements.
Sec. 817. Authorization of appropriations.
Subtitle B—Law Enforcement Scholarship Program
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Sec. 822. Definitions.
Sec. 823. Allotment.
Sec. 824. Program established.
Sec. 825. Scholarships.
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Sec. 827. State application.
Sec. 828. Local application.
Sec. 829. Scholarship agreement.
Sec. 830. Authorization of appropriations.
Subtitle C—Reports
Sec. 831. Reports to Congress.
TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991
Sec. 901. Short title.
Sec. 902. Rights of law enforcement officers.
TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES
Sec. 1001. Short title.
Sec. 1002. Authorization for Federal law enforcement agencies.
Sec. 1003. Authorization of funds for construction of a United States Attorneys' Office in Philadelphia, Pennnsylvania.
Sec. 1004. Court to be held at Lancaster.
TITLE XI—HABEAS CORPUS REFORM
Subtitle A—General Habeas Corpus Reform
Sec. 1101. Short title.
Sec. 1102. Period of limitation.
Sec. 1103. Appeal.
Sec. 1104. Amendment to Rules of Appellate Procedure.
Sec. 1105. Section 2254 amendments.
Sec. 1106. Section 2255 amendments.
Subtitle B—Death Penalty Litigation Procedures
Sec. 1111. Short title for Subtitle B.
Sec. 1112. Death penalty litigation procedures.
TITLE XII—PUNISHMENT OF GUN CRIMINALS
Sec. 1201. Short title.
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Sec. 1211. Death penalty for gun murders.
Sec. 1212. Increased penalties for violent gun crimes.
Sec. 1213. 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.
Subtitle B—Firearms and Related Amendments
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Sec. 1222. Clarification of definition of conviction.
Sec. 1223. Smuggling firearms in aid of drug trafficking.
Sec. 1224. Theft of firearms and explosives.
Sec. 1225. Conforming amendment providing mandatory revocation of supervised release for possession of a firearm.
Sec. 1226. Increased penalty for knowingly making false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 1227. Statute of limitations for certain gangster weapon offenses.
Sec. 1228. Possession of explosives by felons and others.
Sec. 1229. Summary destruction of explosives subject to forfeiture.
Sec. 1230. Summary forfeiture of unregistered National Firearms Act weapons.
Sec. 1231. Disposition of forfeited firearms.
Sec. 1232. Elimination of outmoded language relating to parole.
Sec. 1233. Possession of stolen firearms.
Sec. 1234. Using a firearm in the commission of counterfeiting or forgery.
Sec. 1235. Mandatory penalty for firearms possession by violent felons and serious drug offenders.
Sec. 1236. Possession of stolen firearms and explosives.
Sec. 1237. Receipt of firearms by nonresident.
Sec. 1238. Firearms and explosives conspiracy.
Sec. 1239. Theft of firearms or explosives from licensee.
Sec. 1240. Disposing of explosives to prohibited persons.
Sec. 1241. Clarification of "burglary" under the armed career criminal statute.
Sec. 1242. Clarification of penalty enhancement.
TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS
Sec. 1301. Regional prisons.
TITLE XIV—BOOT CAMPS
Sec. 1401. Boot camps.

Sec. 1402. Use of prefabricated modular housing.

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

Sec. 1501. Strengthening Federal penalties.

Subtitle B—Antigang Grants

Sec. 1511. Grant program.
Sec. 1512. Conforming amendments.

Subtitle C—Juvenile Penalties

Sec. 1521. Treatment of violent juveniles as adults.
Sec. 1522. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.

TITLE XVI—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

Sec. 1601. Authorizations for rural law enforcement agencies.
Sec. 1602. Rural drug enforcement task forces.
Sec. 1603. Cross-designation of Federal officers.
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Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

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Sec. 1612. Strengthening Federal penalties.

Subtitle C—Rural Drug Prevention and Treatment

Sec. 1621. Rural substance abuse treatment and education grants.
Sec. 1622. Clearinghouse program.

Subtitle D—Rural Land Recovery Act

Sec. 1631. Director of rural land recovery.
Sec. 1632. Prosecution of clandestine laboratory operators.

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

Sec. 1641. Drug free truck stops and safety rest areas.

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

Sec. 1701. Short title.
Sec. 1702. Drug emergency areas.

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

Sec. 1801. Short title.
Sec. 1802. State laws applied in areas of Federal jurisdiction.
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Sec. 1804. Sense of Congress concerning child custody and visitation rights.

TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

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Sec. 1902. Purpose.
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Sec. 2101. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 2102. Use of civil injunctive remedies, forfeiture sanctions, and other remedies against drug offenders.

TITLE XXII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

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TITLE XXIII—EXCLUSIONARY RULE

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TITLE XXIV—FEDERAL PRISONER DRUG TESTING

Sec. 2401. Federal prisoner drug testing.
Sec. 2402. Mandatory penalties for illegal drug use in Federal prisons.

TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

Sec. 2501. Increase in maximum penalty for assault.
Sec. 2502. Increased maximum penalty for manslaughter.
Sec. 2503. Increased maximum penalties for civil rights violations.
Sec. 2504. Increased penalty for Travel Act violations.
Sec. 2505. Increased penalty for conspiracy to commit murder for hire.
Sec. 2506. Repealing surcharge on equitable sharing cases.
Sec. 2507. Increased penalties for trafficking in counterfeit goods and services.
Sec. 2508. Life imprisonment without release for criminals convicted a third time.
Sec. 2509. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
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TITLE XXVI—OBSTRUCTION OF JUSTICE

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TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

Sec. 2701. Federal firearms licensee required to conduct criminal background check before transfer of firearm to nonlicensee.
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TITLE XXIX—MOTOR VEHICLE THEFT PREVENTION

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TITLE XXX—MISSING ALZHEIMER'S DISEASE PATIENTS

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TITLE XXXI—PRECURSOR CHEMICALS

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Sec. 4701. Short title.
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TITLE XLVIII—PUBLIC CORRUPTION

Sec. 4801. Short title.
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Sec. 4901. Disclosure of records of arrests by campus police.
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Sec. 4918. Award of attorney's fees for employees of Department of Justice.
Sec. 4919. Aliens convicted of felony drunk driving.
Sec. 4920. Prisoner's place of imprisonment.
Sec. 4921. Department of Justice Community Substance Abuse Prevention Act of 1991.
Sec. 4922. Regional violent crime assistance.
Sec. 4923. Funding for death penalty prosecutions.
Sec. 4924. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

SEC. 104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Onmibus 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 multi-jurisdictional drug task forces, no".

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background or character that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commis-

sion of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection shall include factors concerning the effect of the offense on the victim and the victim's family, and shall be based on a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, describes the necessary course of treatment for the victim and the victim's family, and contains any other information related to the impact of the offense on the victim and the victim's family that the court may require. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also re-

turn to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for and raised on appeal,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability; lacks the mantal capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country.

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than

$50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. MURDER INVOLVING FIREARM.

Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"§ . Murder involving firearm

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is Federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) INTENT OF CONGRESS.—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 murders involving firearms that have moved in interstate or foreign commerce 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.".

(b) By amending the section analysis to add:

" . Murder involving firearm.".

SEC. 208. DRUG-RELATED HOMICIDES IN THE DISTRICT OF COLUMBIA.

(a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.

(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it, shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

SEC. 402. DEATH PENALTY FOR DRUG KINGPINS.

Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(a) striking the "(3)" before the words "any other offense for which" and inserting a "(6)";

(b) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or"; and

(c) at the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3)-(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

Subtitle A—Aviation Terrorism

SEC. 501. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States, or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 502. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

SEC. 503. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

Subtitle B—Maritime Terrorism

SEC. 511. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms".

SEC. 512. FINDINGS.

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

SEC. 513. STATEMENT OF PURPOSE.

The purpose of this subtitle is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify Federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish Federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

SEC. 514. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)–(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) '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));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)–(5),

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) '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));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 515. CLERICAL AMENDMENTS.

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 516. EFFECTIVE DATES.

Section 514 of this subtitle shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 517. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 518. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and

artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 519. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

Subtitle C—Terrorism Offenses and Sanctions

SEC. 521. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture ..... 2340.".

SEC. 522. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction.".

SEC. 523. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 524. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting "ten".

SEC. 525. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

Subtitle D—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

SEC. 531. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

SEC. 532. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

"(F) Any property, real or personal—

"(i) used or intended for use for; or

"(ii) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses."; and

(2) in section 982(a) by inserting at the end thereof the following:

"(5) Any property, real or personal—

"(A) used or intended for use for; or

"(B) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses.".

PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

SEC. 541. SHORT TITLE.

This part may be cited as the "Alien Witness Cooperation Act of 1991".

SEC. 542. ALIEN WITNESS COOPERATION.

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

"As used in section 3528, the terms 'alien' and 'United States' shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).";

and

(3) inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.".

SEC. 543. CONFORMING AMENDMENT.

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

"3528. Aliens; waiver of admission requirements.".

Subtitle E—Preventing Economic Terrorism

SEC. 551. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery ..... 470".

SEC. 552. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies

SEC. 561. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

TITLE VI—DRIVE-BY SHOOTING ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Drive-By Shooting Prevention Act of 1991".

SEC. 602. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section

401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

TITLE VII—ASSAULT WEAPONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(t)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(29) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 708. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING AN ASSAULT WEAPON IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 709. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 707, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 707, shall be repealed.

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree, including

the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 822. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill of Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819. (a) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (g), under circumstances that could lead to disciplinary action, the following minimum standards shall apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(b) OPPORTUNITY FOR A HEARING.—(1) Except in a case of summary punishment or emergency suspension described in subsection (c), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(3) A penalty greater than that which was recommended by the trial board cannot be imposed upon the officer.

"(c) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(d) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(e) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(f) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(g) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(h) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(i) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(j) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(k) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State shall have not more than 2 legislative sessions to enact a Law Enforcement Officers' Bill of Rights that provides rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(2) After the expiration of the time limit described in paragraph (1), a law enforcement officer shall have a cause of action in State court for the recovery of pecuniary and other damages and full reinstatement against a law enforcement agency that materially violates the rights afforded by this section.

"(3) The sovereign immunity of a State shall not apply in the case of a violation of the rights afforded by this section.

"(l) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

SEC. 1003. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES 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 United States 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 United States Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

SEC. 1004. 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".

TITLE XI—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 1101. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1102. PERIOD OF LIMITATION.

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

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

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 1103. APPEAL.

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

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

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

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 1104. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

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

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 1105. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United State Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

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

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective

process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

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

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ 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 proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 1106. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

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

Subtitle B—Death Penalty Litigation Procedures

SEC. 1111. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 1112. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

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

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

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

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

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

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

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

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

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

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to state unitary review procedure

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

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(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 United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

SEC. 1212. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting 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 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) discharges, uses, carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries, or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years."; and

(2) striking subparagraph (B), as designated by section 1211 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a short-

barreled rifle, a short-barreled shotgun, a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment.".

(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

SEC. 1213. 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:

"(4)(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 paragraph, 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 paragraph, 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 paragraph, nor shall the term of imprisonment imposed under this paragraph 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 paragraph 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 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 paragraph 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 paragraph, 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 paragraph the term 'crime of violence' means an offense that is punishable by imprisonment for more than one year and—

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

"(ii) that by its nature, involves 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 paragraph 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 subparagraph 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 paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce.".

Subtitle B—Firearms and Related Amendments

SEC. 1221. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) POSSESSION OF EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by—

(1) striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) PENALTY.—Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

SEC. 1222. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 1223. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 1224. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof:

"(j) whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 1225. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 1226. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 1227. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses de-

scribed in section 5861 (relating to firearms) and the period of limitation shall be six years".

SEC. 1228. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 1229. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 1230. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

Section 5872 of title 26, United States Code, is amended by redesignating subsection (a) as subsection (a)(1) and by adding paragraphs (2) and (3) to read as follows:

"(2) UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.—Notwithstanding the provisions of paragraph (1), the provisions of sections 7323 and 7325 shall not apply to any firearm which is not registered in the National Firearms Registration and Transfer Record pursuant to section 5841. No property rights shall exist in any such unregistered firearm and it shall be summarily forfeited to the United States.

"(3) RIGHTS OF INNOCENT OWNERS.—Within one year after the summary forfeiture made pursuant to paragraph (2) the owner of, including any person having an interest in, the property seized may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) such property has not been involved or used in a violation of law; or

"(B) any unlawful involvement or use of such property had been without the claimant's consent, knowledge, or willful blindness,

the Secretary shall make an allowance to such claimant not exceeding the value of the property so forfeited.".

SEC. 1231. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5872(b)), is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 1232. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 1233. POSSESSION OF STOLEN FIREARMS.

Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "receive,".

SEC. 1234. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 1235. MANDATORY PENALTY FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924(a)(2) of title 18, United States Code, is amended by inserting a comma before "or both" and by inserting before the period at the end thereof the following: ", and if the violation is a violation of subsection (g)(1) of section 922 by a person who has a previous conviction for a violent felony or a serious drug offense as defined in subsection (e)(2) of this section, a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years.".

SEC. 1236. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal";

(b) EXPLOSIVES.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal".

SEC. 1237. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

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

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

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 1238. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1239. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 1240. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting in lieu thereof "person".

SEC. 1241. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding at the end thereof the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1242. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c)(1)(D) of title 18, United States Code, is amended by striking "convicted of a violation of" and inserting "sentenced pursuant to".

TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS

SEC. 1301. REGIONAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of the Bureau of Prisons, after consulting with the Director of National Drug Control Policy, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

TITLE XIV—BOOT CAMPS

SEC. 1401. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 15 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department or the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant is eligible for assignment to a boot camp under State law.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the privisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

SEC. 1402. USE OF PREFABRICATED MODULAR HOUSING.

Not later than 120 days after the date of enactment of this Act, and at least 60 days prior to the completion of planning or award of a contract for the acquisition or construction of facilities for any light or medium security prison, the Bureau of Prisons shall prepare and submit to Congress a report that—

(1) assesses the feasibility and cost-effectiveness of using prefabricated modular units such as Quonset huts for permanent or temporary housing and other facilities in light, medium, and maximum security prisons;

(2) describes the types of facilities for which the use of such units is feasible and cost-effective and identifies plans by the Bureau to use such units at particular prisons; and

(3) describes the types of facilities for which the use of such units is considered not to be feasible or cost-effective and identifies plans for particular prisons for which the use of such units either has not been considered or has been rejected for the reason that their use would not be feasible or cost-effective or for any other reason.

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 1501. STRENGTHENING FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

Subtitle B—Antigang Grants

SEC. 1511. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction 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. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 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 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"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.

"AUTHORIZATION

"SEC. 234. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 235. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

"APPLICATION

"SEC. 236. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1512. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

Subtitle C—Juvenile Penalties

SEC. 1521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 1522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

TITLE XVI—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1601. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 1602. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1603. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1604. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

SEC. 1611. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 1612. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

Subtitle C—Rural Drug Prevention and Treatment

SEC. 1621. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1622. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle D—Rural Land Recovery Act

SEC. 1631. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 1502(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities outlined under this subtitle.

SEC. 1632. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) IN GENERAL.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) LAW SUITS.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

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 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 lo-

cated 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.

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 1702. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, $300,000,000 to carry out the purposes of this subsection.".

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5

years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

SEC. 1901. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1902. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(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.

SEC. 1903. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(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.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1904. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, criminal defense, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1905. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

SEC. 1906. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1907. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

TITLE XX—PROTECTION OF CRIME VICTIMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 2002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respective; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(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.

"(B) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.".

SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

TITLE XXI—CRACK HOUSE EVICTION ACT

SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end thereof the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

TITLE XXII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SECTION 2201. SHORT TITLE.

This title may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 2202. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review

twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2203. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 2204. DUTIES.

(a) IN GENERAL. —The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2205. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 2206. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2207. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2208. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 2209. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2208.

SEC. 2210. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and title II, section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) is repealed.

TITLE XXIII—EXCLUSIONARY RULE

SEC. 2301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE XXIV—FEDERAL PRISONER DRUG TESTING

SEC. 2401. 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 a 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.".

SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

SEC. 2501. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000" and inserting "under this title";

(2) inserting ", or inflicts bodily injury," after "weapon"; and

(3) striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c) by—

(A) striking "of not more than $1,000" and inserting "under this title"; and

(B) striking "five" and inserting "ten"; and

(2) in subsection (e) by—

(A) striking "of not more than $300" and inserting "under this title"; and

(B) striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000," and inserting "under this title,";

(2) inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) striking "not more than $10,000" and inserting "under this title"; and

(4) striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended by—

(1) striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) striking "not more than $5,000," and inserting "under this title,"; and

(3) inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 2502. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b) by—

(A) inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 2503. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended by—

(1) striking "more more than $1,000" an inserting "under this title" ;

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results"; and

(4) striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by—

(1) striking "not more than $1,000" and inserting "under this title";

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) striking "not more than $10,000" and inserting "under this title";

(4) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2), by—

(A) striking "serious"; and

(B) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 2504. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 2505. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 2506. REPEALING SURCHARGE ON EQUITABLE SHARING CASES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 2507. 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),".

SEC. 2508. 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".

SEC. 2509. 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.".

SEC. 2510. 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 ramsom 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 section 1324(a)(2)(A) of title 8, United States Code.

TITLE XXVI—OBSTRUCTION OF JUSTICE

SEC. 2601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 2602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of The Biden-Thurmond Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 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;

"(D) the law of the State 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 verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of The Biden-Thurmond Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunications facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(i) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction would violate Federal, State, or local law, the officer shall, within 5 days after the date the transferee made such statement, destroy the statement and any record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of The Biden-Thurmond Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm 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 national instant criminal background check system established under section 2703 of The Biden-Thurmond Violent Crime Control Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm 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;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunications facilities in the remote location of the licensed premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm 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) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), 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.

"(5) A State employee, or a political subdivision of a State or employee thereof, responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months 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 national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an online capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has acheived at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other 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 firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922(g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General

shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—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—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(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 Attorney General under section 3 of The Biden-Thurmond Violent Crime Control Act of 1991 with the Attorney General for the purpose of implementing The Biden-Thurmond Violent Crime Control Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference 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, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

TITLE XXVIII—BAIL POSTING REPORTING

SEC. 2801. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2802. 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).

TITLE XXIX—MOTOR VEHICLE THEFT PREVENTION

SEC. 2901. 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 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 enforcement 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.".

TITLE XXX—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 3001. 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.

TITLE XXXI—PRECURSOR CHEMICALS

SEC. 3101. SHORT TITLE.

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

SEC. 3102. 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 by 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 be 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. 3103. 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 chemicals" 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 a 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 (g) 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:

"(2) 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. 3104. 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. 3105. 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 follow 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 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 wth title 18, or imprisoned not more than 10 years, or both.".

SEC. 3106. 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 reports 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 3105 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 recordkeeping 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. 3107. 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. 3108. 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. 3109. 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. 3110. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by section 3102 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 of multiple transactions".

SEC. 3111. 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 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. 3112. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Public Law 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. 3113. 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, and the following, 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. 3114. 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 title. Except as otherwise noted, this title will become effective 120 days after enactment.

TITLE XXXII—MURDER OF UNITED STATES NATIONALS

SEC. 3201. SHORT TITLE.

This title may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 3202. 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. 3203. 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),".

TITLE XXXIII—TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 3301. SHORT TITLE.

This title may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 3302. 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 calls 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. 3303. 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 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 ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 3304. 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 OF 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 title, 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. 3305. 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 order 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. 3306. 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. 3307. SUBPOENA.

(a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission 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 subparagrph (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. 3308. 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. 3309. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquiries 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 inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

SEC. 3310. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is 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 reason of having been obtained in violation of law; or".

SEC. 3311. 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. 3312. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 3304 and 3305 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 title 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. 80a-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. 80a-2(a)(36)).

SEC. 3313. 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. 3314. SUNSET.

The provisions of sections 3303, 3304, and 3305 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

TITLE XXXIV—SENTENCING

SEC. 3401. 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. 3402. 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. 3403. 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. 3404. 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 statue 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.".

TITLE XXXV—CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 3501. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 3502. 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. 3503. 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.".

TITLE XXXVI—CHILD ABUSER REGISTRATION

SEC. 3601. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 3602. 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; and

(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.

SEC. 3603. 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. 3604. 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. 3605. REPORTING BY THE STATES.

(a) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

SEC. 3606. COMPLIANCE AND FUNDING.

(a) STATE COMPLIANCE.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 3605.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 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 subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

TITLE XXXVII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 3701. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 3702. 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. 3703. 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 clause (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. 3704. 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 collapses in the future.".

TITLE XXXVIII—INSURANCE CONSUMER PROTECTION

SEC. 3801. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act".

SEC. 3802. 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. 3803. 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,".

TITLE XXXIX—RURAL CRIME PREVENTION STRATEGY

SEC. 3901. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group as convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 3902. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this title is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 3903. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this title as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the com-

munity in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this title.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 3904. PILOT PROGRAMS.

(a) IN GENERAL.—The Director is authorized to make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 3905. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this title.

TITLE XL—VIOLENT FELONIES AGAINST THE ELDERLY

SEC. 4001. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) IN GENERAL.—Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(5) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony 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; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(2) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed".

(3) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "In General." and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

TITLE XLI—INTERNATIONAL PARENTAL CHILD KIDNAPPING

SEC. 4101. OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1204. International parental child kidnapping

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'child' means an individual under the age of sixteen at the time the offense occurred;

"(2) the term 'person' means a parent, putative parent, or family member related to the child victim by blood or marriage;

"(3) the term 'lawful custodian' means—

"(A) an individual or individuals granted legal custody or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married to each other, the father's paternity has not been established by a court of law, and no other individual has been granted custody of the child by a court of law;

"(b) Any person who—

"(1) intentionally removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States—

"(A) without the consent of the individual who has been granted sole custody, care, possession, or guardianship of the child;

"(B) for more than 90 days without consent of the other joint custodial parent;

"(C) in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State, or the United States;

"(D) without the consent of the mother or lawful custodian of the child if the parents have never been married to each other and the father has never established paternity in a court of law;

"(E) during the pendency of a judicial proceeding affecting marriage, custody, or paternity, but prior to the issuance of a temporary or final order determining custody;

"(F) when the child was taken with physical force or the threat of physical force; or

"(G) if the parents of such child are or have been married to each other, or have never been married to each other, but paternity has been established by a court of law, and there has been no court order of custody, and conceals the child for fifteen days outside the jurisdiction of the United States,

and fails to make reasonable attempts within the fifteen-day period to notify the other parent of the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(2) being a parent of the child, instructs another person to remove, conceal, or detain the child when that act when committed by the instructing parent would be a violation of this section; or

"(3) removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States, for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law,

shall be guilty of child kidnapping and shall be fined in accordance with this title or imprisoned not more than three years, or both.

"(d) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(e) There is criminal jurisdiction over conduct prohibited by this section if any court in the United States has or could have jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the Uniform Child Custody Jurisdiction Act.".

(2) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child kidnapping.".

(b) INCREASED PENALTY.—Section 994 of title 28, United States Code, is amended by—

(1) redesignating subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) as subsections (p), (q), (r), (s), (t), (u), (v), (w), (x), and (y), respectively; and

(2) inserting after subsection (n) the following new subsection:

"(o) The Commission shall ensure that the guidelines reflect the appropriateness of imposing a greater sentence than would otherwise be imposed for an offense under section 1204 of title 18, United States Code, if—

"(1) the defendant abused or neglected the kidnapped child during the removal, concealing, or detaining of the child or placed or caused the child to be placed in the care of another individual who abused or neglected the child;

"(2) the defendant inflicted or threatened to inflict physical harm on the child or on a parent or lawful custodian of the child with the intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) the defendant demanded payment in exchange for return of the kidnapped child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

"(4) the defendant committed the offense while armed with a deadly weapon or the removal of the child resulted in serious bodily injury to another individual.".

SEC. 4102. EFFECT OF PRIOR REMOVAL.

If a child was removed from the territorial jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by section 4101, may be brought only in cases involving the concealing or detaining of the child in violation of a court order that was in effect at the time of the child's removal from the territorial jurisdiction of the United States.

SEC. 4103. RELATION TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION.

(a) RULE OF CONSTRUCTION.—None of the provisions of this title or amendments made by this title shall be construed to detract from the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

SEC. 4104. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING AND EDUCATIONAL PROGRAMS.

There is authorized to be appropriated $250,000 to conduct national, regional, and State training and education programs on criminal and civil aspects of international and interstate parental child abduction under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.).

TITLE XLII—UNITED STATES MARSHALS ASSOCIATION

SEC. 4201. SHORT TITLE.

This title may be cited as the "United States Marshals Association Establishment Act".

SEC. 4202. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (hereinafter in this title referred to as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 4203. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (hereinafter referred to in this title as the "Board"), which shall consist of not less than 3 nor more than 20 Directors, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The Directors of the Board first appointed shall be appointed by the United States Marshals Association, a non-profit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The Directors of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—Any Director of the Board may be appointed with the advice of the Director of the United States Marshals Service (hereinafter referred to in this title as the "Director").

(4) TERMS.—The Directors of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No individual may serve for more than 2 consecutive terms as a Director of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a Director of the Board misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this title; and

(C) carrying out such other actions as may be necessary to carry out this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid 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, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable

under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer, and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this title. Members of the Advisory Council have no vote in matters before the Association.

SEC. 4204. MEMBERSHIP.

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 4205. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) IN GENERAL.—The Association—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

The service of process upon the agent required under paragraph (4), or the mailing of such process to the business address of such agent, shall be deemed to be service upon the Association.

(b) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(c) POWERS.—To carry out its purposes under section 4202, the Association shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 4206. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 4203, not to exceed the then current Federal Government per diem rates, for a period of up to 5 years from the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 4207. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this title.

SEC. 4208. RESTRICTIONS.

(a) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or Director of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any Director of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 4209. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101 through 1103), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURE TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 4202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 4210. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 4211. NONDISCRIMINATION.

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability, of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 4212. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the

laws of the State of Virginia before the enactment of this Act.

SEC. 4213. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this title at any time.

TITLE XLIII—LITERACY EDUCATION FOR STATE PRISONERS

SEC. 4301. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; 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 or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(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; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(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; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized 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 and the names and types of tests that were used to determine disabilities affecting 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 systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in paragraph (a) 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 operating 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.

(e) DEFINITION.—For the purposes of this section the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, inter-personal and family relationships, and stress and anger management.

TITLE XLIV—DRUG SUPPLY REDUCTION

Subtitle A—Interdiction Systems Improvements

SEC. 4401. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Order To Land and To Bring To Act of 1991".

SEC. 4402. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances, as that term is defined in the Controlled Substances Act, or relating to money laundering (sections 1956–57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section—

"(1) a 'vessel of the United States' or a 'vessel subject to the jurisdiction of the United States' has the meaning set forth in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such

property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 4403. FAA REVOCATION AUTHORITY.

(a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A) of this subsection (3); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection (d):

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that (A) such person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18 of the United States Code, and (B) that such person knew or had reason to know that he had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of paragraph (1) of this subsection shall not apply.

"(3) The provisions of subsection (c)(3) of this section shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 4404. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of such title is amended by adding at the end the following:

"96. Air interdiction authority.".

SEC. 4405. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"SEC. 667. CIVIL PENALTY FOR FAILURE TO COMPLY WITH A LAWFUL BOARDING OR ORDER TO LAND.—

"(a) The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is also liable in rem for the criminal or civil penalty assessed under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 666 the following:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 4406. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 4407. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"§ 591. Civil penalty for failure to obey an order to land or to bring to

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

Subtitle B—New Coast Guard Authorities

SEC. 4411. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Coast Guard Assistance Act of 1991".

SEC. 4412. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the text, the words "and international organizations" after "with foreign governments", and the words "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(2) by adding a new subsection "(b)" as follows:

"(b) The Coast Guard may, when so requested by the Secretary of State, utilize its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 4413. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"The President may upon application from the foreign governments or international organizations concerned, and whenever in his discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance. Utilization of members may include the detail of such members. Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. While so detailed, such officers and enlisted members shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 7 of title 14, United States Code, is amended by replacing the wording following "149" with: "Assistance to foreign governments and international organizations.".

SEC. 4414. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS

Section 2291(c)(4) of title 22, United States Code, is amended by inserting the words ",

and archipelagic waters" after the words "territorial sea".

TITLE XLV—ENVIRONMENTAL COMPLIANCE

SEC. 4501. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense, require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

"34. Environmental compliance ..... 731".

Title XLVI—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 4601. SHORT TITLE.

This Act may be cited as the "Miscellaneous Criminal Law Improvements Act of 1991".

Subtitle A—Sentencing and Magistrates Amendments

SEC. 4611. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 4612. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 4613. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

SEC. 4614. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

SEC. 4615. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation, or commit him to official detention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)" and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) if any other case beyond the lesser of—

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

Subtitle B—White Collar Crime Amendments

SEC. 4621. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 4622. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end thereof the following item:

"880. Receiving the proceeds of extortion.".

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 4623. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 4624. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 4625. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 4626. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

Subtitle C—Miscellaneous Amendments

SEC. 4631. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or (4)(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 4632. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following: "Livestock means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 4633. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.".

Subtitle D—Technical Amendments

SEC. 4641. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)";

(7)(A) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)";

(B) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101-123 as subsection (h).

SEC. 4642. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1014, by striking "Reconstruction Finance Corporation," by striking "Farmers' Home Corporation," and by striking the second comma following the words "Federal Reserve Act";

(10) in section 1160, by striking "white person" and inserting in lieu thereof "non-Indian";

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing subsections (f) and (g) that were enacted by Public Law 100-690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 4643. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 4644. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 4645. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 151, by striking "mean" and inserting in lieu thereof "means";

(2) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(3) in section 1014, by striking the comma following a comma after "Act";

(4) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(6) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

SEC. 4646. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in", and by deleting "such inhabitant" and inserting in lieu thereof "such person".

Subtitle E—Miscellaneous Provisions

SEC. 4651. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled,

robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term 'official representation' means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 4652. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 4653. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended—

(1) by amending the title of such section to read as follows:

"SEC. 1703. SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES";

(2) by amending the title of subsection (a) to read as follows:

"(a) VESSELS, VEHICLES AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE";

(3) by amending the title of subsection (b) to read as follows:

"(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED";

(4) by inserting ", vehicle, or other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

(b) The table of sections for chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.

"(a) Vessels, vehicle and other conveyances subject to seizure and forfeiture.

"(b) Vessels, vehicles and other conveyances, defined.

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.".

SEC. 4654. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 4655. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

"(3) EFFECTIVE DATE—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 4656. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 4657. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 4658. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 4659. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

SEC. 4660. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 4661. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances."; and

SEC. 4662. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Sections 401(b)(1) (A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) Sections 1010(b) (1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 4663. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

TITLE XLVII—EXPLOITATION OF ALIENS

SEC. 4701. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 4702. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 4703. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 4702 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

TITLE XLVIII—PUBLIC CORRUPTION

SEC. 4801. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 4802. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or

because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 4803. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 4804. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 4805. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

TITLE XLIX—GENERAL PROVISIONS

SEC. 4901. 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 institution that are required by State law to be made available to the public;".

SEC. 4902. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

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".

SEC. 4903. 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.

SEC. 4904. 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 designed for use or intended 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 designed 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.".

SEC. 4905. 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.".

SEC. 4906. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

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.

SEC. 4907. 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.

SEC. 4908. 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 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 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.

SEC. 4909. 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, of 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).".

(d) 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(a)(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".

SEC. 4910. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of the remaining State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

SEC. 4911. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) 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;".

SEC. 4912. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 4913. WIRETAPS.

(a) Section 2511(1) of title 18 is amended—

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

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation;".

(b) Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 4914. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(b) A museum which exhibits to the public or holds in storage any stolen object of cultural heritage knowing such object is stolen shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(c) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(d) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(e) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means a stolen object reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

SEC. 4915. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

(4) only one of these vacancies has been filled, and

(5) during the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

(6) the enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

(7) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

(8) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

(9) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

(10) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(11) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 4916. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

SEC. 4917. USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

SEC. 4918. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

In section 519, of title 28, United States Code, designate the current matter as subsection "(a)" and add the following:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 4919. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

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

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

SEC. 4920. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.".

SEC. 4921. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

SEC. 4922. REGIONAL VIOLENT CRIME ASSISTANCE.

(a) AUTHORIZATION OF GRANTS.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) AMOUNT OF GRANTS.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its au-

thorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 4923. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

SEC. 4924. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) Section 524(c)(7) of title 28, United States Code, as amended by section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) Section 524(c)(6)(C) of title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, 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.)

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF HUNGARY ON PEACEFUL USES OF NUCLEAR ENERGY MESSAGE FROM THE PRESIDENT—PM—62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Hungary Concerning Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 10, 1991, by representatives of the United States of America and the Republic of Hungary. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991*.

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENT OF THE CZECH AND SLOVAK REPUBLIC ON THE PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement Between the Government of the United States of America and the Government of the Czech and Slovak Federal Republic on Cooperation in Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 13, 1991, by representatives of the United States of America and the Czech and Slovak Federal Republic. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991*.

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House agrees to the amendment of the Senate numbered 3, to the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs; and that the House agrees to the amendments of the Senate numbered 1 and 2 to the bill, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 656. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing;

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes;

H.R. 2282. An act to amend the National Science Foundation Authorization Act of 1988, and for other purposes;

H.J. Res. 23. Joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week";

H.J. Res. 130. Joint resolution to designate January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 656. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 23. Joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week"; to the Committee on the Judiciary.

H.J. Res. 130. Joint resolution to designate January 1, 1992, as "National Ellis Island Day"; to the Committee on the Judiciary.

Pursuant to the order of the Senate of March 3, 1988, the following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2282. An act to amend the National Science Foundation Authorization Act of 1988, and for other purposes; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

H.J. Res. 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1605. A communication from the Administrator of General Services, transmitting, pursuant to law, the first report of personal property programs; to the Committee on Governmental Affairs.

EC-1606. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of August 30, 1890 and the Act of March 4, 1907 to eliminate the provisions for permanent annual appropriations to support land grant university instruction in the food and agricultural sciences; to the Committee on Appropriations.

EC-1607. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on the transfer of certain funds; to the Committee on Appropriations.

EC-1608. A communication from the Assistant Secretary of the Air Force (Acquisition), tramsmitting, pursuant to law, notice of proposed study of certain functions at various locations for conversion to performance by contract; to the Committee on Armed Services.

EC-1609. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase the age at which a member of the Senior Reserve Officers' Training Corps receiving financial assistance may be appointed as a commissioned officer if the member is enrolled in a baccalaureate nursing program; to the Committee on Armed Services.

EC-1610. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 2352 of title 10, United States Code, to allow research and development contracts to be for a term of not more than ten years, and to authorize the Secretary of Defense to approve up to two additional performance periods, each for not more than five years, when found to be in the best interests of the Government; to the Committee on Armed Services.

EC-1611. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize revisions to current legislation that will improve the acquisition reporting process for major defense acquisition programs; to the Committee on Armed Services.

EC-1612. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to establish a Department of Defense Laboratory Revitalization Demonstration Program for the purpose of improving management, efficiency, and overall effectiveness of DoD laboratories and centers; to the Committee on Armed Services.

EC-1613. A communication from the General Council of the Department of Defense, transmitting a draft of proposed legislation to authorize the President to transfer defense articles to member countries of the North Atlantic Treaty Organization in accord with the Treaty on Conventional Armed Forces in Europe, and for other purposes; to the Committee on Armed Services.

EC-1614. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on a baseline deviation notice from the Navy on the T45TS program and the intention to review the program; to the Committee on Armed Services.

EC-1615. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual reports of the Federal National Mortgage Association and the Federal Home Loan Mortgage Association for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1616. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, notice on leasing system for the Western Gulf of Mexico, Sale 135, scheduled to be held in August 1991; to the Committee on Energy and Natural Resources.

EC-1617. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Defense Waste Cleanup Technology Program for fiscal year 1990; to the Committee on Environment and Public Works.

EC-1618. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report entitled "Monitoring Access: Report to Congress"; to the Committee on Finance.

EC-1619. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on assistance related to international terrorism provided by the United States Government to foreign countries; to the Committee on Foreign Relations.

EC-1620. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-52 adopted by the Counil on June 18, 1991; to the Committee on Governmental Affairs.

EC-1621. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-53 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1622. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-54 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1623. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-55 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-56 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1625. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–57 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1626. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–58 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1627. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–59 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1628. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–60 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1629. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–61 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC–1630. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on credit management and debt collection; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–170. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 42

"Whereas, the strength and vitality of this country's financial system has depended in large part on separate state and federal regulation of this country's financial institutions; and

"Whereas, the dual banking system has fostered creativity and innovation at the state level which has often led to the development of banking products, services and laws which benefit citizens nationwide; and

"Whereas, state legislatures and state banking regulators are best able to evaluate and respond to the needs and characteristics of local markets, businesses and communities; and

"Whereas, in recognition of the primacy of state legislatures and state banking regulators with respect to the regulation of state chartered financial institutions, federal law has historically been drafted and interpreted so as not to intrude upon the regulatory authority of state legislatures and state banking regulators; and

"Whereas, the State of Delaware has been, and continues to be, a leader in instituting banking laws and policies which have had a positive national impact, carefully utilizing it's authority to regulate and to grant powers to state chartered banks; and

"Whereas, the citizens, industries and businesses of the State of Delaware and the entire nation benefit from the dynamics of the dual banking system and its unique complementary system of state and national banks and regulators, which is similar to our system of government; and

"Whereas, there are congressional proposals under consideration which would hinder the dual banking system and would limit these benefits.

"Now, therefore:

"Be it resolved by the House of Representative and the Senate of the 136th general assembly of the State of Delaware that we hereby affirm continued support and commitment to a strong and viable dual banking system.

"Be it further resolved that the Delaware State Senate and House of Representatives of the 136th General Assembly of the State of Delaware pause in deliberations to express its strong opposition to any proposals which would eliminate or weaken the dual banking system.

"Be it further resolved that the Delaware State Senate and House of Representatives of the 136th General Assembly of the State of Delaware urge Delaware's Congressional Delegation, and the Congress as a whole, to prevent or defeat any such proposals.

"Be it further resolved that certified copies of this Resolution be transmitted to the Delaware Secretary of State, to the President and Secretary of the United States Senate, to the Speaker and the Clerk of the United States House of Representatives, to each member of this state's delegation to the Congress and to the Secretary of the Treasury."

POM–171. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources:

"SENATE RESOLUTION 7

"Be it resolved by the Senate:

"Whereas the federal government is and will continue to be the largest landowner in the State of Alaska; and

"Whereas 165,400,000 acres of federal parks, preserves, wildlife refuges, wilderness, and other federal land in Alaska are closed to all forms of economic development, including mineral exploration and mining; and

"Whereas 49,600,000 acres of federal land in Alaska are still open to mineral exploration and mining; and

"Whereas a healthy mining industry can provide new jobs in many remote parts of Alaska, jobs that are well-paying, year-around, and skilled; and

"Whereas the existing federal mining law system has served our nation well since it was first enacted in 1872; and

"Whereas the existing federal mining law system has been amended more than 50 times to accommodate changing conditions; and

"Whereas mining must already comply with numerous state and federal laws concerning water and air quality, reclamation, land management, health and safety; and

"Whereas if individuals and companies risk their time and money in search of economic mineral deposits, they must have a reasonable assurance that they will be able to mine the minerals they find;

"Be it resolved that the Senate supports the existing federal mining law system; and

"Further resolved that the Senate urges the United States Congress to continue to support the existing federal mining law system."

POM–172. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION NO. 74

"Whereas, production of oil and gas within Louisiana and from areas on the Outer Continental Shelf adjacent to Louisiana is an essential part of the nation's energy supply and, as highlighted by the recent Persian Gulf War, is an essential element of the nation's security structure; and

"Whereas, much of Louisiana's non-oil and gas related industry is made up of large energy-consuming industries attracted to Louisiana because of its proximity to such large hydrocarbon reserves; and

"Whereas, Louisiana has been subjected to federal energy policies relative to oil and gas from the federal Outer Continental Shelf which do not provide sufficiently for the operation of free market economics and which tend to ignore Louisiana's supply needs, or, at best, relegate those needs to an inferior national position; and

"Whereas, such a condition requires the various aspects of federal energy policy to be coordinated with the energy policy and needs of Louisiana.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to coordinate the following aspects of federal energy policy with the policy and needs of Louisiana in order to provide:

"(1) That residential and industrial consumers in Louisiana have access to natural gas from the Outer Continental Shelf because of Louisiana's status as a net consumer of in-state produced natural gas.

"(2) That the Louisiana congressional delegation be encouraged to support federal funding in the form of coastal impact assistance to offset the adverse impacts of Outer Continental Shelf mineral leasing, exploration, and production activities.

"(3) That federal energy conservation tax credits for energy conservation measures which avoid environmental impacts and imported energy costs to the nation be restored.

"(4) That the federal government provide tax incentives to encourage exploration and development of oil and gas prospects including the following: maintaining the intangible drilling cost deduction; repealing the 'transfer rule' that prohibits a new owner from taking the percentage depletion allowance once the well has been sold; providing tax credits for expenses associated with new exploration and maintaining marginal wells; setting a minimum tax exclusion that would allow the percentage depletion allowance to be taken for up to one hundred percent of the net income from the property; and allowing the expensing of geological costs.

"(5) That, recognizing the global warming trend, the federal government encourage stricter worldwide air emission standards for the use or consumption of energy.

"(6) That federal energy efficiency standards be set or strengthened for buildings, automobiles, lighting and industrial processes.

"(7) That the federal energy research and development budget be reviewed for equity of funding among oil, natural gas, coal, conservation and long-term energy prospects like geopressure/geothermal reserves.

"(8) That the Louisiana Congressional delegation continue to work with the governor to capture an increased share of federal Louisiana congressional energy research and development monies for Louisiana.

"(9) That Louisiana and other domestic producers be assured access to new markets for their natural gas, for instance by assuring Gulf Coast interconnects to any new gas pipeline projects serving the Northeast, and that regulatory review of projects involving Louisiana and other domestic energy resources be expedited.

"(10) That electric utilities continue to be encouraged to sell their underutilized capacity to utilities in other states.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-173. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

SENATE CONCURRENT RESOLUTION NO. 75

"Whereas, the Corps of Engineers must perform maintenance dredging to the many federal navigation channels that lace Louisiana's wetlands; and

"Whereas, the Corps has in several instances, used dredged material from the maintenance of navigation channels to create marsh, but the amount used is negligible compared to the considerable amount of material dredged annually; and

"Whereas, such spoil material could be used in wetland creation or bank stabilization, either of which would serve to partially offset wetland damages that continue to accrue as a result of channel maintenance; and

"Whereas, the United States Environmental Protection Agency has significant oversight in the selection of these dumping sites chosen by the Corps of Engineers; and

"Whereas, under the federal consistency provisions of the Coastal Zone Management Act, federal activities must be consistent with the approved state coastal management program.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to require the United States Army Corps of Engineers and the Environmental Protection Agency to jointly adopt and implement a plan for the beneficial use of all dredged material for the purpose of creating and enhancing vegetated wetlands.

"Be it further resolved that the Legislature of Louisiana memorializes Congress to require the Corps of Engineers to include all additional costs associated with the creation and enhancement of vegetated wetlands in their annual budget for maintenance dredging.

"Be it further resolved that the Legislature of Louisiana memorializes Congress to appropriate the necessary funds for this purpose.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-174. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION NO. 76

"Whereas, a national environmental disaster continues to occur in Louisiana as our coastline countinues to recede; and

"Whereas, the problems in Louisiana are unique in that eighty percent of wetland loss in the continental United States is occurring in Louisiana, although that state contains just forty percent of the nation's wetlands; and

"Whereas, wetland resources play a vital role in the environmental and economic health of the nation, and therefore, providing adequate protection and management of the resources are essential; and

"Whereas, Louisiana's wetlands serve multiple ecological and natural functions, and the loss and deterioration of these coastal wetlands results in the loss and deterioration of fish and wildlife habitat which supports extensive and diverse fish and wildlife population, including several threatened and endangered species; and

"Whereas, the development of oil and gas reserves to supply the energy needs of the nation have contributed to wetland loss as canals were cut across marshes to lay the pipelines that transport our continental shelf oil and gas to other states; and

"Whereas, the United States Army Corps of Engineers constructed navigation channels for interstate commerce which has caused destruction to our coastal vegetated wetlands by allowing saltwater intrusion; and

"Whereas, the nation's wetlands resource base has suffered significant degradation, resulting in the need for more effective and evenhanded regulatory programs to limit such loss and provide for restoration and enhancement of the resource base; and

"Whereas, the federal permit program establish under Section 404 of the Federal Water Pollution Control Act was not originally conceived as a wetlands regulatory program and is currently insufficient to assure that the nation's wetlands resource base will be conserved and managed in a fair and environmentally sound manner; and

"Whereas, variations in wetland values or functions should be taken into account in determining the character and extent of regulation of activities occurring in wetland areas.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to enact legislation establishing a clear national wetlands policy and comprehensive federal wetland regulatory program to:

"(1) Asset federal regulatory jurisdiction over a broad category of specifically identified activities that result in the degradation or loss of higher value wetlands;

"(2) Account for variations in wetlands values or functions in determining the character and extent of regulation of activities occurring in wetlands areas;

"(3) Provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

"(4) Encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

"(5) Balance public and private interests in determining the conditions under which economic activity in wetlands areas may occur.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-175. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION NO. 77

"Whereas, Louisiana's wetlands are indeed the national treasure to which they are so commonly referred and their continued deterioration will cause federal, state, and local investments to be jeopardized; and

"Whereas, the health and survival of Louisiana's coastal marshland and its matchless natural resources play an important role in the economic health of the nation with its oil and gas resources, commercial and recreational fisheries resources, hunting, trapping, and recreational coastal pursuits; and

"Whereas, areas of open water continue to form due to the levee construction along the main channel of the Mississippi River and major tributaries; and

"Whereas, these levees were constructed to control flooding and facilitate navigation; and

"Whereas, while the construction of major navigation channels has provided tremendous economic benefits to the nation and to Louisiana, the lack of a broader multipurpose perspective has led to water quality and vegetated wetland deterioration; and

"Whereas, the traditional, narrow focus of water development projects on navigation and flood control must be expanded.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to expand the current mission of federal agencies, particularly the Corps of Engineers, by adding protection, enhancement, and creation of vegetated wetlands to the current missions of navigation and flood control, with the new mission receiving equal status.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-176. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works:

"HOUSE JOINT RESOLUTION 91-1042

"Whereas, Colorado is a member delegate of the Multistate Highway Transportation Agreement, which recognizes the need for a strong federal highway trust fund; and

"Whereas, High quality highways and airports are critical to manufacturers who produce and transport products and to the ability of states and communities to attract new industry and sustain economic growth; and

"Whereas, Colorado industries, including agriculture, tourism, service, and manufacturing, depend on safe, efficient transportation of people and goods; and

"Whereas, There is a growing and concentrated national demand for programs to serve the country's highway and airway transportation needs through the year 2020; and

"Whereas, Large scale rehabilitation, repair, and capacity improvements are ongoing necessities of the national highway and airway systems; and

"Whereas, An increase investment in transportation is essential if we are to maintain our current system and expand the network to meet growing needs; and

"Whereas, Federal highway trust funds historically have been supported by federal taxes on motor fuels utilized by highway users; and

"Whereas, A buildup of the highway trust fund has occurred because obligation ceilings, which limit the amounts that states may commit each year to transportation projects, are imposed by the appropriations process; and

"Whereas, In all recent federal-aid highway acts, the Congress of the United States has been required to include provisions for extending the highway trust fund and the taxes which fund it; and

"Whereas, In recent years, aviation and highway trust funds have been diverted to reduce the federal deficit; and

"Whereas, The removal of the airport and airway trust fund from the federal unified budget would provide approximately eight billion dollars for modernization of airports and other improvements in the nation's aviation system; and

"Whereas, The removal of the highway trust fund from the federal unified trust fund

would provide more than ten billion dollars for transportation, and, based on current allocation formulas, Colorado's share of these vitally needed funds would be one hundred forty-two million dollars; and

"Whereas, The current federal-aid highway program expires on September 31, 1991; and

"Whereas, Current national policy makes no provision for continuing the federal-aid highway program in the future; now, therefore,

"*Be It Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:*

"(1) That the Colorado General Assembly hereby urges members of the United States Congress to enact in a timely manner new long-range transportation funding legislation that is fair and equitable to all states and that preserves the integrity of the highway trust fund.

"(2) That the President of the United States and the Congress of the United States are urged to make permanent the highway trust fund and the airport and airway trust fund and the user fees accruing to them to ensure that reliable funding sources are available for constructing, rehabilitating, and otherwise improving the highways, bridges, and airports which are so essential to the vigor of the state of Colorado and the national economy.

"(3) That the President of the United States and the Congress of the United States are urged to protect the highway trust fund and the airport and airway trust fund from predatory proposals to divert users' revenues to programs unrelated to the transportation purposes for which the funds were established.

"(4) That the Congress of the United States is urged to remove the highway trust fund and the airport and airway trust fund from the federal unified budget, release sequestered transportation funds, and remove forever the specter of using dedicated highway or airway funds available for the nation's infrastructure, for which such funds were collected and intended.

"*Be it further resolved,* That copies of this Resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Colorado Congressional Delegation."

POM-177. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 83

"Whereas, approximately $600 million in local sales taxes and $2.4 billion in state sales taxes go uncollected each year as a result of the United States Supreme Court's decision in *Bellas Hess* v. *Illinois Department of Revenue;* and

"Whereas, if federal legislation authorizes states and local governments to collect sales taxes from interstate sales transactions is enacted, the estimated tax revenues for the state of Louisiana are $30.7 million for the state and $24.9 million for local governments within the state; and

"Whereas, passage of such legislation is of vital concern to local governments in Louisiana due to the loss of federal revenue sharing and budget cuts at the state level; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes.

"Therefore, be it resolved that the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-178. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 13

"Whereas, the provisions of 42 U.S.C. 415 for determining the primary insurance amount of a person receiving social security were amended in 1977 by P.L. 95-216; and

"Whereas, that amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas, persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies", receive lower benefits than persons who were born before that time; and

"Whereas, the payment of benefits under the social security system is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas, the discrimination between persons receiving benefits it totally inequitable and contrary to the principles of justice and fairness; and

"Whereas, the Social Security Trust Fund has adequate reserves to eliminate this gross inequity.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to eliminate inequities in the payment of social security benefits to persons based on the year in which they initially become eligible for such benefits.

"Be it further resolved that the Legislature of Louisiana requests that these inequities be eliminated without reducing the benefits of persons who were born before 1917.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-179. A resolution adopted by the Council of the County of Kauai, Hawaii supporting the exclusion from social security withholding any earnings by election officials on election days; to the Committee on Finance.

POM-180. A joint resolution adopted by the Legislature of the State of Nevada; to the Select Committee on Indian Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 30

"Whereas, The Supreme Court of the United States in *Duro* v. *Reina* has reversed 200 years of the exercise by Indian tribes of criminal misdemeanor jurisdiction over all Indians residing on their reservations by ruling that tribes only retain such powers over Indians who are on the official tribal roll; and

"Whereas, This ruling displays a lack of understanding of the reality, history and demographics of Indian reservations, including the fact that there are tens of thousands of Indians living on reservations who are not on official tribal rolls; and

"Whereas, Often a nonenrolled Indian has lived on a reservation all of his life, married an enrolled Indian with whom he has children and may even own land and property on the reservation; and

"Whereas, A nonenrolled Indian is eligible for all programs that any Indian would be eligible for and is essentially given all the benefits of membership in the tribe including preference for employment; and

"Whereas, For the purposes of law enforcement, tribes have never distinguished between enrolled and nonenrolled Indians; and

"Whereas, The Supreme Court's ruling has created an entire class of people over whom neither the federal, state or tribal governments have jurisdiction for misdemeanor crimes, thereby creating a potential for serious lawlessness; and

"Whereas, The State of Nevada does not have the funding available to hire the many extra police, investigators, prosecutors and judges or to build the jails that would be necessary to prosecute misdemeanor crimes by Indians within the boundaries of Indian reservations and may not be able to assert successfully jurisdiction even if the money was available; and

"Whereas, The nontaxable status of reservation trust lands combined with the relative poverty of most Indian people do not offer any opportunity to raise the additional revenue that would be required to assume responsibility for such a large job if jurisdiction were established; and

"Whereas, The Supreme Court indicated that it is the responsibility of Congress to address any void in jurisdiction that may result from this ruling; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, Jointly, That the members of the 66th session of the Nevada Legislature commend the Congress of the United States for passing section 8077 (b) and (c) of Public Law 101-511, signed by the President on November 5, 1990, which temporarily affirmed that tribes do retain criminal misdemeanor jurisdiction over all Indians on Indian reservations and hereby urges the Congress of the United States to make this provision permanent law; and be it further

"Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval.

POM-181. A resolution adopted by the Tahoe Regional Planning Agency urging adoption of amendments to the Tahoe Regional Planning Compact; to the Committee on the Judiciary.

POM-182. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 96

"Whereas, Christopher Columbus, who was scientific by nature and trusting to divine inspiration, did devote his life to exploration and discovery; and

"Whereas, although faced with the universal position of the scientific, ecclesiastical, and ruling authorities of his time that the world was flat, Christopher Columbus did with infinite patience and dedication recognize, assimilate, and publish valid and useful information as to the true condition of the earth; and

"Whereas, by recognition and acceptance of this theory, Christopher Columbus did ardently set his life's goal and formulated a plan to uncover and establish the expanse and configuration of our planet; and

"Whereas, Christopher Columbus resolutely and convincingly petitioned the Spanish nation to appropriate and commit the re-

quired resources necessary to accomplish his goal of proving his theory; and

"Whereas, after undertaking his plan of exploration Christopher Columbus was beset by numerous incidents of intrigue and mutiny, limited by crude equipment, challenged by angry and uncharted seas, confronted often by fear and greed in the hearts of his crew, and aware of his own doubts and misgivings; and

"Whereas, by patiently and devotedly following his course and by giving firm and courageous leadership to his men, Christopher Columbus did discover American territory on October 12, 1492.

"Therefore, be it resolved that the Legislature of Louisiana does hereby recognize the many accomplishments of Christopher Columbus, particularly his discovery of the New World.

"Be it further resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to adopt a resolution naming and forever recognizing Christopher Columbus as a citizen of the United States of America.

"Be it further resolved that copies of this Resolution be transmitted to the speaker of the United States House of Representatives, the president of the United States Senate, and all members of the Congressional delegation from Louisiana."

POM-183. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Rules and Administration:

"HOUSE CONCURRENT RESOLUTION NO. 183

"Whereas, the freedom we enjoy as United States citizens is guarded by the men and women in the armed forces and should not be taken for granted; and

"Whereas, in the recent history of our country we have been involved in conflicts which have required the deployment of the armed forces, and these conflicts have resulted in more than 88,000 American service personnel remaining prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas, the United States Senate Foreign Relations Committee released an interim report that concluded that American service personnel were held in Southeast Asia after the end of the Viet Nam conflict; and

"Whereas, on April 12, 1973, the United States Department of Defense publicly stated that there was "no evidence" of live American POW's in Southeast Asia; and

"Whereas, the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas, no POW's held by the Laotian government and military forces were ever released; and

"Whereas, there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of "unresolved" and "discrepancy" cases; and

"Whereas, in October 1990, the United States Senate Foreign Relations Committee released an "Interim Report on the Southeast Asian POW/MIA Issue" that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was "no evidence" of live POW's, and that information available to the United States government does not rule out the probability that United States citizens are still being held in Southeast Asia; and

"Whereas, the Senate interim report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or was "misinterpreted or manipulated" in government files; and

"Whereas, the POW/MIA truth bill would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas, this bill would censor the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these many years.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to appoint a select committee to assist the United States Senate Foreign Relations Committee in obtaining information in government files, to begin immediate committee hearings to consider enacting the POW/MIA truth bill, and to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia.

"Be it further resolved that the legislature does provide that a copy of this Resolution be transmitted to the secretary of state, the president and secretary of the United States Senate, the speaker and chief clerk of the United States House of Representatives, and each member of the Louisiana congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 749. A bill to rename and expand the boundaries of the Mound City Group National Monument in Ohio (Rept. No. 102-108).

By Mr. CRANSTON, from the Committee on Veterans Affairs, with amendments:

H.R. 153. A bill to make technical amendments to the Veterans' Judicial Review Act.

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. COCHRAN (by request):

S. 1472. A bill to extend and amend programs under the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1473. A bill entitled the "Materials Recycling Enhancement Act of 1991"; to the Committee on Environment and Public Works.

By Mr. REID:

S. 1474. A bill to provide Federal Government guarantees of investments of State and local government pensions funds for construction of magnetic levitation transportation facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS):

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. BOREN, Mr. SHELBY, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 177. A joint resolution prohibiting the proposed sale to the Republic of Korea of F-16C/D aircraft and other specified defense articles and defense service, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. SHELBY, Mr. BOREN, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 178. A joint resolution prohibiting the proposed export to the Republic of Korea of certain technical data and equipment related to the sale of F-16C/D aircraft, pursuant to section 36(c) of such Act; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (by request):

S. 1472. A bill to extend and amend programs under the Older Americans Act, and for other purposes; to the Committee on Labor and Human Resources.

OLDER AMERICANS ACT AMENDMENTS OF 1991

Mr. COCHRAN. Mr. President, I am pleased today to introduce, at the request of the Administration, the Older Americans Act Amendments of 1991, to reauthorize programs that help meet some of the most important day-to-day needs of older Americans.

The Older Americans Act, which is the major vehicle for the organization and delivery of social and nutritional services to the elderly, was last reauthorized in the 100th Congress. On Wednesday, July 17, the Committee on Labor and Human Resources is scheduled to consider and markup legislation to reauthorize the Act for another 4 years.

Mr. President, in order that all Senators may be informed of the Administration's proposal for reauthorization of the Older Americans Act, I request that the transmittal letter from Secretary Sullivan, a section-by-section analysis, and a copy of the bill be printed in the RECORD.

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

S. 1472

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) This Act may be cited as the "Older Americans Act Amendments of 1991".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other pro-

vision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965, unless otherwise specifically stated.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL COUNCIL ON AGING.

Section 204(g) (42 U.S.C. 3015(g)) is amended by striking out all that follows "this section" and inserting instead "$181,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

SEC. 3. BIENNIAL PUBLICATION OF GOALS.

Section 205(d) (42 U.S.C. 3016(d)) is amended—

(1) by striking out "each fiscal year" and inserting instead "each odd-numbered fiscal year"; and

(2) by striking out "in the first fiscal year" and inserting instead "in the first two fiscal years".

SEC. 4. SCOPE OF STATE GRANT PROGRAM.

(a) PURPOSE.—Section 301(a) (42 U.S.C. 3031(a)) is amended to read as follows:

"Sec. 301. (a) It is the purpose of this title to encourage and assist States and local communities, acting through State and area agencies—

"(1) to develop and operate comprehensive and coordinated systems to serve older individuals, in order to secure and maintain, to the maximum extent feasible, older individuals' independence, dignity, and participation in the community, with particular emphasis on meeting the service needs of those individuals at greatest risk of losing their independence; and

"(2) to secure and support the participation in such comprehensive and coordinated systems of all sectors of the community, including—

"(A) organizations and entities participating as providers of services pursuant to agreements under State and area plans;

"(B) relatives, volunteers, and other individuals and entities providing care and services to older individuals, including those providing care and services in informal and uncompensated arrangements; and

"(C) businesses, community groups, fraternal organizations, State and local government agencies, and other entities, with particular emphasis on outreach to those entities that have not previously been active participants in the network of entities seeking to meet needs of older individuals.".

(b) DEFINITION OF COMPREHENSIVE AND COORDINATED SYSTEM.—Section 302(1) (42 U.S.C. 3022(1)) is amended to read as follows:

"(1) The term 'comprehensive and coordinated system' means a system designed to enable older individuals to obtain all necessary care and services in order to maintain, to the maximum extent feasible, their independence, dignity, and participation in the community, through activities including—

"(A) informing older individuals of the availability, and facilitating their use, of services provided by any public or private entity, including services (such as medical or educational services) not available under this title;

"(B) making the most efficient use of funds available under this title for nutrition services, supportive services and senior centers, and for other activities, by methods including avoidance of duplication of activities being carried out with other resources, and obtaining additional cash and in-kind support for activities under this title; and

"(C) ensuring, to the maximum extent feasible, the availability within the geographic area served by the system of all services needed by older individuals, through methods including cooperation and coordination with entities providing such services, outreach to entities in the public and private sectors that have unrealized potential for meeting service needs of older individuals, and providing encouragement and assistance to individuals and entities providing care and services to older individuals on a voluntary basis.".

SEC. 5. DEFINITION OF POVERTY LINE.

Section 302 (42 U.S.C. 3022) is amended—

(1) in paragraph (2), by striking out "poverty levels" and inserting instead "poverty line"; and

(2) by adding at the end the following new paragraph:

"(22) The term 'poverty line' means the official poverty line as defined by the Office of Management and Budget.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING; REPEAL OF UNIMPLEMENTED AUTHORITIES AND RESTRICTIONS.

(a) AUTHORIZATIONS.—(1) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) (42 U.S.C. 3023(a)(1)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $290,818,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(2) OMBUDSMAN SERVICES.—Section 303(a)(2) (42 U.S.C. 3023(a)(2)) is amended to read as follows:

"(2) There are authorized to be appropriated $2,439,525 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994, to supplement other funds available under this title to carry out section 307(a)(12).".

(3) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) (42 U.S.C. 3023(b)(1)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $361,083,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(4) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) (42 U.S.C. 3023(b)(2)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $87,831,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(5) IN-HOME SERVICES FOR FRAIL ELDERLY.—Section 303(d) (42 U.S.C. 3023(d)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $6,831,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994,".

(6) ELDER ABUSE SERVICES.—Section 303(g) (42 U.S.C. 3023(g)) is amended by striking out all that precedes "to carry out" and inserting instead "There are authorized to be appropriated $2,927,475 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994,".

(b) REPEALS.—(1) OUTREACH ACTIVITIES.—(A) Section 306(a)(6) (42 U.S.C. 3026(a)(6)) is amended—

(i) by inserting "and" at the end of subparagraph (N);

(ii) by striking out "; and" at the end of subparagraph (O) and inserting a semicolon instead; and

(iii) by striking out subparagraph (P).

(B) Section 307(a)(20) (42 U.S.C. 3027(a)(20)) is amended in subparagraph (A) by striking out "and 306(a)(6)(P)".

(C) Section 307(a)(31) (42 U.S.C. 3027(a)(31)) is repealed.

(D) Section 303(a)(3) (42 U.S.C. 3023(a)(3)) is repealed.

(2) SPECIAL NEEDS.—(A) Part E of title III (42 U.S.C. 303(l) is repealed.

(B) Section 303(e) (42 U.S.C. 3023(e)) is repealed.

(3) PREVENTIVE HEALTH SERVICES.—(A) part F of title III (42 U.S.C. 3030m) is repealed.

(B) Section 303(f) (42 U.S.C. 3023(f)) is repealed.

(4) RESTRICTIONS ON APPROPRIATIONS.—Section 303(h) (42 U.S.C. 3023(h)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) Part G of title III and section 371 (42 U.S.C. 3030p) are respectively redesignated part E of title III and section 351.

(2) Section 306(a) (42 U.S.C. 3026(a)) is amended.—

(A) by inserting "and" at the end of paragraph (7);

(B) by striking out the semicolon at the end of paragraph (8) and inserting a period instead; and

(C) by striking out paragraphs (9) and (10).

(3) Section 307(a)(30) (42 U.S.C. 3027(a)(30)) is repealed.

(4) Section 304(d)(1) (42 U.S.C. 3024(d)(1)) is amended in subparagraphs (B) and (C) by striking out "(excluding any amount attributable to funds appropriated under section 303(a)(3)".

(5) Section 303(g) (42 U.S.C. 3023(g)) is redesignated as subsection (e), and is amended by striking out "part G" and inserting instead "part E".

SEC. 7. STATE DISTRIBUTION FORMULA; PROVIDER AGREEMENTS.

(a) STATE DISTRIBUTION FORMULA.—(1) Section 305(a)(2)(C) (42 U.S.C. 3025(a)(2)(C)) is amended to read as follows:

"(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

"(i) the geographical distribution of individuals aged 60 and older in the State, and

"(ii) the distribution among planning and service areas of such individuals in greatest economic or social need, with particular attention to low-income minority individuals;".

(2) Section 305(a)(2)(D) (42 U.S.C. 3025(a)(2)(D)) is amended by striking out "review and comment" and inserting instead "approval".

(3) The amendments made by this subsection shall be effective, with respect to a State, with respect to State fiscal years beginning after the first day of the thirteenth month beginning after enactment of this Act.

(b) PROVIDER AGREEMENTS WITH AREA AGENCIES.—Section 306(a)(5)(ii)(II) (42 U.S.C. 3026(a)(5)(A)(ii)(II) is amended by striking out "attempt to" and inserting instead "to the maximum extent feasible,".

SEC. 8. STATE MATCHING FUNDS FOR OMBUDSMAN PROGRAM.

Section 304(d)(1)(B) (42 U.S.C. 3024(d)(1)(B)), as amended by section 6(c)(4), is further amended by striking out all that follows "determines" and inserting instead "shall be available for paying such percentage as the State agency determines, but not more than 85 percent, of the cost of conducting an effective ombudsman program under section 307(a)(12);".

SEC. 9. STATE OPTION TO CHARGE FEES FOR SERVICES.

(a) IN GENERAL.—Section 307(a) (42 U.S.C. 3027(a)), as previously amended by subsections (b)(1)(C) and (c)(3) of section 6, is further amended by adding at the end the following new paragraph:

"(30) The plan shall (if the State agency elects to permit or require providers of nutrition services or supportive services to charge fees for all or part of the cost of such services, based on ability to pay) specify the services for which fees may or must be charged, and specify the fee schedule or methodology for setting each such fee, but the plan shall not permit fees to be charged to individuals with incomes below 200 percent of the poverty line (as defined in section 302(22)).".

(b) CONFORMING AMENDMENT.—Section 307(a)(13) (42 U.S.C. 3027(a)(13)), is amended in subparagraph (C)(i) by inserting "where charges for meals are not permitted or required pursuant to paragraph (30)," before "each project will permit".

SEC. 10. SAFEGUARDS ON ELDER ABUSE SERVICES.

Section 307(a)(16) (42 U.S.C. 3027(a)(16)), is amended—

(1) in the matter preceding subparagraph (A), to read as follows:

"(16) The plan shall contain assurances, with respect to any services provided under the plan for the prevention of abuse of older individuals, that—"; and

(2) in subparagraph (A), by striking out "the plan contains assurances that".

SEC. 11. DISASTER RELIEF REIMBURSEMENTS.

Section 310 (42 U.S.C. 3030) is amended—

(1) in subsections (a)(2) and (b)(1), by striking out "5 percent" and inserting instead "3 percent"; and

(2) in subsections (a)(2), and (b)(1), and (b)(2), by striking out "section 422" and inserting instead "section 431.

SEC. 12. AUTHORITY FOR TRAINING, RESEARCH, AND DEMONSTRATIONS.

(a) CAPTION.—The caption of title IV is amended to read "TITLE IV—DISCRETIONARY TRAINING, RESEARCH, AND DEMONSTRATION PROJECTS AND PROGRAMS".

(b) GRANTS AND CONTRACTS.—(1) IN GENERAL.—Section 411 (42 U.S.C. 3031) is amended to read as follows:

"SEC. 411. The Commissioner may make grants and enter into contracts to achieve the purposes of this part.".

(2) CONFORMING AMENDMENT.—Section 412 (42 U.S.C. 3032) is repealed.

(c) RESEARCH AND DEVELOPMENT PROJECTS.—Section 421 (42 U.S.C. 3035) is amended to read as follows:

"SEC. 421. The Commissioner may make grants to or enter into contracts with any public or private agency, organization, or institution to support research and development related to the purposes of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for the purposes of exchange of information and other activities related to this title.".

(d) DEMONSTRATION PROJECTS.—Section 422 (42 U.S.C. 3035a) is amended to read as follows:

"SEC. 422. The Commissioner, after consultation with the State agency, may make grants to or enter into contracts with any public or private agency or organization within a State for part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects to demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals.".

(e) CONFORMING AMENDMENTS.—(1) Sections 423, 424, 426, 427, and 428 (42 U.S.C. 3035b, 3035c, 3035e, 3035f, and 3035g) are repealed.

(2) Section 425 (42 U.S.C. 3035d) is redesignated as section 423.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DEMONSTRATIONS: TRANSFER OF FUNDS.

(a) CONSOLIDATED AUTHORIZATION.—(1) IN GENERAL.—Section 431(a) (42 U.S.C. 3037(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out the provisions of this title $25,941,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

(2) CONFORMING AMENDMENT.—Section 413 (42 U.S.C. 3037) is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) TRANSFER OF FUNDS TO OTHER FEDERAL ENTITIES.—Section 431(b) (42 U.S.C. 3037(b)), as redesignated by subsection (a), is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2).

SEC. 14. AUTHORIZATION AND ALLOCATION OF APPROPRIATIONS FOR NATIVE AMERICANS AND NATIVE HAWAIIANS.

(a) CAPTION.—Section 633 (42 U.S.C. 3057n) is amended in the caption by adding at the end "; ALLOCATION".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 633(a) (42 U.S.C. 3057n(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title (other than section 615) $14,639,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

(c) ALLOCATION TO PROGRAMS.—Section 633(b) (42 U.S.C. 3057n(b)) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking out "then—" and inserting instead "then (subject to paragraph (3))—";

(2) in paragraph (2), in the matter following subparagraph (B), by striking out all that follows "may not exceed" and inserting instead "$1,505,000."; and

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

"(3)(A) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title in the preceding fiscal year, then the amount available to carry out part B shall bear the same proportion to the total amount appropriated under this title as the amount available to carry out part B in such preceding fiscal year bore to the total amount appropriated under this title for such preceding fiscal year.

"(B) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title in the preceding fiscal year, then the amount available to carry out part A shall not be less than the amount available to carry out part A from the appropriation for such preceding fiscal year.".

SEC. 15. TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE.—Section 102 (42 U.S.C. 3002) is amended by adding at the end the following new sentence: "For definitions of terms for purposes of titles III and V of this Act, see sections 302 and 507.".

(b) CORRECTION OF PARAGRAPH NUMBERING.—Paragraphs (14) through (21) of section 302 (42 U.S.C. 3002) are redesignated, respectively, as paragraphs (12) through (19).

(c) REPEAL OF OBSOLETE PROVISION.—(1) IN GENERAL.—Section 307 (42 U.S.C. 3027) is amended by striking out subsection (f) and redesignating subsection (g) as subsection (f).

(2) CONFORMING AMENDMENT.—Section 304(d)(1)(C) (42 U.S.C. 3024(d)(1)(C)) is amended by striking out "under section 307(f)".

(d) RELOCATION OF ILLOGICALLY LOCATED MATERIAL.—(1)(A) Section 308(b)(4) (42 U.S.C. 3028(b)(4)) is amended by striking out "section 303(b) (1) and (2)" and inserting instead "paragraphs (1) and (2) of subsection (b)".

(B) Section 308(b)(5) (42 U.S.C. 3028(b)(5)) is amended in subparagraphs (A) and (B) by striking out "of section 303" each place it appears.

(2) Paragraphs (4) and (5) of section 308(b) (42 U.S.C. 3028(b)) are relocated and redesignated as paragraphs (1) and (2) of a new subsection (g) at the end of section 303 (42 U.S.C. 3023).

(e) CORRECTION OF REFERENCE.—Section 310(a)(1) (42 U.S.C. 3030(a)(1)) is amended by inserting "Robert T. Stafford" before "Disaster Relief".

(f) CORRECTION OF PRINTER'S ERROR.—Subsections (c) and (d) of section 614 (42 U.S.C. 3057e) are each amended by striking out "Commission" and inserting instead "Commissioner".

(g) RELOCATION OF REQUIREMENT FOR TASK FORCE ON INDIANS.—(1) Section 134(d) of the Older Americans Act Amendments of 1987 (P.L. 100-175) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(B) by striking out "Commissioner on Aging" and inserting instead "Commissioner".

(2) Such section 134(d), as so amended, is relocated and redesignated as paragraph (4) of section 201(c) (42 U.S.C. 3011(c)).

SEC. 16. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this Act shall be effective with respect to calendar quarters beginning on or after October 1, 1991.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 20, 1991.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill, the "Older Americans Act Amendments of 1991". The provisions of the bill are described in detail in the enclosed section-by-section summary.

The draft bill would extend for three years, through FY 1994, authorizations of appropriations for current programs under the Older Americans Act of 1965 (the Act), would repeal unfunded authority for other programs, and would make other amendments.

The bill would authorize appropriations for the Federal Council on the Aging under title II of the Act; for State social services, nutrition services, and senior centers under title III; for training, research, and discretionary programs under title IV; and for Native American grant programs under title VI. Of the authorities added by the 1987 amendments to the Act for appropriations earmarked for certain State activities, the bill would extend the authorities for long term

care ombudsman services, in-home services to the frail elderly, and elder abuse prevention, and would repeal authorities (which have never been funded) for outreach, special needs, and preventive health services.

The bill includes amendments to title III to emphasize the importance of involving all types of public and private agencies, organizations, and institutions as active participants in the development of comprehensive and coordinated systems of eldercare services. The amendments stress, as well, the essential contributions which family members and other caregivers make to comprehensive systems of eldercare which are developed to meet the needs of all older persons, particularly those who are at risk of losing their independence. By eldercare, we mean all forms of caregiving provided to, or on behalf of, older persons, particularly older persons at risk of losing their independence, by relatives or other caregivers, and by public or private agencies, organizations, and institutions.

The bill would make amendments intended to ensure that a fair share of title III State grant funds is used for services to low-income minority elderly. These individuals have significant economic and social problems that make it particularly important for the Department and the States to improve the provision of services to them. Low-income minority elderly have higher rates of mortality and disability and tend to be in poorer health than the general elderly population. For these and other reasons, they tend to have greater service needs than the general population, and at the same time to face greater barriers to services.

The bill would require States to take into account geographic distribution of low-income minority individuals in developing their formulas for intrastate distribution of title III funds, and to obtain the Commissioner's approval of the formulas; and would require service providers to serve, to the maximum extent feasible, low-income minority elderly at least proportionally to their share of the area's elderly population.

The draft bill would also authorize States to permit or require providers of services under title III to charge fees, based on ability to pay. The choice of fee structure or rate-setting method would be left to the discretion of the States, but no fees would be permitted for individuals with incomes below 200 percent of the poverty line. By enabling service providers to recover a portion of its costs from those elderly most able to pay for them, this amendment would permit providers to make services available to a larger number of elderly with greater need.

The draft bill would amend title IV of the Act (relating to training, research, and discretionary projects and programs) to make the descriptions of these authorities simpler and more general, and to repeal most conditions on and priorities for funding.

The bill would also make minor and technical amendments.

We urge that the Congress give the draft bill its prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

LOUIS W. SULLIVAN, M.D.

SECTION-BY-SECTION SUMMARY OF THE OLDER AMERICANS ACT AMENDMENTS OF 1991

Sec. 2. Authorization of appropriations for Federal Council on Aging.

Section 2 of the draft bill would amend section 204(g) of the Older Americans Act of 1965 (the Act) to authorize appropriations of $181,000 for fiscal year 1992 and such sums as necessary for fiscal years 1993 and 1994.

Sec. 3. Biennial publication of goals.

Section 3 would amend section 205(d) of the Act to require the Commissioner to issue on a biennial rather than an annual basis a statement of proposed goals to be achieved by implementing the Act.

Sec. 4. Scope of State grant program.

Section 4(a) would amend section 301(a) of the Act to clarify that the purposes of the title III State grant program include encouraging and assisting States and local communities to secure and support the participation of all sectors of the community in comprehensive and coordinated systems meeting the service needs of older individuals.

Section 4(b) would amend the definition of the term "comprehensive and coordinated system" at section 302(1) of the Act to clarify that the activities appropriate to such a system include a wide range of activities designed to enable older individuals to receive all necessary care and services, including provision of title III services, outreach to older individuals and public and private sector entities, and coordination of service delivery.

Sec. 5. Definition of poverty line.

Section 5 would add to section 302 of the Act a new paragraph (22), defining "poverty line" for purposes of title III as the official poverty line as defined by the Office of Management and Budget. (For proposed statutory application of the poverty line, see section 9 of the bill.)

Sec. 6. Authorization of appropriations for grants for State and community programs on aging; repeal of unimplemented authorities and restrictions.

Section 6(a) would extend authorizations of appropriations for certain activities under the State grant program under title III of the Act.

Section 6(a)(1) would amend section 303(a)(1) of the Act to authorize appropriations of $290,818,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for supportive services and senior centers.

Section 6(a)(2) would amend section 303(a)(2) of the Act to authorize appropriations of $2,439,525 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for the long-term care ombudsman program. This amendment would also eliminate the provision conditioning this appropriation authority on a 5 percent increase in total appropriations under certain other authorities in the Act, and would clarify that appropriations under this provision would supplement rather than substitute for other title III funds available for ombudsman services.

Section 6(a)(3) would amend section 303(b)(1) of the Act to authorize appropriations of $361,083,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for congregate nutrition services.

Section 6(a)(4) would amend section 303(b)(2) of the Act to authorize appropriations of $87,831,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for home-delivered nutrition services.

Section 6(a)(5) would amend section 303(d) of the Act to authorize appropriations of $6,831,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for in-home services for frail older individuals.

Section 6(a)(6) would amend section 303(g) of the Act to authorize appropriations of $2,927,475 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for elder abuse programs. This amendment would also eliminate the provision conditioning this appropriation authority on a 5 percent increase in total appropriations under certain other authorities in the Act.

Section 6(b) would repeal certain provisions enacted by P.L. 100-175, the 1987 amendments to the Act, including authorities for some programs which have never been funded, and restrictions on earmarked appropriations for new or expanded activities.

Section 6(b)(1) would repeal requirements under section 306(a)(6)(P) of the Act, and appropriation authority under section 303(a)(6), for outreach to older individuals concerning eligibility for supplemental security income (SSI), Medicaid, and Food Stamps.

Section 6(b)(2) would repeal authority under part E of the Act, and appropriation authority under section 303(e), for services designed to satisfy special needs of older individuals.

Section 6(b)(3) would repeal authority under part F of the Act, and appropriation authority under section 303(f), for preventive health services for older individuals.

Section 6(b)(4) would repeal section 303(h) of the Act, which permits earmarked appropriations for outreach, ombudsman, special needs, preventive health, and elder abuse prevention services only if appropriations under the Act (without regard to these earmarks or to funds for certain other activities) exceed 105 percent of the prior year's appropriations.

Section 6(c) would make conforming amendments.

Sec. 7. State distribution formula; provider agreements.

Section 7(a) would amend section 305(a)(2)(C) of the Act, which contains the requirements with respect to the State agency's development of a formula for distribution within the State of grant funds received under the Act. The State agency would be required to develop the formula in consultation with area agencies, to take into account in that formula the distribution of low-income minority elderly in the State, and to submit the formula to the Commissioner on Aging for approval (instead of merely for review and comment, as under current law). This amendment would apply with respect to State fiscal years beginning more than one year after enactment.

Section 7(b) would amend section 306(a)(5) of the Act to require provider agreements with area agencies to require providers to serve low-income minority elderly at least proportionally to their share of the area's elderly population "to the maximum extent feasible", rather to "attempt to" provide such services, as under current law.

Sec. 8. State matching funds for ombudsman program.

Section 8 would amend section 304(d)(1)(B) of the Act to specify that States must provide 15 percent matching of Federal funding for long term care ombudsman activities under the State plan (the matching share required for all other State service activities).

Sec. 9. State options to charge fees for services.

Section 9 would add to section 307(a) of the Act a new paragraph (30), authorizing States, at their option, to permit or require providers of nutrition services or supportive services to charge fees for such services, based on ability to pay. No fees would be permitted for individuals with incomes below 200 percent of the poverty line. States electing this option would be required to specify in their

State plans fee schedules or fee-setting methodologies.

Sec. 10. Safeguards on elder abuse services.

Section 10 would amend to section 307(a)(16) of the Act to require the State plan to contain assurances concerning safe-guards with respect to elder abuse prevention services provided under the plan, regardless of the funding source for these servies; it would also eliminate confusing language concerning these assurances.

Sec. 11. Disaster relief reimbursements.

Section 11 would amend section 310 of the Act to revise the obsolete formula for determining the amount of the disaster relief set-aside. (The current formula sets aside 5 percent of the appropriation for section 422 of the Act, but the law no longer provides for an earmarked appropriation for section 422.) The proposed set-aside for disaster relief or 3 percent of the total appropriation for title IV of the Act would yield approximately the same share of title IV funds as did the 5 percent set-aside from the former earmarked appropriation for section 422.

Sec. 12. Authority for training, research, and demonstrations.

Section 12 would amend title IV of the Act to simplify and broaden the authorities for education and training and for research, demonstrations, and other activities. All authority to conduct or fund specific activities under this title would be made discretionary rather than mandatory, and most conditions on and priorities for funding (including barriers to funding for-profit entities) would be repealed.

Sec. 13. Authorization of appropriations for training, research, and demonstrations; transfer of funds.

Section 13(a) would amend section 431 of the Act to provide a single, consolidated authorization of appropriations for title IV activities. Appropriations would be authorized of $25,941,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994.

Section 13(b) would amend section 431 to repeal the prohibition on transfer of funds appropriated under title IV to any office or other authority of the Federal Government not directly responsible to the Commissioner.

Sec. 14. Authorization and allocation of appropriations for Native Americans and Native Hawaiians.

Section 14 would amend section 633 of the Act to authorize appropriations of $14,639,000 for FY 1992, and such sums as necessary for FYs 1993 and 1994, to carry out the grant programs for older Native Americans under title VI.

This section would also modify the allocation formula for title VI appropriations to ensure that—

(1) if funds available for title VI do not exceed those available for the preceding fiscal year, the Indian program under part A and the Native Hawaiian program under part B will each receive the same proportionate share of the appropriation as of the prior year's appropriation, and

(2) if funds available exceed those for the preceding fiscal year, the amount available for part A will not be less than the amount available for that program for the preceding fiscal year.

(Under current law, when there is a reduction or little or no increase in the title VI appropriation over that for the preceding fiscal year, if the appropriation nevertheless exceeds that for FY 1987, funds for the original Older Indians grant program must be reduced in order to make available a guaranteed minimum amount of funding to the Native Hawaiians program enacted by P.L. 100-175. The current ceiling of $1,505,000 on Native Hawaiian funding would be retained through FY 1994.)

Sec. 15. Technical amendments.

Section 15 would make technical amendments.

Sec. 16. Effective date.

Section 16 would make the provisions of the bill efffective with respect to calendar quarters beginning on or after October 1, 1991, except as other wise specificaly provided.

By Mr. WARNER:

S. 1473. A bill entitled the "Materials Recycling Enhancement Act of 1991"; to the Committee on Environment and Public Works.

MATERIALS RECYCLING ENHANCEMENT ACT OF 1991

Mr. WARNER. Mr. President, I rise today to introduce legislation to provide sound alternatives to current practices of managing solid wastes.

Mr. President, every year this country disposes of more than 180 million tons of municipal solid waste, nearly 4 pounds for every American, and hundreds of millions of tons of industrial wastes. Faced with landfill closings and local opposition to siting new landfills, Americans are beginning to realize that we are running out of safe places to dispose of this waste and should recover and recycle materials that otherwise would be discarded.

Mr. President, we must take advantage of recycling to the fullest extent possible to address this problem. It is not a new phenomenon, but an established business. More than 90 million tons of paper, metal, glass, plastics, and textiles is recycled each year, not including materials that are generated by and reused within manufacturing. There are markets available to those who will seek them out but more must be done to sustain and enhance these markets.

Recycling offers benefits of achieving conservation and reducing our reliance on natural resources. Last year, for example, Americans recycled some 1.93 billion pounds of aluminum from the Nation's solid waste stream and thus conserved 95 percent of the energy needed to make new aluminum cans from raw ore. Despite these successes however, the Environmental Protection Agency reports that Americans recover only 13 percent of materials from the solid waste stream.

Nearly 40 States have recycling laws. Some of these laws mandate specific recycling goals and bans on specific products. Virginia requires each municipality to recycle 10 percent of its trash by the end of 1991, 15 percent by 1993 and 25 percent by the end of 1995. Most jurisdictions in Virginia use a mix of voluntary and mandated programs to meet those goals.

One of the barriers to enhanced recycling is our own inability to establish a national policy and definition for recycling. While the principal law on the subject has a good title, the Resource Conservation and Recovery Act, its actual provisions have little to do with either conservation or recovery.

Disposal and recycling are treated as comparable processes under the current solid waste statutory and regulatory regime. As a result, legislation and regulations designed to address disposal also have an effect on recycling and vice-versa. Because we have no explicit policy and definition on recycling we have no control over who is and who is not a recycler. Some who engage in waste disposal and treatment can claim the title of recycler, even though they do not engage in that activity.

Mr. President, the safe disposal of hazardous and solid wastes is critically important to human health. But we cannot allow justifiable concern about disposal to continually, inadvertently, block safe recycling.

To encourage greater recycling, I am introducing legislation today to define and regulate recycling and to provide incentives that will create a demand for goods and products made from recycled materials. This bill reinforces S. 241, a bill I introduced on January 22, requiring States to promote and develop recyling markets as part of their State solid waste management plans. Evidence presented before the Senate Subcommittee on Environmental Protection last month overwhelmingly emphasized the importance of incentives to stabilize recycling markets with a minimum of Government interference.

My bill, the Materials Recyling Enhancement Act of 1991, creates a statutory distinction between materials diverted from solid waste for recycling and managing such materials as a waste. This is necessary to encourage recyling, based on what is being accomplished. Those who are engaged in the collection, transportation and processing of recycled materials, or who are legitimate recyclers using recyclable materials to manufacture products for commerical use, will be encouraged and aided by this legislation.

Those who seek to avoid solid waste regulation by calling themselves recyclers when in truth they are storing and treating solid and hazardous waste will get no comfort from this proposal. These entities will be required to justify their activities to EPA and States. If they cannot, these "recyclers" will be subject to subtitle C or D of RCRA.

Recyling must be regulated differently than waste to break the disposal cycle. Activities that involve recycling of aluminum cans, glass bottles, plastic milk containers and cardboard boxes for example, do not justify the need for regulation as a waste.

The legislation I propose today gives EPA the authority to establish and regulate recycling activities by setting

minimum national standards. Recyclers must apply for a class permit that provides reasonable controls to ensure the recycling activity is conducted in a safe manner. All class permits will address minimum Federal standards affecting storage, recordkeeping, manifests and contingency plans. Evidence of financial reponsibility may apply to specific types of recycling activities to further assure safe and responsible recycling.

Class permits will apply to similar recycling activities engaged in by the same or different owner, and at different locations. This includes specific types of businesses within an industry. Site-specific requirements may also be required by State and local governments depending on the location of the recycling facility.

My bill recognizes that recycling activities are a local and State responsibility. States would seek authorization from EPA to administer and enforce a recycling program that meets minimum Federal standards while codifying existing State recycling requirements. My bill also recognizes a State's right to apply more stringent requirements than provided for in the Federal recycling program.

State recycling programs would not be interrupted pending the issuance of Federal recycling program standards. Persons engaged in recycling activities on the effective date of my bill would continue to be regulated under existing local and State authorities and standards until States adopt national recycling standards. Facilities constructed or modified after this date, must comply with State law and any minimum Federal recycling standards. This construction requirement is intended to encourage capital investment in recycling facilities and avoid an involuntary moratorium on construction pending the issuance of federal recycling standards.

Those recyclers requiring a permit would notify EPA and the State of their activities. Requiring these recyclers to provide notice will allow EPA to determine the degree and distribution of recycling activities without interfering with the safe collection and processing of these materials.

Recyclers engaged in the collection, receipt or processing of scrap metal, paper products, plastics, glass and textiles, the collection or receipt of tires or industrial reuse of secondary materials generated on-site by their production facility, would not need a recycling permit. These activities occur safely today under current Federal regulations.

Anyone seeking a loophole in the recycling requirements will be sorely disappointed. EPA and the States would have equal authority to revoke a recycler's status under this regime and compel regulation of their activities under the appropriate RCRA requirements for solid or hazardous waste management.

Mr. President, this bill does not simply provide for more Government regulation. It also creates several nonregulatory incentives to enhance recycling practices and break the disposal cycle.

State and local governments may establish permit processing fees that favor recycling facilities over solid waste disposal facilities. A study of more than 200 U.S. cities found that 39 percent charge no direct fees at all for garbage service, giving consumers little incentive to conserve on their waste production.

The Department of Commerce has expanded authority to promote recycling and resource recovery activities through an on-going program of market development and information exchange, setting national specifications for the use of recycled and recovered materials, demonstrating the effectiveness of recycled products and recycling technologies and in providing technical assistance to local, State and Federal governments on the use of recycled and recovered materials in construction. These are essential to assuring recycling succeeds as a viable alternative to waste disposal and investment occurs in the recycling infrastructure.

Markets depend on the availability and reliability of recycling technologies and facilities. In this regard, EPA is authorized to promote the development and testing of recycling technologies and processes. EPA is also authorized to establish guidelines for use by local and State governments in resolving disputes over siting recycling facilities. Community participation in selecting, evaluating and siting recycling facilities will assure the success of recycling activities.

The Federal Government can also have a significant and direct effect on the development of markets by purchasing products containing recycled materials and establishing recycling programs. Under my bill, the General Services Administration would list products on the Federal Product Schedule that are made with recycled materials. A price preference of up to 10 percent over the cost of similar products made without recycled materials is authorized to assure Federal demand for recycled products.

A benefit of Federal participation in recycling is the authority for each Federal agency to retain the profits from selling recyclable materials. It is my hope that such profits be directed to enhancing the recycling program and other initiatives that result in waste reduction.

In designing a recycling program, information regarding the location of markets for the recyclables is critical. Under my bill, GSA, in consultation with the EPA and the Department of Commerce, would also develop guidelines to assist Federal agencies in identifying and selecting legitimate recyclers. This together with EPA authority to maintain a clearinghouse of information on recycling activities will assist the public and private sector in establishing and maintaining effective recycling programs.

Finally, consumer education is integral to stabilizing recycling markets. Collection of recyclables alone will not lead to waste reduction. Manufacturers and consumers must demonstrate a commitment to recycling by producing and buying products made with recycled materials.

Under my bill, the Federal Trade Commission is authorized to regulate uniform labeling rules for products and packaging with a recycled content and to identify these products with a nationally recognized recycling seal. This is necessary in the face of many different advertising and labeling claims that suggest a product is recyclable but in fact is not made with recycled materials. Also, the recycled composition of similar products is not uniformly defined by manufacturers.

Such information is misleading and confusing to the consumer. Uniformity in labeling, that identifies the recyled components and their percentages in a product and packaging, will greatly assist consumers in making purchasing decisions and inform them as to the differences in environmental marketing claims. A national recycling seal will serve to identify products made with recycled content. Manufacturers will also benefit from labeling and seal requirements in advertising their contribution to recycling and waste reduction.

Recycling programs will not eliminate the need for some land disposal of solid wastes. However, recycling must be made competitive with the traditional means of waste management, which relies principally on the disposal of recyclable materials as a solid waste. The markets for recyclables will grow as the industry expands the use of products made from these materials and the public, as the consumer, is educated about the benefits of recycled products.

Mr. President, we have a unique opportunity to give meaning to the words resource conservation and recovery. We can do it by creating a specific subtitle within RCRA geared to recycling materials and by creating a demand for the use of products made from recycled materials. That is exactly what my legislation proposes to do. I look forward to addressing this as a member of the Senate Committee on Environment and Public Works through the RCRA reauthorization process this year.

Mr. President, I ask unanimous consent that the full text of the bill as introduced be printed in the RECORD.

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

S. 1473

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 "Materials Recycling Enhancement Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recycling of materials not only reduces the volume or quantity of material that ultimately becomes waste, but also prevents pollution, reduces energy consumption, and conserves irreplaceable resources;

(2) there is a need to encourage greater recycling in light of more than 160 million tons of industrial solid waste recycled and 180 million tons of municipal solid waste generated each year in the United States;

(3) increased use of products made with recycled content is essential to successful recycling;

(4) the stimulation of demand for goods containing recycled material is required in order to promote an increase in the volume or quantity of materials recycled;

(5) it is more likely that high volumes of material will be diverted from the waste stream for recycling if the mechanisms established by law to encourage recycling rely on market mechanisms rather than regulatory command and control; and

(6) it is necessary to create a statutory and regulatory distinction between materials destined for recycling, and materials destined for disposal as solid waste, in order to ensure that private sector recycling will succeed.

TITLE I—AMENDMENTS TO SOLID WASTE DISPOSAL ACT

SEC. 101. OBJECTIVES AND NATIONAL POLICY.

(a) OBJECTIVES.—Section 1003(a)(6) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)(6)) is amended to read as follows:

"(6) minimizing the generation of solid waste and hazardous waste, requiring disposal by emphasizing materials recycling and materials reuse;".

(b) NATIONAL POLICY.—Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended to read as follows:

"(b) NATIONAL POLICY.—(1) The Congress declares it to be the national policy of the United States that—

"(A) the volume, quantity, and toxicity of solid and hazardous waste shall be reduced or eliminated to the maximum extent practicable; and

"(B) waste that is nevertheless generated shall be managed to minimize the present and future risk to human health and the environment.

"(2) The Congress further declares it to be the national policy to—

"(A) develop sufficient solid waste management capacity in each State;

"(B) promote the use of management methods that provide materials and energy recovery benefits;

"(C) recognize and promote the environmental, economic, employment, trade, and strategic benefits of recycling materials instead of managing such materials as a solid waste;

"(D) promote the recycling of such materials consistent with the protection of human health and the environment;

"(E) provide that, to the maximum extent possible, such recycling activities be accomplished by market-based economic mechanisms and incentives; and

"(F) develop a recycling program that encourages the development of new and innovative recycling technologies and processes.".

SEC. 102. DEFINITIONS.

(a) AMENDMENT.—Section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended by inserting immediately before the period at the end thereof a comma and the following: "or materials used for recycling".

(b) ADDITIONAL DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end thereof the following new paragraphs:

"(41) The terms 'recycle' and 'recycling' mean any activity or process by which materials are diverted from becoming part of the solid waste stream and utilized in manufacturing any usable product for commercial purposes. Such term does not include combustion of such materials solely for purposes of volume, quantity, or toxicity reduction, but does include combustion of materials as a substitute for fuel in a manufacturing process, or to supply energy to a manufacturing process.

"(42) The term 'recycled materials' means materials that have been diverted from becoming part of the solid waste stream as the result of recycling.

"(43) The term 'hazardous recycled materials' means materials that have been diverted from becoming part of the solid waste stream as the result of recycling and that would have been considered as hazardous waste (as identified pursuant to section 3001) if such materials were discarded rather than recycled. Such term does not include any material that is excluded from identification as a hazardous waste pursuant to section 3001 and the regulations promulgated pursuant to such section.

"(44) The term 'scrap metal' means bits and pieces of metal parts (including bars, turnings, rods, sheets, and wire) or metal pieces that may be combined together with bolts or soldering (including radiators, scrap automobiles, and railroad box cars) that can be recycled when worn or superfluous. Such term does not include vehicle batteries.

"(45) The term 'secondary material' means a material produced incident to an industrial or manufacturing process that—

"(A) is spent, contaminated, used, or no longer usable without further processing;

"(B) can be used as a feed material in an industrial or manufacturing process; or

"(C) is returned to the original process or processes by which the material was generated for recycling.".

SEC. 103. APPLICABILITY OF MATERIALS RECYCLING PROGRAMS TO FEDERAL AGENCIES.

(a) MATERIALS RECYCLING.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6001 et seq.) is amended by adding at the end thereof the following new section:

"MATERIALS RECYCLING

"SEC. 6005. (a) MATERIALS RECYCLING.—(1) The head of each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be required to promote and establish programs to reduce the volume or quantity and toxicity of solid waste requiring disposal including programs for separating paper products, plastic, ferrous and non-ferrous metals, and glass and making such materials available for commercial purposes, such as by recycling, or otherwise.

"(2) The head of each such department, agency, or instrumentality shall encourage procurement of products made from recycled materials. Federal agencies shall procure such products, except in any case where—

"(A) the contractor certifies that the product is not available, or is only available at a cost of 10 percent greater than for virgin material, or

"(B) the product does not meet technical specifications established by the Federal agency procuring the product.

"(3) Procurement contracts may require persons, including local or State governments or other Federal entities, to use products made from recycled materials in the performance of the contract. Any such contract may specify those aspects of contract performance that can be fulfilled with recycled materials.

"(b) PROCEEDS FROM SALE.—Any moneys received by any such department, agency, or instrumentality pursuant to subsection (a) may be retained by it and used in carrying out its functions. Such moneys may be retained by the activity directly responsible for the recycling program.".

(b) FEDERAL PROCUREMENT.—Section 6002(c)(1)(C) of such subtitle (42 U.S.C. 6962(c)(1)(C)) is amended by inserting immediately after the first period the following sentence: "A price is unreasonable if it exceeds by 10 percent or more the price of the alternative item.".

(c) RECYCLED.—Section 6002(d)(1)(A) of such subtitle (42 U.S.C. 6962(d)(1)(A)) is amended by inserting "recycled and" immediately before "recovered".

(d) RECYCLED.—Section 6002(d)(2) of such subtitle (42 U.S.C. 6962(d)(2)) is amended by inserting "recycled and" immediately before "recovered".

(e) PROCUREMENT.—Section 6002(f) of such subtitle (42 U.S.C. 6962(f)) is amended to read as follows:

"(f) PROCUREMENT OF SERVICES.—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of items made from recycled materials and of solid waste management services in a manner which maximizes recycling of materials and minimizes the land disposal of solid waste.".

SEC. 104. AMENDMENT TO SOLID WASTE DISPOSAL ACT.

The Solid Waste Disposal Act is amended by adding at the end thereof the following new subtitle:

"SUBTITLE K—MATERIALS RECYCLING

"MANAGEMENT

"SEC. 12001. (a) IN GENERAL.—Not later than 18 months after the the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator shall, by regulation, establish a program to establish and enforce minimum national standards for the management of activities involving the recycling of materials. In establishing the program under this section, the Administrator shall, after an opportunity for public hearings and, after consultation with the heads of appropriate Federal and State agencies, not later than 18 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, promulgate regulations establishing minimum national standards for the management of activities involving the recycling of materials (including activities involving hazardous recycled materials). Such regulations and standards shall be reviewed from time to time, but not less frequently than every 3 years, and revised as may be appropriate. The regulations and standards shall—

"(1) allow for class permits for specific types of recycling collection or processing activities, including specific types of businesses within an industry;

"(2) distinguish between requirements appropriate for facilities in existence before the date of the promulgation of such regula-

tions and for facilities which with respect to which the construction commences on or after such date;

"(3) specify technical standards for storing materials entering or exiting processes for recycling where such standards are not commonly defined by voluntary consensus standards setting organizations, such as the American Society of Testing and Materials and the American National Standards Institute or by any relevant trade association that the Administrator determines to have an appropriate level of expertise;

"(4) take into account the fact that the value of materials in the recycling process fluctuates subject to market conditions and that such fluctuations could interfere with the expectation for marketing the end product; and

"(5) include requirements with respect to—

"(A) storage of all recycling materials received by the facility or generated by the facility through manufacturing processes;

"(B) maintaining records of all recycling materials described in subparagraph (A) and the manner in which such materials are recycled;

"(C) use of a manifest system to assure that materials designated for recycling arrive at such recycling facility (other than a facility on the premises where the material is generated);

"(D) contingency plans for effective action to minimize unanticipated damage from fires, explosions, or any unplanned sudden or non-sudden release into the environment from the recycling activities under this subtitle; and

"(E) financial responsibility (in any case where the Administrator determines that with respect to a specific type of recycling activity, including any activity described in paragraph (1) of this subsection, such requirements are necessary to carry out the purposes of this subtitle);

"(6) exempt from regulation under the program under this subtitle—

"(A) persons collecting or receiving materials, such as scrap metal, paper products, plastics, glass, textiles, and tires from commercial establishments, institutions, or municipal sources, for the purpose of transferring such materials to a recycling processing facility;

"(B) persons engaged in any of the recycling activities associated with—

"(i) municipal source separation facilities;

"(ii) municipal curbside collection operations;

"(iii) secondary glass, plastic, scrap metal, paper products, and textile recycling or processing facilities;

"(iv) industries that reuse, in a production process, secondary materials generated from another production process by the facility at which the secondary materials were generated; and

"(v) composting facilities for yard waste;

"(C) persons composting farm waste, generated on-site, for personal use as a soil amendment or conditioner or other related agricultural purposes; and

"(D) the owner or operator of a facility engaged in the storage and transportation of materials within the purview of subparagraph (A), including loading docks, parking areas, storage areas, public or private recycling drop-off centers, and similar recycling collection centers, and areas where such materials are collected or held during the normal course of transportation for recycling.

"(b) EXEMPTION FROM FEDERAL PROGRAM ON THE BASIS OF EQUALLY STRINGENT PROGRAM.—Any State that has in effect and is enforcing a program for the management of activities involving the recycling of materials may make application to the Administrator pursuant to section 12004 requesting that such State be exempted from the application of the provisions of this subtitle relating to the Federal program for the management of activities involving the recycling of materials established under this section. If the Administrator determines, on the basis of such application, that the State program—

(1) is at least as stringent as the Federal program provided for by this subtitle;

(2) complies with the requirements set forth in this section and any other related requirements in this subtitle,

the Administrator shall exempt such State from participation in the Federal program under this section for such period as the State program is in effect and adequately enforced. In the event that the Administrator withdraws authorization of the State program pursuant to section 12004(c), all provisions of this section relating to the enforcement of the Federal program, and any other related provisions of this subtitle shall, at such time as the Administrator shall determine, be applicable to such State.

"RECYCLING PERMITS

"SEC. 12002. (a) PERMIT REQUIREMENTS, PROHIBITION.—(1) Not later than 18 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, the Administrator shall promulgate regulations to require that each person owning or operating a recycling facility—

(A) in existence on or before the date of promulgation of the regulations under section 12001(a); or

(B) with respect to which the construction commences after the date of promulgation of such regulations,

to obtain a permit pursuant to this section (except as otherwise provided in section 12001(a)).

"(2) The construction of any facility which commences on or after the date of promulgation of the regulations described in section 12001(a), or modifications to facilities in existence on or before such date, to recycle materials is prohibited except in accordance with State law and with minimum standards prescribed under section 12001(a).

"(b) INTERIM STATUS.—(1) Any person who, on or before the date of the enactment of this subtitle, is engaged in recycling materials, or who has made application to a State for its approval to recycle materials in accordance with a State program and has met the requirements of section 12006(a)(1) shall be treated as having been issued a recycling permit pursuant to this subtitle—

"(A) until such time as an application is filed in accordance with a State program; or

"(B) in the case where an application has been filed, until such time as final administrative disposition of such application is made,

unless the permitting authority shows that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"(2) This subsection shall not apply to any facility that has been previously denied a permit for recycling activities under a State law, or if authority to operate the facility has been previously terminated.

"(c) FEES.—Regulations issued pursuant to this subtitle shall encourage States and other entities imposing a fee or fees for permits or other services pursuant to this subtitle to establish such fee or fees in a manner so as to encourage recycling of materials.

"(d) FINANCIAL RESPONSIBILITY.—(1) The Administrator shall issue regulations for financial responsibility (as described in section 12001(a)(5)(E)) for permits issued under any State permit program adopted pursuant to this subtitle by any one, or by any combination of, the following:

"(A) Insurance.

"(B) Guarantee.

"(C) Surety bond.

"(D) Letter of credit.

"(E) Qualification as a self-insurer.

"(2) In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility to carry out the purposes of this subtitle.

"TRANSPORTATION OF MATERIALS FOR RECYCLING

"SEC. 12003. (a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator, in consultation with the Secretary of Transportation and the Governor of each State, shall, after providing opportunity for public hearings promulgate regulations that—

"(1) establish standards under this subtitle for generators and transporters of materials for recycling to ensure that such materials (including any material that is hazardous material regulated pursuant to part 172 of title 49 of the Code of Federal Regulations, as in effect on the day before the date of the enactment of the Materials Recycling Enhancement Act of 1991) are transported to a designated recycling facility; and

"(2) ensure compliance with the manifest system described in section 12001(a)(5)(C).

"(b) CERTIFICATION REQUIREMENT.—The regulations described in subsection (a) shall, at a minimum, require the owner or operator of a facility designated in a manifest under the manifest system described in section 12001(a)(5)(C) to provide written certification of the receipt of the materials for recycling described in paragraph (1).

"STATE RECYCLING PROGRAM

"SEC. 12004. (a) AUTHORIZATION OF STATE RECYCLING PROGRAM.—(1) At any time after standards, guidelines, and regulations under section 12001 have been promulgated, the Governor of any State that seeks to administer and enforce a recycling program under this subtitle shall, after consultation with interested parties and local governments, submit to the Administrator for approval a full and complete description of the recycling program the Governor proposes to administer and enforce under State law, or under an interstate compact or agreement approved by Congress as part of the State Solid Waste Management Plan under sections 4003 and 4006. In addition, such State shall submit a statement from the Attorney General of the State (or the equivalent State official), or from the chief legal officer of any authority or other entity having the authority to act in the case of an interstate compact or agreement, that the laws of such State, or the interstate compact or agreement, as the case may be, provide adequate authority, personnel and funding to carry out the described program. Within 3 months following submission of the State recycling program under this subsection, the Administrator shall approve such program unless—

"(A) he determines that the authority, personnel and funding are not adequate; or

"(B) he determines that the State permit program does not meet the requirements of this subtitle or does not conform to the guidelines and regulations issued under this subtitle.

"(2) If the Administrator fails to approve a proposed recycling program described in paragraph (1), he shall notify the Governor of the State of any revisions or modifications necessary to conform to the requirements, guidelines, or regulations under this subtitle.

"(b) INTERIM AUTHORIZATION.—(1) Any State that has in existence a recycling program pursuant to State law prior to the promulgation of the regulations under section 12001 shall submit to the Administrator, within 90 days following the date of the enactment of this subtitle, evidence of such program. Upon submission of such evidence, the State shall be deemed to have authorization to carry out such program under this subtitle until the State is granted or denied final approval under subsection (a) of this section.

"(c) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after a public hearing that a State is not administering a program approved under this subtitle in accordance with requirements of this subtitle, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(d) EFFECT OF STATE PROGRAM.—Nothing in this subtitle shall be construed as limiting the authority of a State to establish requirements for recycling that are more stringent than those imposed under this subtitle.

"(e) FEDERAL ENFORCEMENT.—Nothing in this section shall be construed to limit the authority of the Administrator to take enforcement action pursuant to section 12005 of this subtitle.

"ENFORCEMENT

"SEC. 12005. (a) INSPECTION AUTHORITY.—Any State having an authorized recycling program under this subtitle, and the Administrator, shall have authority to inspect, at any reasonable time, any facility or the records of any facility, regulated under such program.

"(b) COMPLIANCE ORDERS.—Whenever a State having a recycling program authorized under this subtitle, or the Administrator, on the basis of any information, determines that any person is in violation of, or has violated any requirement of, such State program or this subtitle, the State or the Administrator may issue an order to suspend or revoke the recycling activities of such person authorized under such program, including any permit.

"(c) CIVIL PENALTIES.—If a violator fails to comply with the order of a State that has a recycling program authorized under this subtitle, or the Administrator, such State or the Administrator may assess a civil penalty in an amount not to exceed $10,000 for each violation, and an amount of not more than $25,000 for each day thereafter of continued noncompliance with the order.

"(d) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request, the State or the Administrator, as the case may be, shall promptly hold a public hearing. In connection with any such hearing, the State or the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"PRELIMINARY NOTIFICATION; EFFECTIVE DATE OF REGULATIONS

"SEC. 12006.—(a) PRELIMINARY NOTIFICATION.—(1) Not later than 120 days after the date of the enactment of the Materials Recycling Enhancement Act of 1991, any person owning or operating a recycling facility or storing, transporting or producing materials for recycling purposes shall file with the State and the Administrator a notice stating the location and general description of such facility and the type of recycling materials handled by such person.

"(2) Any person described in section 12001(a)(6) shall not be subject to the requirements of paragraph (1).

"(b) EFFECTIVE DATE OF REGULATIONS.—Regulations promulgated under this subtitle shall become effective on the date that is 6 months after the date of their promulgation, except that the Administrator may, in promulgating such regulations, provide for a shorter period as the effective date of such regulation, or may provide for an immediate effective date for—

"(1) a regulation with which the Administrator finds the regulated community does not require 6 months within which to comply with such regulation;

"(2) a regulation that responds to an emergency situation; or

"(3) a regulation that the Administrator determines should have an earlier effective date because of a good and sufficient cause.

"DISPUTE RESOLUTION

"SEC. 12007. The Administrator shall issue guidelines to establish dispute resolution procedures, through nonbinding arbitration or other methods, for use by States in resolving disputes regarding the siting of recycling and solid waste management facilities under this Act that otherwise remain unsettled at a local level.

"CONFIDENTIAL INFORMATION

"SEC. 12008. In carrying out the provisions of this subtitle, the Administrator shall ensure that confidential information provided by industry to the Administrator or to a State and that is identified by the industry as confidential may not be disseminated by the Administrator or by the State without the express consent of the party who furnished the information. For the purposes of this subtitle, the confidential information described in this section shall be exempted from disclosure under Federal and State freedom of information laws.

"FEDERAL ASSISTANCE

"SEC. 12009. (a) IN GENERAL.—Upon request, the Administrator shall provide technical assistance to State and local governments and to other entities of the Federal Government—

"(1) to establish waste reduction and recycling programs; and

"(2) to encourage partnerships with the private sector and universities to incorporate research efforts and university expertise.

"(b) FUNDING.—Such technical assistance shall be provided without charge to any State or local government or to any other entity of the Federal Government.

"RECYCLING INFORMATION CLEARINGHOUSE

"SEC. 12010. The Administrator shall establish a program to provide, upon request, technical information on waste reduction alternatives and strategies to State and local governments, entities of the Federal Government, and to businesses and citizens. Such information shall include the technical capabilities and comparative costs and risks of different management methods and techniques for recycling and solid waste.

"RESEARCH DEVELOPMENT AND DEMONSTRATION

"SEC. 12011. The Administrator shall promote the research, development, and demonstration of new, experimental, and commercial techniques, processes, or technologies to improve the recycling of materials and the use of such materials in manufacturing a usable product for commercial purposes.

"AUTHORIZATION

"SEC. 12012. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.".

SEC. 105. FUNCTIONS OF THE SECRETARY OF COMMERCE.

(a) DEVELOPMENT OF SPECIFICATIONS.—Section 5002 of the Solid Waste Disposal Act (42 U.S.C. 6952) is amended to read as follows:

"DEVELOPMENT OF SPECIFICATIONS FOR MATERIALS FOR RECYCLING PURPOSES

"SEC. 5002. (a) GUIDELINES.—(1)(A) Not later than 18 months after the date of enactment of the Materials Recycling enhancement Act of 1991, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary'), acting through the Director of the National Institute of Standards and Technology, shall establish a program to develop and promulgate guidelines for specifications for the classification of materials diverted from solid waste for recycling and resource recovery. The Secretary shall develop and establish such program in consultation with the heads of—

"(i) national standards-setting organizations that set standards for recycling and resource recovery; and

"(ii) appropriate Federal and State agencies.

"(B) Upon the promulgation of the guidelines described in subparagraph (A), the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with the procurement of items containing recycled and recovered materials.

"(2) Before, on, and after the date of publication of the guidelines under paragraph (1), the Secretary shall cooperate with the national standards setting organizations described in clause (i) of such paragraph, and, as may be necessary, encourage the publication and updating of standards for recycled and recovered materials and for the use of recycled and recovered materials in industrial, commercial, and governmental uses.

"(3) In establishing and carrying out the program described in this section, the Secretary shall—

"(A) promote and encourage the use of materials which may be recycled or recovered;

"(B) promote the development of domestic and international markets for materials which are recycled or recovered;

"(C) provide, upon request, technical assistance to State and local governments and to other entities of the Federal Government with respect to specifications for the use of recycled materials in all types of structures, including—

"(i) residential and commercial buildings;

"(ii) roads;

"(iii) bridges; and

"(iv) highways,

in developing code administration, compliance, and enforcement mechanisms that permit the use of items made from materials which have been recycled or recovered.

"(4)(A) In establishing guidelines under subsection (a)(1), the Secretary, in cooperation of the heads of other Federal agencies, shall establish a program to demonstrate the use of recycled products and recycling technologies at Federal facilities that are not readily available in commerce, but are available for the purposes of commercial demonstration.

"(B) In establishing such program, the Secretary may allow for participation in demonstration projects by State and local governments and representatives of the private sector.

"(C) Upon completion of a demonstration project conducted pursuant to this paragraph, the Secretary shall prepare a report containing the findings of the Secretary with respect to the demonstration project. The Secretary shall publish the report in the Federal Register and submit a copy of the report to the Administrator.

"(5) At any time after the date of enactment of the Materials Recycling Enhancement Act of 1991, any person may petition the Secretary to promulgate additional guidelines under this subsection. Before promulgating any additional guidelines under this subsection, the Secretary shall solicit public comments in the Federal Register and consider any such comments.

"(6) Not less than 2 years after the date of the promulgation of the guidelines described in subsection (a)(1), and not less than every 2 years thereafter, the Administrator shall review the guidelines, and issue such additional guidelines as are necessary to make appropriate revisions that meet the requirements of this subsection.".

(b) MARKET INFORMATION.—Section 5003 of the Solid Waste Disposal Act (42 U.S.C. 6953) is amended to read as follows:

"DEVELOPMENT OF MARKETS FOR RECYCLED AND RECOVERED MATERIALS

"SEC. 5003. (a) IN GENERAL.—The Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall, within 18 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, take such action as may be necessary to promote, in this Nation and in other countries, the exchange of materials which may be recycled or recovered or products made from recycled materials.

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Commerce shall establish a program—

"(1) to identify the geographical location of sources of recycled and recovered materials, and the cost of such materials;

"(2) to identify economic and technical barriers to the use of recycled and recovered materials;

"(3) to encourage the development of new uses for recycled and recovered materials; and

"(4) to provide information relating to the purposes of the program described in paragraphs (1) through (3) to State and local governments and other entities of the Federal Government, industries and commercial businesses, upon request.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 106. GENERAL SERVICES ADMINISTRATION.

(a) AMENDMENT TO SOLID WASTE DISPOSAL ACT.—Section 6002(i) of the Solid Waste Disposal Act (42 U.S.C. 6962(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Not later than 12 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, the Administrator of General Services, in consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, shall identify manufacturers of products made from materials that have been recycled on the Federal Product Schedule and provide such manufacturers with assistance to encourage the inclusion of their products on such schedule. Such listing shall not occur to the exclusion of or discriminate against products made from virgin materials.

"(B) Not later than 12 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator of General Services, in consultation with the Secretary of Commerce, acting through the Director of the National Institute for Standards and Technologies, shall issue Federal procurement guidelines for products made from materials which have been recycled.

"(C) The Administrator of General Services shall consult with the Administrator of the Environmental Protection Agency and Secretary of Commerce in developing appropriate guidelines, procedures, and methods for use by Federal agencies in selecting recycling contractors that will carry out the purposes of the Materials Recycling Enhancement Act of 1991 in a cost-effective manner and assist in implementing the recycling requirements of such amendments.

"(D) There are authorized to be appropriated to the Administrator of General Services such sums as may be necessary to carry out the purposes of this paragraph.".

(b) AMENDMENTS TO SOLID WASTE DISPOSAL ACT.—Section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6962(e)) is amended as follows:

(1) In the first sentence, strike "The Administrator, after consultation with the Administrator of General Services" and insert "The Administrator of General Services, after consultation with the Administrator of the Environmental Protection Agency".

(2) In the third and fourth sentences, strike "Administrator" each place it appears and insert "Administrator of General Services".

SEC. 107. TABLE OF CONTENTS.

The table of contents of the Solid Waste Disposal Act is amended as follows:

(1) At the end of subtitle F, add the following:

"Sec. 6005. Materials reduction and recycling.".

(2) At the end of the table of contents add the following:

"Subtitle K—Materials Recycling

"Sec. 12001. Management.
"Sec. 12002. Recycling permits.
"Sec. 12003. Transportation of materials for recycling.
"Sec. 12004. State recycling program.
"Sec. 12005. Enforcement.
"Sec. 12006. Preliminary notification, effective date of regulations.
"Sec. 12007. Dispute resolution.
"Sec. 12008. Confidential information.
"Sec. 12009. Federal assistance.
"Sec. 12010. Recycling information clearinghouse.
"Sec. 12011. Research development and demonstration.
"Sec. 12012. Authorization.

TITLE II—FEDERAL TRADE COMMISSION

SEC. 201. FEDERAL TRADE COMMISSION.

(a) FEDERAL TRADE COMMISSION.—The Chairman of the Federal Trade Commission, in consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency shall, within 1 year following the date of the enactment of this Act, prescribe (under the authority granted to the Federal Trade Commission under the Fair Packaging and Labeling Act 15 U.S.C. 1451 et seq.) uniform labeling rules describing the content of products made from materials which have been recycled. A copy of such rules shall be published in the Federal Register.

(b) RECYCLING SEAL.— In promulgating the regulations described in subsection (a), the Federal Trade Commission shall design a national seal for use on products made from materials which have been recycled for use by companies in marketing their products and to assist consumers in making purchasing decisions.

(c) FEES.—The Federal Trade Commission may charge a fee for licensing a seal pursuant to subsection (b).

(d) EFFECTIVE DATE.—The regulations promulgated under this section shall become effective not later than 1 year after the date of promulgation of such regulations.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS):

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such act, and for other purposes; to the Committee on Labor and Human Resources.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT

• Mr. HARKIN. Mr. President, I am pleased to introduce today, along with Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS legislation reauthorizing and extending for 4 years the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [PAMII].

While the funding authorized under the PAMII Act is small compared to other legislation concerning persons with disabilities, the assistance made available is of critical importance in assisting States establish and operate protection and advocacy systems [P&A systems] for individuals with mental illness.

Under the PAMII Act, the P&A systems' mission includes protecting and advocating for the rights of individuals with mental illness and investigating incidents of abuse and neglect of individuals with mental illness who are residents or inpatients in facilities rendering care or treatment or who are involuntarily confined in municipal detention facilities for reasons other than serving a sentence resulting from convictions for criminal offenses.

In addition, the Act authorizes the system to pursue administrative, legal, and other appropriate remedies on behalf of an individual who was mentally ill with respect to matters arising within 90 days after the client's discharge from a residential facility rendering care or treatment.

The entity operating the system is the same entity that operates the P&A system for persons with developmental disabilities under the Developmental Disabilities Assistance and Bill of Rights Act. Each system is required to establish a governing authority and an advisory board of which at least 50 percent must be individuals who have received or are receiving mental health services or family members of such individuals. The P&A system is required to maintain the confidentiality or patient records to which it gains access.

The original PAMII legislation was sponsored by Senator Weicker and signed into law on May 23, 1986—Public Law 99-319. In 1988, I sponsored the bill reauthorizing and extending the PAMII Act for an additional 3 years—Public Law 100-509.

Currently, there are 56 P&A systems, 1 in each of the 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Forty-five of the P&A systems are private not-for-profit organizations; the remainder are located within State agencies or special departments which are independent of those providing mental health treatment or services.

According to the most recent data available, the PAMII systems handled almost 22,000 cases in 1990, an increase of 126 percent over 1987, the first full year of operations. The fiscal year 1991 appropriation for the program was $15.6 million.

The bill which I am introducing today is the result of extensive input from various groups interested in the reauthorization of the PAMII Act. All of the following groups endorse the bill: National Alliance for the Mentally Ill [NAMI], National Association of Private Residential Facilities, the American Psychiatric Association, the National Association of State Mental Health Directors, the National Mental Health Association, the Mental Health Law Project, and the National Association of Protection and Advocacy Systems.

The bill reaffirms the thrust of the PAMII Act and includes several amendments that clarify and strengthen the ability of the systems to carry out their responsibilities.

The bill includes several provisions recognizing the role played by individuals who received or are receiving mental health services and family members of such individuals. First, the bill adds a new finding recognizing the role played by families in advocating for people with mental illness. Second, the bill changes the percentage representation on the advisory council from 50 to 60 percent for individuals who received or are receiving mental health services or family members of such individuals. The bill also specifies that the chair of the advisory council, who has an automatic seat on the governing board, must be an individual who received or is receiving mental health services or a family member of such an individual.

Third, the bill adds a provision clarifying that the term "members who broadly represent or are knowledgeable about the needs of the clients served by the system" includes individuals who have received or are receiving mental health services and family members of such individuals.

Fourth, the bill specifies that PAMII staff must be trained to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members.

The bill also states that the above obligation regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.

The bill also clarifies certain key provisions in the PAMII Act. The bill defines the term "facilities" to include hospitals, nursing homes, community facilities for individuals with mental illness, board and care facilities, homeless shelters, and jails and prisons.

In addition, the bill includes language authorizing the use of PAMII funds for representation of individuals with mental illness residing in Federal facilities.

Further, the bill includes language concerning access to records that was included in the recent reauthorization of the Protection and Advocacy program under the Developmental Disabilities Assistance and Bill of Rights Act. A modification to the policy on monitoring was included to clarify its intent.

The bill sets the authorization at $19.5 million for fiscal year 1992 and such sums for each of fiscal years 1993 through 1995.

The bill also directs the Secretary to issue regulations within 6 months from the date of enactment.

Finally, the bill updates the terminology used in the legislation to be "people first."●

● Mr. DURENBERGER. Mr. President, I rise to join with my colleague from Iowa, Mr. HARKIN, to introduce the Protection and Advocacy for the Mentally Ill Amendments of 1991.

In 1984, my predecessor, Senator Lowell Weicker, on the Subcommittee on Disability Policy commissioned an investigation of the situation of institutionalized mentally disabled persons. The report resulting from this investigation documented grave and dangerous conditions in several States and institutions around the country. The report concluded that:

> Abuse and neglect of society's most vulnerable citizens must stop. Care and treatment must be provided in an atmosphere of dignity and respect. And those to whom this care is entrusted must be held fully accountable.

Mr. President, the product of this report was the Protection and Advocacy for Mentally Ill Individuals Act [PAMII] which provides a program of protection and advocacy for the rights of people with significant mental illness or emotional impairment who reside in facilities providing care and treatment. In testimony before the Labor and Human Resources Committee this year, we heard how PAMII is beginning to fulfill its purpose. In 1990, PAMII agencies handled over 22,000 cases, an increase of 126 percent over 1987, the first full year of operation.

The committee's review of this program showed that significant changes were not needed to the PAMII Program during this reauthorization. Concerns were raised, however, that family members are often ignored or disregarded by PAMII advocates and administrators. The bill we are introducing today acknowledges that the involvement of family members is crucial to the successful care and treatment of individuals with mental illness and to the successful implementation of the PAMII Act. The bill amends the findings section to recognize the important role family members play in the care and advocacy of mentally ill individuals. In addition, the bill changes the membership on the advisory council that must be individuals who have received or are receiving mental health services or family members of such individuals from 50 percent to 60 percent and specifies that the council chair must be one or the other.

A recent GAO report reviewed the coverage of inmates in correctional facilities under PAMII. The GAO report pointed out that inmates of correctional facilities may be eligible for PAMII services under two provisions of the Act: First, a special provision that allows representation of unsentenced individuals in municipal jails; and second, a general provision covering mentally ill individuals in a "facility rendering care or treatment." The report also upheld the legality of a 1987 HHS Office of General Counsel ruling that Federal correctional and noncorrectional facilities are not covered by the act.

The bill we are introducing today takes several steps to address the findings of the GAO report. First, it amends the bill to include the policy governing Federal facilities that the Senate included in Senate Report No. 100-454 which allowed an eligible system to use its allotment under the bill to provide representation to individuals with mental illness in Federal facilities who request representation by the eligible system. In addition the bill clarifies that prisons may be considered eligible facilities if such prison

meets the care and treatment qualification under the act.

Similar eligibility questions were raised over the coverage of homeless shelters and board and care facilities. And the bill makes corresponding clarifications for these facilities. That such facilities providing care and treatment would be eligible under the act.

The bill clarifies the confusion over the issue of probable cause in determining access to records. However, it retains current restrictions on P&A's from going in and monitoring institutions which doesn't result from a complaint or other evidence.

Mr. President, the protection and advocacy system has proven successful in protecting the rights of some of our most vulnerable citizens. In addition, it has proven to be a valuable service in helping to keep the system more accountable. I urge your support of this legislation.●

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. BOREN, Mr. SHELBY, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 177. Joint resolution prohibiting the proposed sale to the Republic of Korea of F-16C/D aircraft and other specified defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

S.J. Res. 178. Joint resolution prohibiting the proposed export to the Republic of Korea of certain technical data and equipment related to the sale of F-16C/D aircraft, pursuant to section 36(c) of such act; to the Committee on Foreign Relations.

PROHIBITING CERTAIN PROPOSED MILITARY SALES

Mr. BYRD. Mr. President, on April 10 of this year, President Bush signed H.R. 1282, the Operation Desert Shield/Desert Storm supplemental appropriations bill, 1991. Section 109 of that act reads as follows:

None of the funds appropriated or otherwise made available by this Act or any other provision of law shall be available for sales, credits, or guarantees for defense articles or defense services under the Arms Export Control Act to any country that has made a commitment to contribute resources to defray any of the costs of Operation Desert Storm and that has not fulfilled its commitment.

During Senate consideration of the Desert Storm supplemental, many Senators, myself included, expressed concern about the large amount of outstanding pledges from our allies. At that time, the United States had received less than half of the total pledge of $54.5 billion, and, as a result, we were forced to appropriate $15 billion of U.S. taxpayers' money as a bridge loan or working capital account. The Congress agreed to do this with the assurance that these countries would pay their full commitments promptly.

The administration witnesses that testified before the Appropriations Committee may have believed that these countries would pay without much delay, but I was not quite so certain and thought it would be prudent to include some insurance in the supplemental. That was the purpose of section 109. All of the countries that had made commitments are nations that buy military hardware from the United States on a cash basis. The idea was that, if a country had the cash to purchase expensive new weapons, it certainly could pay its debt to the United States. There was also the fear that, because of the thankfully quick resolution of the gulf war, countries would be tempted to put their pledge to the United States at the end of the line. It seems that this fear was justified, and that is exactly what has happened. We are now 3 months past the March 31 deadline that the administration set for payment of allied commitments, and we are still over $10 billion short.

Section 109 was included in the supplemental to give the President additional leverage with which to encourage our allies to ante up. Unfortunately, the President has chosen not to use this leverage and appears to have a different interpretation of this provision. This language seemed clear to me at the time, and it remains clear. The executive branch is prohibited from processing any request for a sale of defense articles or services until a country has fulfilled its promise of support to the United States in relation to Operation Desert Storm. There is no provision for payment schedules, and there is no provision for renegotiation or reduction of the commitment. These countries are required to pay what they pledged, period. On June 20, I wrote the President explaining the intent of section 109 and expressing my hope that all countries would fulfill their obligations soon.

Despite this direct prohibition against any sale, the President this week sent up formal notification of the proposed sale of F-16 fighter planes to the Republic of Korea. As of today, Korea still owes the United States $179 million of its $385 million commitment to offset the cost of Desert Storm. This is the smallest percentage paid of any of the nations that made pledges. Quite obviously, Korea has not fulfilled its commitment as required by Public Law 102-28. Consequently, Senator DIXON and I, along with Senators FORD, D'AMATO, and SHELBY, are introducing two resolutions of disapproval of this sale. The first deals with the Government to Government sale and the second with the commercial aspects of the deal. Since they fall under two different sections of the Arms Export Control Act, it is necessary to separate the two aspects of the sale in order to ensure consideration under expedited procedures.

It is my sincere hope that we will collect all of the outstanding pledges, but, until that happens, I will continue to oppose any sale to a delinquent country. And if the law is going to be winked at, or overlooked, or to go unobserved in relation to one country, then we will have set the example under which other countries could expect to be treated the same way.

I ask unanimous consent that my letter to the President be printed in the RECORD.

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

COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 20, 1991.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am concerned that some confusion may exist as to the meaning of certain sections of P.L. 102-28, the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991."

Section 109 of this Act prohibits the use of funds for arms sales "to any country that has made a commitment to contribute resources to defray any of the costs of Operation Desert Storm and that has not fulfilled its commitment." It has been brought to my attention that, despite the clarity of Section 109, arms sales to countries such as Saudi Arabia, with an outstanding balance of $5.246 billion, and Korea, which has paid only 42 percent of its pledge, continue to be processed by the Departments of Defense and State.

When the Senate considered your request for Supplemental Appropriations for Operation Desert Shield/Desert Storm, Director Darman of the Office of Management and Budget expressed his belief to the Senate Appropriations Committee that these countries were requested to pay their pledges by March 31st, or April 15th at the very latest. Since we are now more than two months past that deadline with more than twenty percent of the pledges still outstanding, I was dismayed to learn from Secretary Baker's testimony before two separate Appropriations subcommittees that all of the countries are meeting their "payment schedules." Evidently, countries adhering to a "payment schedule" have been incorrectly classified as having fulfilled their commitment as called for by Section 109.

It is my sincere hope that the four countries that have not fulfilled their obligations to the United States will do so soon, and I am hopeful that, until they have, you will ensure compliance with Section 109.

I also respectfully call your attention to Section 107 of P.L. 102-28. This provision requires Congressional approval, through the normal notification procedures, of any transfer to a foreign government of U.S. military equipment that was transported to the Middle East as a part of Operation Desert Shield/Desert Storm. I understand that there is increasing pressure to transfer a portion of this equipment to some of our allies in the region. As provided in Section 107, the Appropriations Committee will thoroughly review any proposed transfer.

With warm regards, I am

Sincerely,

ROBERT C. BYRD,
Chairman.

KOREAN FIGHTER PROGRAM

Mr. DIXON. Mr. President, I am pleased to join the distinguished senior Senator from West Virginia, Senator BYRD, in introducing a resolution of disapproval with respect to the F-16 Korean Fighter Program.

Just last year, after the Korean Government announced that it had decided to purchase 120 F/A-18's, our Government entered into a memorandum of understanding to permit the sale. But suddenly, in March of this year, the Korean Government changed its mind and announced that it was ending the F/A-18 Program. Instead, the Koreans announced they were going to purchase F-16's.

There is no doubt that Korea should buy the F-16 outright; this sale should be entirely off-the-shelf. We have over 35,000 troops in Korea, a large trade deficit with their government, and we have had problems with licensing agreements with that country in the past.

Mr. President, just recently the Office of Technology Assessment pointed out in its report on the global arms trade that the United States has transferred defense technology on 12 major weapons systems to South Korea. The report further points out that "The long-term strategy of the Korean Government is to draw United States defense companies into cooperative production and R&D relationships so that Korean firms can learn from their more advanced partners." In the case of the F-16 coproduction with Korea, I am very concerned about the amount of technology being transferred to the Koreans. It is neither in the United States' national security or economic interests to create major additional sources of high technology armaments which are based on our technology.

I am also concerned that the Koreans have not cleared their Desert Shield/Storm account; a $179 million pledge is outstanding to the United States. As the senior Senator of West Virginia pointed out, there is a congressional prohibition against any arms sales to a country which has not fulfilled its Desert Shield/Storm obligations. This deal should not go forward unless the problems I have outlined are resolved to the full satisfaction of the Senate.

Thank you, Mr. President.

Mr. BYRD. Mr. President, I send the two joint resolutions to the desk.

The ACTING PRESIDENT pro tempore. They will be received and appropriately referred, and the Chair will take the privilege as a Member of the Senate to be added as a cosponsor.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator from Illinois [Mr. SIMON] be added as a cosponsor.

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

Mr. BYRD. Mr. President, I thank the Chair. I yield the floor.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 28, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor 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. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor 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. 349

At the request of Mr. BUMPERS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such Act, and for other purposes.

S. 447

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 499

At the request of Mr. LUGAR, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 499, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 539

At the request of Mr. INOUYE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 539, a bill to amend title 23, United States Code, relating to motor carrier transportation.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 729

At the request of Mr. BURDICK, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 729, a bill to assist small communities in construction of facilities for the protection of the environmental and human health.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 846

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 878

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor 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. 902

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S.

902, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the medicaid program.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 904, a bill to provide for the establishment of a children's vaccine initiative, and for other purposes.

S. 905

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 905, a bill to amend title XIX of the Social Security Act to improve the childhood immunization rate by providing for coverage of additional vaccines under the medicaid program and for enhanced Federal payment to States for vaccines administered to children under such program, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 924

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 924, a bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance, and for other purposes.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge Allegiance to the Flag.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1127

At the request of Mr. BRYAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor 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. 1135

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1135, a bill to provide financial assistance to eligible local educational agencies to improve urban and rural education, and for other purposes.

S. 1147

At the request of Mr. LIEBERMAN, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1147, a bill to require that the United States Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1176

At the request of Mr. DECONCINI, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1270

At the request of Mr. MCCAIN, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes.

S. 1327

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1327, a bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued U.S. technological leadership in the development and application of national critical technologies, and for other purposes.

S. 1328

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1328, a bill to enhance the national security and economic competitiveness of the United States by providing for increased Federal Government support for the development and deployment of advanced manufacturing technology and the training of manufacturing managers and engineers, and for other purposes.

S. 1329

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1329, a bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes.

S. 1330

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1330, a bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes.

S. 1367

At the request of Mr. MITCHELL, the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors 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.

S. 1377

At the request of Mr. REID, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1377, a bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1410

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1410, a bill relating to the rights of consumers in connection with telephone advertising.

S. 1441

At the request of Mr. COCHRAN, the names of the Senator from Kentucky [Mr. FORD], the Senator from Michigan [Mr. RIEGLE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1441, a bill to provide disaster assistance to agricultural producers, and for other purposes.

S. 1466

At the request of Mr. ROTH, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1466, a bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office.

SENATE JOINT RESOLUTION 38

At the request of Mr. THURMOND, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 38, a joint resolution to recognize the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge.

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 139, a joint resolution to designate October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Ohio [Mr. GLENN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors 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 JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

SENATE CONCURRRENT RESOLUTION 35

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KENNEDY] 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 126

At the request of Mr. SMITH, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

SENATE RESOLUTION 141

At the request of Mr. WIRTH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 141, a resolution expressing the sense of the Congress that the United States should implement promptly the recommendations the National Academy of Sciences issued in its report, "Policy Implications of Greenhouse Warming."

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

KOHL (AND OTHERS) AMENDMENT NO. 748

Mr. KOHL (for himself, Mr. NUNN, and Mr. GLENN) proposed an amendment to the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 10, line 23, strike out "$176,932,000" and insert in lieu thereof "$128,432,000".

On page 14, line 3, strike out "$3,582,485,000" and insert in lieu thereof "$3,612,124,000".

DODD (AND OTHERS) AMENDMENT NO. 749

Mr. LIEBERMAN (for Mr. DODD, for himself, Mr. LIEBERMAN, Mr. CRANSTON, Mr. SEYMOUR Mr. BRADLEY, and Mr. LAUTENBERG) proposed an amendment to the bill H.R. 2622, supra, as follows:

Section 404 of the Federal Employees Pay Comparability Act of 1990 is amended by adding at the end thereof the following new subsection:

"(d) The President, upon the recommendation of a law enforcement agency head, may authorize special pay adjustments under this section to law enforcement officers whose post of duty is located within the geographic proximity of the Los Angeles-Anaheim-Riverside CA Consolidated Metropolitan Statistical Area or the New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area, if the agency head determines that such an adjustment is needed to address serious pay inequities for law enforcement officers of the agency. An adjustment authorized by this subsection shall not exceed the maximum rate established for the respective area set forth in this section."

BURNS AMENDMENT NO. 750

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . POLITICAL MAILING DISCLOSURE AMENDMENT

"Organizations preparing preprinted materials fitting the United States Postal Service's description of 'postcard', which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards."

DECONCINI (AND DOMENICI) AMENDMENT NO. 751

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 33, line 10, strike the first sum named and insert in lieu thereof, "$4,037,836,276".

On page 44, line 10, in lieu of the sum inserted, insert the following: "$4,037,836,276".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing to consider the merits and small business impact of the various enterprise zone proposals introduced in the 102d Congress. The hearing will be cochaired by Senators LIEBERMAN and KASTEN and will take place on Monday, July 22, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Ken Glueck of Senator LIBERMAN'S staff at 224-4041 or John Carson of the Small Business Committee at 224-5175.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled "Efforts to Combat Fraud and Abuse in the Insurance Industry: Part III."

This hearing will take place on Friday, July 19, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanor Hill of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Monday, July 15, at 9:30 a.m., for a hearing on the subject: terrorism—inter-agency conflicts in combating international terrorism.

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

ADDITIONAL STATEMENTS

CHAMPION OF HUMAN RIGHTS IN CHINA JOINS UNIVERSITY OF ARIZONA PHYSICS DEPARTMENT FACULTY

• Mr. DECONCINI. Mr. President, 2 years ago, Mr. Fang Li-zhi, his wife, Li Shuxian, and their son took refuge in the U.S. Embassy in Beijing after being blamed for having "incited and organized" the June 1989 Tiananmen Square massacre. Our Embassy gave them sanctuary, despite Chinese Government warrants for their arrest for "counterrevolutionary insurrection," charges punishable by life imprisonment or death. After 13 months, their government finally allowed them to leave China in an effort to save face and improve ties with the West.

Mr. Fang, the Sakahrov of China, is a reknowned astrophysicist and widely published cosmologist. He was courted by approximately 30 universities in the United States and Europe. I am very proud to announce that Mr. Fang has accepted a position as a professor of physics at the University of Arizona in Tucson and that he will begin in January 1992. According to Mr. Fang, "Astrophysics is a traditional field of research in the Tucson area, and the University of Arizona is one of the best places in America to do astrophysics." His affiliation with the University of Arizona will no doubt enhance and bring great excitement to the physics department of this already distinguished university faculty.

Mr. President, Mr. Fang's leadership and courage in the face of the atrocities and human rights abuses against the Chinese people are to be highly commended. The persecution of Mr. Fang and his family and their bravery in resisting the steely grip of the Chinese Government only strengthen my conviction that extending most-favored-nation status to China is an insult to those who fought for democracy in Tiananmen and a blot on the human rights record of the United States.

Yesterday, the House voted overwhelmingly to place tough, achievable conditions on any future extension of MFN to China. Nevertheless, I think we should immediately terminate China's MFN status and I again urge my colleagues to cosponsor S. 1167, to join as well with the distinguished majority leader who has sponsored legislation placing conditions on any extension of MFN status for China. We can only morally extend MFN status when the Chinese Government has demonstrated through concrete actions its respect for civil liberties, human rights and human lives of the citizens of the People's Republic of China. In the 2 years since the disastrous massacre in Tiananmen Square, China has not only not progressed in meeting its obligations to the world and its own people, but it has indeed digressed. The blood may have been washed from Tiananmen Square, but the unwarranted attack by the People's Republic of China on those seeking democracy can never be erased from our collective memory.

Mr. President, I further ask that the newspaper article announcing Mr. Fang's acceptance of a position at the University of Arizona be included in the RECORD.

The article follows:

[From the Tucson Daily Star, July 6, 1991]

CHINESE DISSIDENT JOINS UA FACULTY

(By Jim Erickson)

Astrophysicist Fang Lizhi, the Chinese dissident who spent 13 months in the U.S. Embassy in Beijing after being blamed for the June 1989 Tiananmen Square massacre, has joined the UA physics department faculty.

Fang accepted a position as University of Arizona professor of physics on Tuesday, said department chairman Peter Carruthers. But due to commitments at the Institute for Advanced Study in Princeton, N.J., he won't be in Tucson until January.

Some 30 U.S. and European universities courted Fang, 55 a cosmologist who has published 21 books and more than 130 research papers.

"In terms of name recognition, I don't think anyone on campus comes close," Carruthers said yesterday.

"This is a big boost not just to the physics department, but to the entire university," he said.

Fang visited Tucson in February and toured astronomical observatories at Kitt Peak and Mount Hopkins.

Reached yesterday at his home in Princeton, Fang said the vitality of the Tucson area's astronomical research programs appealed to him.

"Astrophysics is a traditional field of research in the Tucson area, and the University of Arizona is one of the best places in America to do astrophysics," he said.

Fang will be paid $75,000 a year as a UA physics professor, Carruthers said.

In 1989, a few days after government troops killed hundreds of unarmed pro-democracy demonstrators in Tiananmen Square, authorities accused Fang and other leading dissidents of having "incited and organized this counterrevolutionary insurrection."

The dissidents were ordered to turn themselves in. But Fang, his wife, Li Shuxian, and their son, Fang Ke, took refuge in the U.S. Embassy.

The Chinese government responded by issuing warrants for the arrest of Fang and Li for alleged treasonous counterrevolutionary activities punishable by life imprisonment or death.

Fang and Li remained in the embassy for 13 months, until the government allowed them to leave the country in an effort to improve ties with the West. Fang took a temporary position at Cambridge University in England before going to Princeton.

Fang is well-known among Chinese students, and his stature could help the University of Arizona attract more Chinese students.

"He is certainly well-known among Chinese students, and not just because of his politics, but because of his scientific contributions as well," said Wing Y. Tam, assistant professor of phsyics at the UA.

"Certainly this will bring excitement to students already here, and students from

mainland China may look forward to moving here as well," Tam said.

UA astrophysicist Adam Burrows said Fang will add a new dimension to the physics department's theoretical astrophysics contingent.

"He'll also bring some further international flavor to the department and contribute to the recruitment of some of the best astrophysicists in the world," said Burrows, an associate professor of physics.

Carruthers has made 14 faculty appointments since taking over the UA physics department in late 1986. The physics faculty now has four theoretical astrophysicists: Fang, Burrows, David Arnett and Fulvio Melia, who came to the UA from Northwestern University last month.

"In that field there really aren't many big university groups, and ours will now be one of the larger, more dynamic groups in the world," Carruthers said.●

SALUTE TO DELCO ELECTRONICS

● Mr. KASTEN. Mr. President, I rise today to bring to the attention of this body the outstanding efforts of Delco Electronics of Oak Creek, WI, for its work on behalf of small and small-disadvantaged businesses.

Delco Electronics is receiving the category A award, the highest rating the Small Business Administration can bestow on a large business for its contracting efforts on behalf of small and small-disadvantaged businesses. Category A status signifies that a firm has clearly demonstrated and is providing small firms with the maximum, practical opportunity to participate in its purchasing activities.

Delco Electronics' Oak Creek Division is the first Wisconsin firm to receive this award and 1 of only 22 in the Nation.

During the past 5 years, Delco has more than doubled the amount of subcontracting it does with small firms. Delco has developed a plan and has been aggressively seeking small businesses to participate in its subcontracting program.

Mr. President, I am very proud of Delco and what it is doing for small businesses in Wisconsin. Delco's subcontracting is helping small businesses grow and create jobs for Wisconsin workers.

In closing, Mr. President, I want to recognize the employees of Delco for their strong commitment to American small businesses and the owners and employees of the small businesses Delco subcontracts with. They are all working hard to produce good products to keep our country strong into the next century and beyond.●

A TRIBUTE TO THE U.S. OLYMPIC FESTIVAL

● Mr. SEYMOUR. Mr. President, last Friday, the Olympic flame returned to the city of Los Angeles, CA, as America's best amateur athletes gathered for the opening ceremonies of the U.S. Olympic Festival—another stop on a road that will take many of these talented young Americans to Olympic glory in Barcelona, Spain. For the next 2 weeks, the city of Los Angeles will become a city of athletes for what has become the premier multisport event for America's Olympic hopefuls.

Every 4 years, the citizens of the civilized world gather around radios and televisions to listen to and witness the world's best athletes as they meet in Olympic competition. Americans, in spirit, travel with our athletes who represent the red, white, and blue. These athletes carry with them our pride, and our hope in their success. And overnight, their triumphs become the stories of legend, and their names become synonymous with the words hero and heroine.

But the road to Olympic glory is no overnight success story. These young athletes must make tremendous sacrifices, and dedicate countless hours in training to find within themselves that which makes them champions. Fortunately, the continued superior performance of our young athletes is due in large measure to the superior support of the United States Olympic Committee. The USOC represents nearly a century of organized commitment to America's young athletes, helping them become the champions of tomorrow.

Consistent with that commitment, the USOC began the National Sports Festival in 1978. Now known as the U.S. Olympic Festival, it brings together 3,000 of our finest athletes to compete in more than 35 events. For 2 weeks each non-Olympic summer, young athletes demand the most from their minds and muscles, striving for the ultimate honor of marching behind old glory as a member of the U.S. Olympic team.

The U.S. Olympic Festival has served as a launching pad for even greater glory for America's past Olympians. Mary Lou Retton, Bart Conner, Greg Louganis—they are just a few of the Olympic legends who were first introduced to our Nation at past Olympic Festivals.

But America's athletes are not the only ones who benefit from the U.S. Olympic festival. In city after city, the U.S. Olympic Festival reawakens Americans to the thrill of either taking part in or supporting athletic competition. Even after the festivals end, the sites of athletic glory become the sites for the next generation of athletic heroes.

For the next 2 weeks, America's eyes are turned to the west—not because of a major corporate transaction or a world premiere movie, but because Los Angeles is once again the site of another world-class athletic event. Twice, Los Angeles has been the finishing line for Olympic quests. This year, as host of the U.S. Olympic Festival, it is the starting block.

I join with Mayor Tom Bradley, Gov. Pete Wilson, President George Bush, and former President Ronald Reagan in tribute to the United States Olympic Committee for their continued first-rate support of America's athletes. And for the thousands of athletes who gather today in Los Angeles, may your success pave a road to glory and gold in Barcelona.●

THE 25TH ANNIVERSARY OF METROPOLITAN ARCHBISHOP PHILIP SALIBA

● Mr. BRADLEY. Mr. President, I rise in order to commemorate the 25th anniversary of Metropolitan Archbishop Philip Saliba as primate of the Antiochian Orthodox Christian Archdiocese of North America. On August 5, 1966, Archbishop Philip was elected to shepherd the Antiochian Archdiocese and since he has, time and time again, exhibited visionary leadership.

Philip Saliba was born into a traditional Orthodox Christian family in Abou Mizan in June 1931. Following a traditional education, at the age of 14, he was accepted into the Balamand Orthodox Seminary in Tripoli, Lebanon, and later graduated from the Orthodox Secondary School and Assiyeh Orthodox College in Damascus, Syria. In 1949, at the tender age of 18, he was ordained as deacon and assigned to the Antiochian Orthodox spiritual leader, Patriarch Alexander III. In 1952, he was appointed to teach in the department of Arabic language and literature at the Balamand Seminary. In September, 1953, Deacon Philip enrolled at the Kelham Theological School in Nottinghamshire, England, and in September 1954 began theological studies at the University of London.

Philip Saliba's experiences during these still-impressionable years made a profound impact in shaping what became Philip's priorities as a priest and then as prelate: the need to cultivate and ensure integrity among the church hierarchy, the strengthening of Orthodox theological training and a focus on the importance of Orthodox youth education, and providing security for clergy and their families. In 1956, Philip arrived in the United States to study at Holy Cross Orthodox Seminary in Brookline, MA, and was subsequently assigned to St. George Orthodox Church in Detroit, MI and began studying history at Wayne State University, receiving his B.A. in January 1959. On March 1, 1959, Philip Saliba was ordained an Orthodox priest and received his first pastoral assignment at St. George Church in Cleveland, OH. Father Philip continued to study Orthodoxy as the years progressed and earned a masters in divinity studies from St. Vladmir's Seminary in Crestwood, NY, in June 1965.

In 1966, Antony Bashir, archbishop of the Antiochian Archdiocese at the time, died and Father Philip was nominated and later elected in August 1966, to succeed him. The new 35-year-old archbishop was now able to embark upon the objectives—theological, humanitarian and administrative—that had always driven him to serve both the church and those around him.

In his 25 years as an archbishop, Philip Saliba has accomplished a great deal, reflecting the priorities he established for himself so long ago. In the early 1970's, Archbishop Philip organized and established the first archdiocese-wide woman's organization, and appointed the first woman to the archdiocese board of trustees. In 1975, Archbishop Philip achieved the first measure of Orthodox unity in the United States by merging his Antiochian Archdiocese with the only other Antiochian jurisdiction in the United States. Also, in 1975, Archbishop Philip founded the philanthropic organization, the Order of St. Ignatius of Antioch, whose membership now exceeds 1,000 members and has donated over $5 million to the archdiocese and humanitarian projects around the world.

In addition, the Food for Hungry People Program, instituted in 1975, has donated over $1 million to needy organizations and individuals the world over, without regard to race, creed, or nationality. In 1978, the archbishop directed the purchase and subsequent development of the 300-acre Antiochian Village in Ligonier, PA. Archbishop Philip has been very involved in the search for peace in Lebanon and the Middle East in general. The archbishop constantly meets with other Christians, Jews, and Moslems seeking formulae for political solutions to these most difficult questions. Archbishop has met with Presidents Reagan and Bush, State Department officials and leaders of other countries seeking the way of peace.

Archbishop Philip has been awarded many commendations and medals; among them are the Order of Cedars from the Lebanese Government and the Cross of Lebanon from the Lebananese Antiochian Archdiocese. He has been bestowed with honorary doctorates from his alma maters, Wayne State University and the St. Vladmir's Seminary. As impressive as each of these are, his most cherished honor was receiving conjunction with the 100th anniversary of the Statute of Liberty; Archbishop Philip was one of only a few Americans to receive this honor.

On the eve of Archbishop Philip's 25th anniversary as primate of the Antiochian Orthodox Christian Diocese of North America, I congratulate him for his work as a theologian and humanitarian and as a fine example to all who choose and are proud to be Americans.●

CARL KARCHER ENTERPRISES: 50 YEARS OF SERVING THE PUBLIC

● Mr. SEYMOUR. Mr. President, I rise to extend best wishes to Carl Karcher Enterprises on its 50th anniversary, which will be celebrated on July 17. In 1941, Carl Karcher bought a hotdog cart with $311 mortgaged against his Plymouth and $15 cash. Today he directs the California-based corporation that operates, franchises, or licenses almost 600 Carl's Jr. restaurants.

Carl and Margaret Karcher have been serving the public for 50 years, not only in their restaurants, but in the company's commitment to community service. Over the decades, the company has supported the Special Olympics, the United Way, the American Red Cross, the Orange County Boy Scouts, the Center for Hospitality Management, the Los Angeles Sheriff's Department Substance Abuse and Narcotics Education [SANE] Program, the Drug Abuse Resistance Education [DARE] Program, the Cystic Fibrosis Foundation, the Children's Miracle Network, and litter cleanup events in communities throughout the West.

One of Karcher Enterprises programs to which I would direct a special commendation is the Carl's Jr. Adopt-a-School Program. Launched in 1987, this program exemplifies the corporate involvement in education that we have adopted as one of our national education goals. Through the program, Carl's Jr. offers incentives for achievement in education, holds fund raisers, and donates a percentage of sales to help support their adopted schools' fundraising goals.

Carl's Jr. has provided jobs for tens of thousands of Californians over the years. The Karcher family, and the entire Carl's Jr. family, epitomizes the business success, and exemplary corporate citizenship that makes our country's free enterprise system great.

Please join me in wishing Carl and Margaret a happy 50th anniversary.●

S. 1220, NATIONAL ENERGY SECURITY ACT OF 1991

● Mr. SHELBY. Mr. President, one of the greatest tasks facing Congress today is the passage of legislation enacting a comprehensive energy policy. Such legislation is needed to secure our Nation's future.

In the last 5 years, oil imports have gone up 73 percent, while domestic production has gone down 20 percent. We now import 50 percent of our oil. Although we have had warning signals in the past, the war in the Persian Gulf has made us painfully aware that we must not delay in taking steps to reduce our dependence on foreign oil. The need for a sound energy policy has never been more apparent than it is today.

To be successful in reducing our dependence on foreign oil, an effective national energy policy must cover a broad range of energy issues. S. 1220, reported by the Committee on Energy and Natural Resources on June 5, 1991, is the most comprehensive energy policy legislation ever considered by Congress. I encourage Members to glance at the 16 titles of the bill to appreciate the comprehensiveness of this legislation. This legislation addresses energy efficiency and energy production, conventional energy and alternative energy, renewable energy and nuclear energy.

S. 1220 includes provisions, to name just a few, on electric vehicles; hydropower; industrial, commercial and residential energy efficiency; domestic production; alternative fuels, used oil; nuclear reactor licensing; natural gas; coal technology; and Public Utility Holding Company Act reform.

I believe that the Senate should move quickly to begin debate on this important bill. Legislation of this nature is inherently controversial. Compromises will be required from all sides. Difficult as it may be, we must rise to meet the challenge. Our citizens need from this Congress a comprehensive national energy policy.

With this in mind, I am confident that differences can be resolved in ways that will lead us to passage of a consensus-based, economically and environmentally sound national energy policy.●

COMMENDING DR. JAMES HAYES

● Mr. GORE. Mr. President, I rise today in honor of the 90th birthday of a truly great Tennessean, Dr. James Theodore Hayes.

Dr. Jimmy, as he is affectionately known to his many friends, was born on August 14, 1901, in Maury County, TN. He has made significant contributions to this community. Through hard work and dedication he worked his way through school and earned his medical degree in 1928. He practiced medicine for half a century in Nashville, and was regarded as one of the finest and most caring physicians in the region. Currently he serves as president of the Spring Hill Cemetery, where he keeps a full schedule, and he still has time for his many civic, charitable, and political works.

Throughout his life, Dr. Jimmy has set an example of service to his fellow men and women. He devoted his life to the practice of medicine, volunteered for service in World War II, and served in many civic, charitable, and fraternal organizations. Perhaps he is best known as the teacher of the Hayes Sunday School Class, which he has taught since 1939 at City Road Methodist Church In Madison.

Dr. Jimmy Hayes has been a friend and counselor to thousands of people, including his patients, neighbors, and many prominent political and civic

leaders. Today I wish to recognize this outstanding Tennessean's life and many accomplishments. I wish Dr. Jimmy a very happy birthday.●

KENNEDY HIGH SCHOOL ORCHESTRA TO MAKE MUSICAL HISTORY

● Mr. SEYMOUR. Mr. President, I rise to extend the best wishes of the U.S. Senate to the John F. Kennedy High School Orchestra as it departs for Vienna to participate in the 20th Annual International Youth and Music Festival. This is the first time the Sacramento City Unified School District has been represented in the festival, to which only 19 groups from the United States and Canada were invited to attend.

This festival will mark the end of a musical mystery when the orchestra will give a world premiere performance of selections from 18 "lost manuscripts" by Mozart, Schubert, Hayden, and other composers.

The University of California, Berkeley, recently returned the missing manuscripts to the Benedictine Monastery of Kremsmeunster, from which they disappeared during World War II. How the works came from Germany to California remains unclear, but the Berkeley Library, when contacted by a musical archivist from the monastery who discovered the works listed among the university's music library holdings, gladly restored the manuscripts to their original home.

The Austrian Government has graciously invited the Kennedy Orchestra to perform the works, which have never been published and never before performed.

I ask the Senate to join me in recognizing this moment in musical history and in celebrating the cultural bond between California's capital city and the capital city of Austria.●

ORDERS FOR TOMORROW

Mr. DECONCINI. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Tuesday, July 16; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein; that during morning business Senator LIEBERMAN be recognized for up to 5 minutes and Senator JOHNSTON be recognized for up to 20 minutes; further, that on Tuesday, July 16, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DECONCINI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:30 a.m. tomorrow, the 16th of July.

There being no objection, the Senate, at 7:50 p.m., recessed until Tuesday, July 16, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1991:

DEPARTMENT OF STATE

JILL E. KENT, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE. (NEW POSITION.)

DEPARTMENT OF EDUCATION

DONALD A. LAIDLAW, OF NEW YORK, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, VICE THOMAS E. ANFINSON.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

FOR A TERM EXPIRING SEPTEMBER 30, 1991: MARJORIE ARSHT, OF TEXAS, VICE ROBERT H. MATTSON, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 30, 1993: KENNETH H. BASTIAN, JR., OF TEXAS, VICE J. WADE GILLEY, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 30, 1994: MARJORIE ARSHAT, OF TEXAS. (REAPPOINTMENT.)

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HARRY E. SOYSTER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. JOHN M. SHALIKASHVILI [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. ALONZO E. SHORT, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF ARMY RESERVE, UNITED STATES ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3038:

To be chief of Army Reserve, U.S. Army

MAJ. GEN. ROGER W. SANDLER [redacted] U.S. ARMY RESERVE.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ROBERT F. MILLIGAN [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. MATTHEW T. COOPER [redacted] USMC.

THE FOLLOWING NAMED ASTRONAUT OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

KENNETH D. CAMERON [redacted]

EXTENSIONS OF REMARKS

CAPTIVE NATIONS WEEK

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. BROOMFIELD. Mr. Speaker, I am pleased once again to join my colleagues in observing the anniversary of Captive Nations Week.

It has been more than three decades since we first started speaking out on the plight of the captive nations in 1959, the year that Congress passed and President Eisenhower signed Public Law 86–90, the Captive Nations Week Resolution.

There have been many dark moments in the years since then, years when it looked as if the dark night of prison camps, thought control, rigid economic planning, and religious persecution would settle over the whole world.

As it turned out, there was nothing inevitable about a victory of communism, particularly when it was being fought so tenaciously by dedicated people like Lev Dobriansky and others who have never let us forget the fate of those nations which have been forced into captivity by the Soviet Government.

While there are signs of hope, this is no time to ease up. Many of the nations within the Soviet Union are still captive, and even in 1991 citizens of those nations are still being shot and killed by Soviet soldiers.

Above all, the people of the Baltics, for example, know from their own history that it is one thing to gain independence, and another thing to maintain it.

I recently spoke with the new Russian President, Boris Yeltsin. He made it quite clear that he would be perfectly willing to support independence for those nations now within the Soviet Union.

That is the type of thinking that America should support through political pressure as well as economic assistance. When the day comes that the captive nations regain their independence, and the people of the captive nations regain their freedom, we want to ensure that they have the means to enjoy real independence in every sense of the term.

IDAHO WILDERNESS NEGOTIATIONS

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. LAROCCO. Mr. Speaker, I call my colleagues' attention to an article published in the July 11 edition of the Wall Street Journal which describes efforts underway in Idaho to negotiate an historic wilderness agreement. The article captures the spirit of cooperation and tenacity required of the parties to the negotiations. I salute their efforts and stand ready to carry forward their made-in-Idaho agreement.

The article follows:

IDAHO WILDERNESS NEGOTIATIONS

(By Dennis Farney)

Four years ago, Idaho's two most powerful politicians went into a room and locked the interest groups out. Then, like philosopher kings, they set out to resolve their state's least-resolvable issue: wilderness.

It was a grand effort—that failed just as grandly. The sweeping compromise wrought by Democratic Gov. Cecil Andrus and then-GOP Sen. James McClure managed to upset environmentalists and antienvironmentalists alike. Ultimately, it upset its authors themselves, who fell to arguing in public. Congress buried it without ceremony.

Lately, in an intriguing switch, Idaho interest groups have gone inside the room and locked the politicians out. They just might succeed where the politicians failed establishing a national model in the process.

Idaho has turned to professional mediation to try to sort out the future of one-sixth of the state: nine million acres of roadless forest and mountains. The effort, an initiative of the state Legislative, has been called the most ambitious mediation attempt ever in a land-use dispute.

"Never before in the history of the nation has mediation on such a grand scale been attempted," observes John Osborn of Spokane, Wash., editor of the environmental newsletter Transitions. At stake, he notes, is "the largest collection of forested wild lands of any state in the lower 48," (The land has long been owned by the U.S. Forest Service; the question is what uses to put it to.)

RILED-UP RANCHERS

The interest groups haggling over this green empire make for a combustible mix: environmentalists and loggers, backpackers and hard-rock miners, ranchers and off-road-vehicle enthusiasts. Opposition from ranchers could yet derail the process, at least in central Idaho. A Sun Valley session last April packed the room with so many riled-up ranchers that mediators finally asked everybody to go home. When the interest groups have met behind closed doors, as is more typical, they've drawn charges that they're as elitist as Messrs. Andrus and McClure ever were.

As all this suggests, the mediation process is inherently fragile. First, the bargainers must agree among themselves. Then, they must sell that agreement to constituents who may well be more militant than they are. Then, the agreement must hold up under public scrutiny. Finally, it must pass Congress, which has the last say on wilderness legislation.

Still, mediation has a shot at success. Idaho's bipartisan congressional delegation supports it as a way out of a wilderness war now well into its third decade. More concretely, environmentalists and timber interests have made good progress toward their first tentative agreement, which would divide up 1.5 million roadless acres in northern Idaho. Something strange has happened there: Each side has been pleasantly surprised by the reasonableness of the other.

"I'm discovering the timber industry is more responsive to our needs than I ever thought," says Richard Johnson, the Northwest representative of the Sierra Club. "And they're discovering that I'm more sensitive to their needs than they thought."

"Shoot, we've been fighting so long we're almost friends," says Joe Hinson of the Intermountain Forest Industry Association.

FRIVOLOUS LAWSUITS

The complex agreement emerging in northern Idaho's Clearwater and Nez Perce national forests could give environmentalists 1½ to two times as much wilderness there as did the old Andrus-McClure compromise. In return environmentalists would give industry far more certainty that it can log and manage nonwilderness areas without frivolous lawsuits.

It's a risk for each side. But the reality is that under the national Wilderness Act of 1964, each state must make such decisions sooner or later. This gives Idaho's mediators leverage to keep things moving. Says Ty Tice of the nonprofit Mediation Institute: "Our job is to function as an agent of reality and a prophet of doom. We say, 'If you don't resolve this yourselves, guys, it's going to get resolved for you.'"

He means resolution by an impatient Congress, which is coming to view such things as the Northwest's ancient forests and Idaho's wilderness as national concerns too important to be held hostage by parochial regional interests. Industry groups, especially, have reason to fear that an urban-dominated Congress could someday ride roughshod over Idaho's four-member delegation.

"It would be kind of like watching your own brain surgery," worries the forest industry's Mr. Hinson.

Actually, brain surgery is a good analogy for the intricate negotiation process unfolding now. Details count for more than they would in far-off Washington. Environmentalists bargain for specific trout streams. Ranchers balk at wilderness designation for traditional grazing areas. The timber industry knows the location of each sawmill and tries to protect its future. The mining industry wants roads to staked-out claims: "I can't mine with a pick and a burro," says Jack Lyman, executive director of the Idaho Mining Association.

DAMAGING PRECEDENTS

But even as they wrestle with details, negotiators try to avoid settling damaging precedents. "We could get more land in some cases, but at the expense of trading away a big precedent for national policy," says the Sierra Club's Mr. Johnson.

Progress may come harder outside northern Idaho, where the negotiations touch a greater number of interest groups, including the skeptical ranchers. And selling agreements to the rank and file may prove toughest of all. "What we're talking about is zoning the forest," says Michael Medberry, public-lands director for the Idaho Conservation League. "But this process is the only game in town. We've got to do business with each other."

Gov. Andrus and former Sen. McClure came to grief attempting to wrap up everything in one all-encompassing package. (It included 1.4 million acres of new wilderness statewide.) Some negotiators would prefer to avoid an all-or-nothing approach this time around. "There are some places that may be just too controversial," says Wilderness Society Regional Director Craig Gehrke. Better, he thinks, to come back to them later.

But at a minimum, the private, feet-up-on-the-table talks already have created a new level of understanding among interest-group leaders more accustomed to strident rhetorical battles. "By its very nature, mediation leads to a higher level of creativity," says Mr. Johnson.

He adds: "I have greater respect for politicians now."

Untamed Territory

[In million acres]

Size of Idaho	53
Existing wilderness	4
Roadless area under consideration as additional wilderness	9

PREMATURE WITHDRAWAL OF SOUTH AFRICA SANCTIONS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. EDWARDS of California. Mr. Speaker, those of us who have always been ardent supporters of racial equality in South Africa are very troubled by the President's recent decision to lift sanctions. The reality of apartheid is still very much intact.

Mr. Speaker, throughout his tenure in the House of Representatives, our colleague, RON DELLUMS, has been a leader in the fight to secure equality for all South Africans. I commend to you an article printed in the Washington Post on July 11, 1991, by Mr. DELLUMS in response to the President Bush's actions.

The article follows:

BUSH'S RATIONALIZATION VS. REALITY IN SOUTH AFRICA

(Ronald V. Dellums)

In lifting economic sanctions against the apartheid regime of South Africa, President Bush and his advisers commend President F.W. de Klerk's "technical compliance" with all but one of the six conditions established by Congress in 1986 (passed overwhelmingly in both houses over a presidential veto) for pressuring Pretoria to end its obscene system of racial and social injustice.

But a close examination of current realities demonstrates that the administration appears to have selectively interpreted the facts to rationalize its decision to reward the de Klerk regime for its limited initiatives indismantling the apartheid system. It has ignored the spirit of congressional legislative intent while relying on the most narrow interpretation possible of the letter of the legislation.

The executive and legislative branches must speak with a unified voice during the painful transition to a nonracial democracy to expedite the process and to preserve its integrity. Our unyielding commitment must be to ensuring a nonracial democracy that guarantees full participation for all in the political process, including the fundamental rights to free speech, the vote, full eligibility to run for any office in the land, and equal opportunities in education and employment, housing and health care.

Despite the president's protestations to the contrary, these are some of the harsh realities concerning the de Klerk regime's limited compliance or noncompliance with the conditions established by Congress:

Nelson Mandela has been freed from prison, but he and 23 million other black South Africans are still deprived of full citizenship, voting rights, equal economic opportunity and true justice in the land of their birth.

The de Klerk regime has also failed to comply with the April 30 deadline and process established in the Pretoria Minute for the release of all political prisoners (more than 1,000 are still detained) and the return of political exiles. There is still no joint mechanism in place for the resolution of these issues nor any formal agreement regarding the proper definition of "political prisoner."

The 1986 state of emergency was repealed last October, but the regime can still declare "unrest areas" within which it exercises virtually unbridled power. By this April there were nine "unrest areas." Other laws still on the books, such as the Internal Security Act of 1952, permit detention without trial, prevent contact with family or lawyers for those detained and provide for banishment of dissidents to remote areas without due process.

Political opposition parties have been "unbanned" but not given the freedom, economic means or media access to compete openly for support in a nonracial, one-person, one-vote political process that must be the essence of any viable democracy. There is no provision for blacks to vote or run for political office on equal terms with whites.

The Group Areas Act of 1966 and four prior land restriction laws have been repealed, theoretically allowing people of all races to live wherever they choose. But a new law, the Abolition of Racially Based Land Measures Act, maintains the status quo in white residential areas by prohibiting any changes in existing "norms and standards." The repeal of the Land Acts allows blacks to purchase land almost anywhere in the country for the first time in almost 80 years—but it does not return land or compensate nearly 4 million blacks who were forcibly removed from their property when these laws were in effect.

The Population Registration Act has been repealed. It ends the practice of classifying all newborn South Africans by race, but it does not eliminate race classification rolls, which, among other restrictions, allows the regime to keep school segregated.

There have been talks about talks, but no formal process has yet been established for "good faith negotiations with truly representative members of the black majority without preconditions." Good faith negotiations can only begin when blacks are fully empowered to participate as equals, all their political exiles are allowed safe return and they are free to elect their own leaders. The de Klerk regime cannot be both a participant in and referee of this process without causing grave damage to the integrity of the process itself.

Despite the president's claims to the contrary, given the facts cited above, the de Klerk regime has not "made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy."

In my judgment, keeping sanctions in place would have been beneficial for both de Klerk and Mandela. Each needs sanctions as political leverage aginst the more radical elements in his constituency, and both need sanctions as a psychic weapons to ward off the threat of increased violence on all sides. They are a viable, nonviolent alternative that has helped compel the de Klerk regime to "do the right thing" in its preliminary steps toward eradication of apartheid.

The evolution of a bipartisan, bicameral and dual-branch application of sanctions against South Africa has been a major landmark in recent U.S. foreign policy. Its cessation at this juncture could have tragic results, both there and here. In the months ahead we must maintain moral and political solidarity with those who seek a nonviolent termination of apartheid and the establishment of a truly nonracial, democratic society in South Africa.

NEW BUDGET PROCESS—1990 URBAN SUMMIT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, at the recently completed Urban Summit of the U.S. Conference of Mayors, the delegates passed a resolution calling for a return to comprehensive budgeting by the Congress and the administration and for the removal of the separate spending caps and the barriers between the separate spending categories. I would like to share this resolution with my colleagues and commend the mayors for this eminently sensible proposal.

NEW BUDGET PROCESS—1990 URBAN SUMMIT

Whereas, the budget process as amended last year eliminates the possibility of shifting funds from unnecessary defense programs or foreign aid programs to domestic programs until at least 1994; and

Whereas, all three domestic discretionary categories are capped to allow increases only to accommodate inflation or to allow increases if offset by an equal decrease in another program within the same category; and

Whereas, entitlement programs can be increased if the increase is driven by economic factors, e.g., increased unemployment would drive up the unemployment insurance program, or if the increase is paid for by a tax increase but tax increases cannot be used to offset increases in any of the three discretionary categories, now, therefore, be it

Resolved, that The U.S. Conference of Mayors supports removal of caps on and barriers between discretionary spending categories; and; be it further

Resolved, that the Congress and the Administration should review the budget in a comprehensive manner and not have their budgetary discretion limited except by programs explicitly designated as trust fund programs financed from a dedicated revenue source; and be it further

Resolved, that the Congress traditionally has found revenue sources when the will is present, e.g., S&L bailout, and therefore no budget procedure should be an impediment to reinvestment in our cities.

RECOGNIZE CROATIAN AND SLOVENIAN INDEPENDENCE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. LIPINSKI. Mr. Speaker, I rise to express my support for the Republics of Slovenia and Croatia in their struggle for independence from Yugoslavia. These republics, particularly Slovenia, have been engaged in a defensive battle against the Serbian-dominated Yugoslav Army which is seeking to crush their independence aspirations. Thankfully, after 2 weeks of fighting and dozens of dead, the situation has reached an uneasy calm. Slovenian leaders agreed yesterday to a cease-fire and joined Croatia in suspending its independence declaration for 3 months. During this time, it is hoped that Slovenia and Croatia will resolve their differences with Serbia during negotiations to begin next month.

Considering longstanding Western efforts to promote freedom and democracy in Eastern Europe, I was surprised and disappointed at the chilly reaction of the world community to Slovenia's and Croatia's actions. The republics have been widely criticized for making independence moves quickly, unilaterally, and at the expense of a negotiated settlement. Not one nation recognized the republics as independent states.

I would like to point out to the American and European critics that the steps toward independence were not taken lightly, but represented the culmination of months of negotiations, political maneuvering and bloodshed. Serbia's hard-line leaders tried to undermine Croatia's and Slovenia's economic and political reforms in their pursuit of central-rule from Belgrade, the capital of Yugoslavia and not coincidentally the capital of Serbia. While Croatia and Slovenia sought a Yugoslavia comprised of loosely confederated sovereign republics, Serbian ambition made this impossible.

The dispute began more than a year ago with the election of Western-oriented reformers in both Croatia and Slovenia and Communists in Serbia. The war of words that began after those elections escalated 3 months ago into bloody clashes between Croatian police and Serbian separatists which claimed dozens of lives. These battles represented an irreversible turn for the worse in relations among the conflicting republics, heated by Croatia's bitter allegations that the Serbian Government was supplying arms to the separatists.

The Serbian leadership has repeatedly demonstrated its disdain for democratic principles and the rights of the smaller republics. In May, Serbia and its allies blocked the rotation of the Federal Presidency to Croatia. This was in direct defiance of Yugoslavia's Constitution, which mandates a yearly rotation of the Presidency to a leader from each republic, and was, in the words of the Slovenian Republic's President, a camouflaged coup d'etat. The dispute over the Presidency was only recently settled when Serbia bowed to international pressure and allowed Croat Stipe Mesic to take the seat. Even so, the Yugoslav Army acted independently of his authority as commander-in-chief in its attacks on Slovenia and Croatia.

Mr. Speaker, in light of Serbian heavy-handedness and widespread congressional support for independence in the Baltics, I cannot understand the opposition to independence from Yugoslavia. This double-standard cannot be justified. America has a long history of supporting democracy over communism, and we should not miss a historic opportunity by abandoning this policy. I prefer an independent Croatia and independent Slovenia with democratic governments and market economies to a Communist Yugoslavia dominated by Serbia.

We should praise Croatia and Slovenia for their unwillingness to sit idly by while their freedoms are crushed by Serbia, not lecture them. To abandon them at this hour sends the wrong message to democratic movements everywhere. With a 90-percent vote, the peoples of Slovenia and Croatia chose democratically to seek independence from Yugoslavia. Their resolve deserves ours, and we must now recognize the Croatian and Slovenian nations.

THE LIFTING OF SANCTIONS FROM SOUTH AFRICA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SERRANO. Mr. Speaker, I believe that it is totally inappropriate to lift sanctions from South Africa. The most respected and revered right to be earned by an individual is the right to vote. That privilege is still not available to the majority of South Africans.

My understanding of the Comprehensive Anti-Apartheid Act requires the total dismantling of apartheid, and the establishment of a nonracial, democratic government in order for sanctions to be terminated. Integrated beaches and interracial marriages are not an adequate substitute for the right to own land, form and participate fully in the political process, and the right to vote.

Sanctions have worked because of the diligent struggle of the South African people and the constant pressure of international sanctions that forced the apartheid regime to reevaluate their policy of apartheid.

The backbone of a democratic nation, is the concept of one man one vote which has not been recognized or established by the South African Government. President de Klerk need not be rewarded for deinstitutionalizing slavery.

EXTENDING LIFE, ENHANCING LIFE—A NATIONAL RESEARCH AGENDA ON AGING

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am happy to share the announcement of an exciting report released on June 12, 1991 by the Institute of Medicine of the National Academy of Sciences which calls research the best hope to improve the older person's quality of life.

This report, entitled, "Extending Life/Enhancing Life," which is being disseminated by the Alliance for Aging Research, makes 15 separate research recommendations in the five key areas of basic biomedical research; clinical research; behavioral and social research; health services delivery research; and biomedical ethics. These research recommendations contain priorities in areas such as Alzheimer's disease; functional impairment and disability; changes in population dynamics; long-term care and continuity of care; medications and older person; mental health services; dilemmas involving life sustaining treatment and participation of older persons in research.

In 1988, the Institute of Medicine convened a committee of 18 national authorities on health care to develop these priorities on age-related research for the next 20 years, and to identify the resources necessary to carry out the new research agenda. Aided by over 120 scientists, advocates, experts in biomedical ethics, and other health and aging leaders, the Institute of Medicine calls for an annual spending level of $913 million for aging research plus a one-time expenditure of $110 million for construction of new facilities. Currently, according to the Institute of Medicine, Federal expenditures for age-related research estimate $601 million. This recommendation is consistent with the report of the Pepper Commission which called for spending $1 billion on research to reduce or eliminate the need for long-term care.

The report, citing the challenges to the health care system being brought about by the aging population of this country, notes the urgent need to respond as the age group most vulnerable to disability and dementia, those over age 85, is growing six times faster than the rest of the population. The cost for caring for this population will more than double unless the causes of disability can be identified and controlled. The report emphasizes illnesses and conditions which lead to late-life disability, and notes that of the 10 leading causes of death among older people, only 2—heart disease and diabetes—are listed among the 10 leading chronic geriatric conditions.

The release of this report is timely as Congress prepares to vote on the reauthorization of the Older Americans Act this fall. The Older Americans Act contains authority for research and training programs, and for too long, these particular programs have received inadequate funding.

In September 1990, the Subcommittee on Human Services held a hearing whose purpose it was to gauge how the Older Americans Act has met its goal to expand the Nation's knowledge and understanding of aging, through research, training, and demonstration programs. Results of the hearing indicated that for over two decades no specific attention has been given to this goal, and inadequate appropriations have had a serious impact on research efforts.

While the fiscal year 1992 appropriations for aging research under the Older Americans Act do not show any major increase over last year, I am happy that the results of the Institute of Medicine report give a special focus to research priorities that need to be concentrated on to improve the quality of life for our older Americans. It is my hope that the recommendations from the report will be a catalyst for increased attention in this area, and perhaps will be addressed by the administration at the 1993 White House Conference on Aging. I urge my colleagues to read this report.

ELDERS' RIGHTS AMENDMENTS OF 1991

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ROYBAL. Mr. Speaker, one of every nine elderly Americans or 3 million people aged 65 and over are housed in our Nation's 300,000 nursing homes, board and care facilities, and mental institutions. Two decades of hearings and research by the House Select Committee on Aging and its Subcommittee on Health and Long-term Care reveal that abuses—ranging from the denial of the right to make basic personal choices to horrid instances of physical and sexual abuse and neglect, sometimes resulting in death—are frequent occurrences nationwide.

Aging Committee research has also revealed that, in many States, the only active and effective advocate for elderly residents of institutions are State long-term care ombudsmen authorized under title III of the Older Americans Act. This program, however, is woefully underfunded by the Federal Government, and its work in some instances is administratively hampered in the States.

Elder abuse, neglect, and exploitation of elders living in the community is also rampant. After extensive national surveys and review of the literature, the committee found that this shocking type of abuse, often perpetrated in the home by family members, guardians, and other caretakers, touched the lives of 1 million seniors annually. Efforts to address this kind of abuse by State adult protective service programs have proved inadequate; the committee found that we need a Federal response similar to that which has proved so effective in reducing child abuse.

Last week I, along with my colleagues, the Honorable MARY ROSE OAKAR, the Honorable RON WYDEN, and the Honorable THOMAS DOWNEY, introduced H.R. 2864, the Vulnerable Elders' Rights Amendments of 1991, which will respond to the concerns raised above. This bill is a companion bill to S. 1471 offered by my distinguished Senate colleague, the Honorable BROCK ADAMS, chairman of the Senate Committee on Labor and Human Resources's Subcommittee on Aging; it would create a new title of the Older Americans Act consolidating and strengthening the advocacy and protection programs of the act. This new title would include new provisions identical to those in H.R. 2780, the National Older Americans Advocacy and Protection Amendments of 1991, which my colleagues—the Honorable MATTHEW MARTINEZ, the Honorable MARY ROSE OAKAR, the Honorable RON WYDEN, the Honorable THOMAS DOWNEY, and the Honorable DALE KILDEE—and I recently introduced, but adds a new program of insurance and public benefits counseling, an expanded role for the State legal services developer, and a housing ombudsman demonstration program.

Both of these pieces of legislation represent a bold step forward in quality, authority, and availability of ombudsman services for long-term care facility residents, and address the evergrowing problems of elder abuse, neglect, and exploitation in both institutions and in the community.

In this year in which there is little money for expanding programs for the Older Americans Act, we can at least do a better job of advocating for older Americans and protecting them from abuse. By placing the advocacy and protection programs of the Older Americans Act in a separate title as called for by H.R. 2864, we can draw these programs together in one place in the act, provide a consistent focus and new emphasis on protecting our most vulnerable citizens, and provide more effective advocacy, protection, and counseling services for older Americans.

The new title mandated by H.R. 2864 would take the advocacy and protection programs that are now in title III of the act, strengthen them, and place them in a new title VII. These are programs that are statewide in character and significantly involve various State agencies. These advocacy and protection programs must be coordinated at the State level and need vigorous leadership by the State departments on aging and the State long-term ombudsmen.

Both H.R. 2864 and H.R. 2780 would strengthen the Federal role in providing national leadership to the long-term care ombudsman program, increase the effectiveness of long-term care ombudsman activities, provide for greater autonomy and protection from conflicts of interest, and mandate better coverage of board and care residents to provide a consistent and timely response to serious problems affecting their rights and welfare.

To enhance the ability of long-term care ombudsmen to protect the rights of residents of board and care homes, these bills call upon the National Academy of Sciences, through the Institute of Medicine [IOM], to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. Composed of consumers and providers as well as other experts, the Commission would make recommendations to the Congress concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

Both bills would create a National Center on Elder Abuse and provide grants for elder abuse prevention and treatment services in the community as well as in institutions.

H.R. 2864 would create an insurance and public benefits counseling and outreach service to ensure that seniors are not being exploited by unscrupulous private insurance agents and are getting the public benefits to which they are entitled. It would expand the role of the State legal services developer under the Older Americans Act to ensure greater access to legal services for seniors. A housing ombudsman demonstration program would be created to assist older persons who have complaints related to problems in publicly assisted housing.

I urge my colleagues on both sides of the aisle to join me in supporting both of these bills that would protect the residents of long-term care facilities and prevent the abuse, neglect, and exploitation of older Americans.

INTRODUCTION OF LEGISLATION AUTHORIZING THE RAISING OF SUCCESS DAM

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. DOOLEY. Mr. Speaker, today I have introduced legislation that would authorize a construction project to raise by 10 feet Success Dam near Porterville, CA.

The main reason for this project in my district in central California would be to provide additional flood control on the Tule River. An increase in the capacity of Success Lake would allow further flood protection to the city of Porterville, which lies approximately 6 miles below the dam, and other areas of Tulare and Kings counties.

A secondary reason for the project would be to increase storage of water for irrigation of crops in this farm-rich region. In addition, the increased capacity of the lake would enhance recreational activities in the area.

Construction of the project would be contingent upon the favorable completion of a feasibility study now underway by the Army Corps of Engineers.

Estimates have put the total cost of the project at approximately $18 million, which would be shared by Federal, State, and local entities.

The project would increase the capacity of Success Lake by modifying an emergency spillway at Success Dam and building an earthquake-resistant rock berm on the upstream face of the dam.

Success Dam was constructed more than 30 years ago on the Tule River primarily to provide for flood control. Longtime residents of the Porterville area tell harrowing tales of the times the Tule would spill its banks after even moderate precipitation.

Success Dam greatly reduced the threat of flood, and in the process it captured water used for irrigated farming and for recreation.

Continuing heavy development over the years in the Tule River floodplain has increased the possibility that a serious flood now would cause much more damage than any floods before.

Raising the Success spillway, as authorized by this legislation, would provide the needed extra flood protection.

As a secondary benefit, the increased capacity would provide an efficient means of storing more water for use by farmers down-

stream. However, irrigation water storage would by available only after the additional storage had been used in full for flood control.

Any increase in capacity also would benefit the thousands of people who use the lake for fishing, boating, and other forms of recreation.

Mr. Speaker, I look forward to hearings on this legislation, and I encourage my colleagues to support it.

MOSCOW HUMAN RIGHTS MEETING COUNTDOWN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. HOYER. Mr. Speaker, on September 10, less than 2 months from now, the 35 signatory states of the Conference on Security and Cooperation in Europe [CSCE] will gather in Moscow for the third of three meetings of the Conference on the Human Dimension [CDH]. Previous meetings, held in Paris in 1989 and Copenhagen in 1990, have addressed issues relating to human rights and humanitarian cooperation in the participating states with far-reaching results both in terms of implementation and new commitments. It is the hope of the Commission on Security and Cooperation in Europe—the Helsinki Commission—that the Moscow meeting will continue that success. In that regard, in my capacity as chairman of the Commission, I plan to lead a congressional delegation to Moscow for the opening of the CDH meeting.

A critical factor in the success of the Moscow meeting will be the openness and access afforded to representatives of nongovernmental organizations [NGO's]. Throughout the Helsinki process, NGO's have played a critical role in bringing human rights issues to the attention of the Commission, the Congress, the executive branch, indeed the American public.

The Helsinki Commission anticipates that a large number of HGO's will be present in Moscow and we hope that Soviet authorities will facilitate their entry into the Soviet Union and to the conference in the spirit of CSCE tradition. Senator DECONCINI, the cochairman of the Helsinki Commission, and I have written to the Soviet Deputy Minister of Foreign Affairs, Vladimir Petrovsky, who will also serve as executive secretary of the Moscow meeting, urging him to accommodate the needs of the nongovernmental organizations in a manner consistent with previous CSCE meetings.

However, Mr. Speaker, with less than 2 months to go before the meeting, we have been alerted to a number of situations in which individuals seeking visas to travel to the Soviet Union have been either denied permission by Soviet authorities or are being given a bureaucratic run around by those who process visa applications. These examples are of concern to the Commission.

Mr. Victor Nakas, a leader in the Lithuanian-American community was informed by the consulate in Washington that his visa was denied. His invitation to travel to Lithuania was extended by the Lithuanian Supreme Council and had the support of Lithuanian President Landsbergis. However, upon investigation it was discovered that the KGB in Vilnius had his name on a blacklist of individuals guilty of anti-Soviet agitation and propaganda and opposing Lithuania's accedence to President Gorbachev's all-union treaty.

Three staff members of the Union of Councils for Soviet Jews have attempted to obtain visas to travel to the Soviet Union to work with their Moscow affiliate—the Bureau for Emigration, Human Rights and the Rule of Law—only to have to postpone plane and hotel reservations because of snags in the processing of their visas.

Dr. John Genys, a professor at the University of Maryland has received a Fulbright scholarship to teach genetics at the University of Vilnius. For no apparent reason, Dr. Genys has been denied a visa—an action which calls into question the spirit of the Fulbright program.

Mr. Speaker, in 1980 the Soviet Union hosted the summer Olympics and the Government was able to process tens of thousands of visas in a short period to time. I believe that the upcoming human rights meeting will attract a significant number of individuals interested in attending the proceedings and any parallel activities that will be taking place.

As we head into the Moscow meeting, I plan to speak out on several issues which we at the Helsinki Commission believe are important to ensure the success of the meeting. I encourage the Soviet Government to review the procedures for issuing visas for nongovernmental organizations and their representatives who will play a major role in the success of this meeting and urge them to issue visas freely and expeditiously to the above individuals.

A TRIBUTE TO HARRY CHAPIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ACKERMAN. Mr. Speaker, tomorrow marks the 10th anniversary of the death of our friend Harry Chapin, who was not only a gifted song-writer and performer, but a truly compassionate human being. Harry Chapin, through his ardent and arduous efforts, personally involved Members of Congress and raised consciousness about hunger long before it became a popular issue.

As someone who has long heeded Harry's message and advocated help to the world's hungry, I owe a personal debt to Harry Chapin, who brought this problem to the forefront of the national agenda through his eloquent voice. In 1975, Harry cofounded the World Hunger Year [WHY], an organization devoted to the dream of a hunger-free America and ultimately of a hunger-free world. World Hunger Year [WHY] has continued its mission to enlighten the public about the dimensions of domestic and international hunger, including poverty and homelessness. WHY's accomplishments include creating: The New York City Food and Hunger Hotline, Long Island Cares, the Center for Food Action in New Jersey, the Hunger Concert Education Program, and Hungerthon, an annual 24-hour radiothon held to raise awareness about hunger in America.

Harry Chapin sold millions of records, wrote and starred in a Broadway play, won an Academy Award nomination for his documentary film and published a book of poems. Yet all of these diverse artistic accomplishments are overshadowed by his great humanitarian deeds, which have left a lasting impression. Harry conceived and lobbied for a Presidential Commission on World Hunger, a dream he lived to see enacted in 1978. After the commission was established, Harry was the only member to attend every meeting. Harry Chapin posthumously received the Congressional Gold Medal in 1987, earning the recognition for his numerous accomplishments.

WHY will be celebrating the vision and goals of its cofounder Harry Chapin July 16, in a special benefit at the Hard Rock Cafe. Several of my colleagues in the Congress are joining me in hosting this event, in tribute to the memory of the great humanitarian, Harry Chapin.

When Harry Chapin left us so prematurely, dozens of my colleagues in Congress gave eloquent tribute to him from the floor of both the House and Senate, praising his legacy and great deeds. Harry Chapin has served as a continuing inspiration to all of us who work to end hunger, in the United States, and abroad. The repercussions of his actions are still felt as the Nation grapples with hunger issues each day. I ask my colleagues, on the 10th anniversary of his death, to again recognize the passionate and laudable humanitarian, Harry Chapin. My request has an almost foregone conclusion—it is inevitable that one recognize the efforts of Harry Chapin. The mark that he has left on the national agenda has not faded since his death, 10 years ago tomorrow.

TRIBUTE TO SGT. MAJ. RICHARD D. KELLY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SCHEUER. Mr. Speaker, I rise today to pay tribute to Sgt. Maj. Richard D. Kelly, who has served faithfully and honorably in the Marine Corps since 1968.

Not long after his enlistment, he was posted to Viet Nam where for 14 months he was assigned to the Fourth Combined Action Group. His unit's mission was to work side by side with the villagers of Long Qhuan and Lin Yin, improving the quality of village life. By night, he and his fellow Marines protected their area of operation against infiltration by the Viet Cong and units of the North Vietnamese Army.

Sergeant Major Kelly reenlisted in 1972 and since then, has contributed distinguished service to the Marines in a myriad of capacities. He worked with recruits on Parris Island improving their shooting skills. He was a primary marksmanship instructor and was selected to be a member of the 16 man unit that developed the formal marksmanship program for recruit training with the M16 rifle.

After a year's duty as a platoon sergeant on Okinawa, he volunteered for assignment as drill instructor at Parris Island. This duty culminated in his promotion to Staff Sergeant and his designation as series chief drill instructor. After serving as Navy ROTC from February 1977 to July 1979 at Louisville, KY, he was assigned as gunnery sergeant with Company, L, Third Battalion, 8th Marines. In October 1981, while on deployment in the Mediterranean, he was given the rank of first sergeant and transferred to Company K. In June 1982, after completing his tour, he was transferred to New York as the first sergeant of Instructor Staff Communication Company. As as result of his efforts with the Long Island Community (Huntington), he was awarded the Navy Commendation Medal.

In 1985, Sergeant Major Kelly was promoted to the rank he presently enjoys. He served in that capacity with Company L of the Third Battaltion, Second Marines, while the battalion was deployed to Korea. In June 1986, he became the battalion sergeant major and look the battalion through two cold weather deployments. Presently, he once again serves in the New York area as battalion inspector instructor sergeant major for the Sixth Communication Battalion located at Fort Schuyler, Bronx, NY where he recently helped in activating and training 450 reservists for Desert Storm duty and where he has shown his interest in the community by organizing a Toys For Tots Program in which 4,500 gifts were distributed to needy children.

Among the awards Sergeant Major Kelly wears upon his chest are the Navy Commendation Medal, the Combat Action Ribbon, the Navy Unit Commendation, the Good Conduct Medal (6th Award), the Marine Expeditonary Medal, the National Defense Service Medal (2nd award), the Vietnam Service Medal, the Sea Service Deployment Ribbion (2nd award), the Navy Arctic Service Ribbon, The Republic of Vietnam Civic Actions Unit Citation, the Republic of Vietnam Cross of Gallantry, and the Republic of Vietnam Campaign Medal.

Sergeant Major Kelly has been a Marine to emulate. He surely deserves this tribute, and I ask that my colleagues join me in saluting him and extending our best wishes to him and his family.

TRIBUTE TO COL. RAOUL H. ALCALÁ

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ASPIN. Mr. Speaker, I rise today to pay tribute to Colonel Raoul Henri Alcalá, United States Army, on his retirement after 29 years of dedicated service to this Nation. Over the past 3 decades, he has served with distinction in peace and war in the finest tradition of the American soldier-statesman.

Colonel Alcalá was commissioned as an armor officer upon his graduation from West Point in 1962. He has served with and commanded armored cavalry units in Germany, Vietnam, and the United States. A superb tactician, he demonstrated his mastery of military art during the first of his two combat tours in the Republic of Vietnam. Operating out of a fire support base north of Saigon in command of A Troop, 3d Squadron 5th Cavalry—129 soldiers, six M48 tanks, and 20 armored personnel carriers—Colonel Alcalá rallied his soldiers throughout the night of March 20, 1967 to repulse repeated attacks by the 273d Viet Cong Regiment. This battle, the Battle of Ap Bau Bang II, is chronicled by John Pimlott in Vietnam: The Decisive Battles, as one of the decisive battles of the Vietnam war. For his actions under the intense enemy assault that night, Colonel Alcalá was awarded the Silver Star, the Nation's third highest award for valor.

One of the Army's premier strategists, Colonel Alcalá holds a graduate degree in international relations and a doctorate in political science from Yale University. He has served as an assistant professor of international relations and political science at the United States Military Academy. Throughout his career he combined these strong academic credentials with a keen intellect and a broad understanding of the national policy process to make significant contributions in the areas of international security policy, military doctrine, and national military strategy.

He has performed outstanding service for his Nation from a number of critical positions within the Government. As a White House Fellow, he served as a special assistant on Energy Matters to the President's National Security advisor. As a plans officer on the staff of the U.S. Mission to NATO, he served at NATO Headquarters during the deployment of the Pershing II missiles to Europe—the demonstration of NATO unity and resolve that may well have turned the tide of the cold war.

More recently, as the Chief of the Concepts, Doctrine, and Force Policy Division under the Army's Deputy Chief of Staff for Operations and Plans and as the Chief of the Training and Doctrine Command Commanding General's Planning Group, Colonel Alcalá has been the driving force behind the development and refinement of the Army's AirLand Battle Doctrine. This service was invaluable to the revitalization of the Army throughout the decade of the 1980's and in shaping the victorious Army of Just Cause and Desert Storm.

As the leader of the Army Chief of Staff's Assessments and Initiatives Group, Colonel Alcalá has been the most trusted advisor to the Army Chief of Staff for the past four years. Throughout the difficult processes of reformulating national military strategy and planning the reduction and reshaping of the Army, he has played a crucial role in designing approaches to preserve the quality and readiness of the finest Army in the history of this Nation. Largely through Colonel Alcalá's efforts, the Army has led the Department of Defense in adapting to the fundamental changes in strategy and force structure made possible by the conclusion of the cold war.

Strategist, trusted advisor, mentor, warrior, Colonel Roy Alcalá epitomizes the principles of professional competence, selfless service, and uncompromising commitment that we demand of our military leaders. Colonel Alcalá I salute you today for your outstanding service to our Nation. I wish you, your wife, Wilma, and your son, Roy, the best of luck as you begin a new career.

A TRIBUTE TO THE GREENPOINT LITTLE LEAGUE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to the Greenpoint Little League on the occasion of its 40th anniversary and Alumni Reunion Day.

In 1951 the first games were played, and now, 40 years later, with 37 teams, the Greenpoint Little League strongly continues to make its contribution to the community. The league affords the children the opportunity to play ball, be part of a team, experience the thrill of victory and the agony of defeat, and learn what sportsmanship is all about. Furthermore, the league draws together businesses which sponsor teams, residents, volunteers, fundraisers, and executive committees. By teaching the fundamentals of baseball and sportsmanship to our youth, the league has been effective in drawing together the community and providing the cornerstone for atmosphere and goodwill.

Frank Crowley, the current Little League president, is ably assisted by several volunteers. One such volunteer is Michael Glus. Mr. Glus, over the past 25 years, has served as coach and manager, and with his team won the Minor World Series in 1968. Mr. Glus, currently in community relations, has significantly contributed to the program by obtaining equipment and organizing field trips. Over the many years, powerful bonds of friendship hae been formed both among the players themselves, and between the players and Mr. Glus.

I am truly proud to congratulate the Greenpoint Little League on its 40th anniversary, and the wonderful people who make it work and to wish them continued success in their contribution to the community and, more importantly, to our children.

TRIBUTE TO JOHN BELL LAND

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity today to pay tribute to John Bell (J.B.) Land of Lancaster, KY, who died April 4, 1991, at Good Samaritan Hospital in Lexington, KY, at the age of 71.

J.B. Land was a man who was well known and respected by the people of Garrard County, KY. He was born in the Buckeye community of Garrard County in 1919, and was a lifelong resident of the county. He was a self-employed income tax practitioner for 46 years. In addition, he was a licensed real estate agent and worked as a crop insurance adjuster for a number of years.

Perhaps J.B. Land was best known for his contribution to his community. He was an ac-

tive member of the Lancaster Baptist Church where he served as church treasurer, a member of the board of deacons, and a Sunday school teacher. He was also a member of the Rotary International and had served as president, vice president and secretary of the Lancaster Rotary Club.

J.B. Land is survived by his lovely wife Margaret Duncan Land of Lancaster; three sons, James Earl Land of Dayton, OH, and John Richmond Land and David Lee Land, both of Lancaster; six grandchildren and four great grandchildren. He was preceded in death by his first wife, Ethyl Ray Land, who died of cancer in 1954.

My wife Carol and I extend our sincere sympathy to the family of John Bell Land of Lancaster.

IN RECOGNITION OF VOLUNTEERS OF AMERICA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Ms. ROS-LEHTINEN, Mr. Speaker, I would like to pay tribute to the Hialeah-based chapter of Volunteers of America. This chapter shares with many Americans a faith in the volunteer spirit and the ability and willingness of local communities to respond to social problems with effective solid solutions. In Hialeah, Volunteers of America currently operates many housing projects for the elderly. These include: Hialeah Residents, Puerta del Sol, Sweetwater Towers, and Las Palmas Plaza. Also, in Miami there are three other projects in operation.

Volunteers of America, one of this Nation's largest human service organizations, has been helping others for 95 years. At the end of the 19th century, the United States experienced an influx of thousands of immigrants in search of a better life. Cities soon became crowded and living and working conditions were deplorable. It was in this challenging setting in 1887 that young Ballington and Maud Booth arrived in New York City. Volunteers of America stated that they liked the new republic that lacked the rigid class distinctions of 19th century England and they quickly became naturalized citizens. However, they could not ignore the conditions and the degradation to people that existed and consequently dedicated their lives to helping Americans in need. Gradually, social programs evolved to supplement the evangelic work.

Maud Booth organized the Volunteer Prison League which was directly responsible for the elimination of the striped uniforms, the ball and chain, the silent system, and harsh discipline. Other social reforms soon followed.

Throughout its history, Volunteers of America has adhered to the principles of its founders. The original mission is still very much alive; and, the constant development and reevaluation of goals assures the continued growth of the organization in its service to the Nation.

Only through the dedication of people like Lucy Lasanta and Maria Zayas, and all the members of organizations like Volunteers of America and its board of directors can the struggle of life be made easier.

IN SUPPORT OF MOST-FAVORED-NATION TRADE STATUS FOR CHINA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FIELDS. Mr. Speaker, I rise in strong support of unconditionally renewing most-favored-nation trading status for China.

All Americans share the same concern for, and commitment to, human rights in China; likewise, we agree on the need to promote democratic reform in that country. Where we disagree, however, is on how best to achieve those worthy objectives.

Those who argue against continued MFN status for China claim that denying it trade privileges is the most effective way of bringing about democratic reform in that country. They seem to believe that MFN status is some unique reward the United States grants a select group of its trading partners. But the fact is that the United States currently accords 181 of its trading partners MFN status.

The President has wisely chosen to separate economic considerations from political considerations in the case of China. I support that distinction, because I fear that revoking China's MFN designation based on its political behavior would set a very dangerous precedent. Doing so would force the United States to assess the behavior of the other 180 countries to which we have granted MFN status.

I have heard it said that China must be punished because of its alleged failure to enforce copyright, patent, and trademark protection. If that is the case, the United States should address those failures through targeted trade policies that will get the attention of the Chinese leadership. Trade problems demand trade solutions. Similarly, concerns about the Chinese Government's failure to accord its people basic human rights should be addressed through political channels. The fact of the matter is that there is nothing in the history of United States-imposed economic sanctions to suggest that the threat of withdrawing MFN status will lead to a reversal of the political policies of the Chinese Government.

Mr. Speaker, the bottom line is that revoking China's MFN status would hurt the very people the United States ought to be trying to help. Withdrawing MFN would seriously damage United States foreign policy interests, would limit our contacts with China, would weaken the forces pushing for reform, and would hurt American businesses and consumers. Withdrawing MFN also would severely damage the export industries in China's southern provinces, where free market reforms and more democratic policies actually are succeeding.

I would ask my colleagues to remember, before they vote, that any interruption of trade between the United States and China will hurt American businesses and consumers. Raising tariffs on Chinese products could provoke retaliation from the Chinese Government. A United States-Sino trade war would endanger more than $5 billion in American exports, as well as adversely affect more than $4 billion which has been invested by United States firms in China. And our domestic companies would be at a severe disadvantage if China were forced to turn to other countries to meet its growing commercial and consumer needs. And don't forget that American consumers—the men and women in your congressional districts and in mine—will pay substantially higher prices for Chinese-made clothing, footwear, toys, tools, and electronics.

Mr. Speaker, I'll end as I started: All Americans want to see greater democratic reforms in China. We all want the Chinese Government to respect the human rights of the Chinese people. We hope that China will adopt our commitment to reduce nuclear proliferation and our commitment to free and fair trade. But these concerns, these issues, have no place in the MFN debate. They can be, and should be, dealt with through more appropriate and existing mechanisms. Let's not lose sight of what we're really trying to accomplish here: Devising a policy that has the best chance to influence positive change in China. I believe that revoking China's MFN status is not that policy.

HONORING THE 50TH ANNIVERSARY OF THE UNITED AEROSPACE WORKERS, LOCAL 887

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. TORRES. Mr. Speaker, I rise today to call my colleagues' attention to the fact that on July 15, 1991, the United Aerospace Workers Local No. 887 will observe the 50th anniversary of their charter. Local No. 887 received its charter in 1941 from the United Automobile Workers of America, and has maintained an active and vibrant labor movement ever since. On July 21, 1991, Local No. 887 members and their families and friends will celebrate this occasion with a 50th anniversiary Jubilee.

For half of a century, Local No. 887 has been a vital and progressive force of leadership in this country. From 1941 through 1945 the defense industry in the United States grew at an astonishing rate and Local No. 887 members were there to ensure that finished products were of superior quality. Planes like the P–51, Mustang, and the B–25 bomber built by Local No. 887 membership, helped secure United States supremacy in the skies above Germany during World War II.

United Aerospace Workers came through again during the Korean conflict with the manufacturing of jet-propelled fighter aircraft—the F–86 Sabrejet and the F–100 Super-Sabrejet.

And yet again, Local No. 887 members were on the cutting edge of technology following the Korean war as our Nation competed in the race for space. From advanced rocketry, to engines and vehicles, United Aerospace Workers helped forge the great advancements in space technology our Nation is responsible for from the late 1950's to the present. Some of the great technological advancements in-

clude the production of the Appollo Lunar Module and of course the Space Shuttle Program. In addition, UAW members helped in the creation of many rocket engine systems and satellites currently in use.

Mr. Speaker, Union Local No. 887 has been, and continues to be a leader in the advancement of aerospace research and development. UAW Local No. 887 is a dynamic and progressive organization representing workers in many different crafts and trades. I take great pride in wishing them a happy 50th birthday and ask my colleagues to join me in commending United Aerospace Workers Local No. 887 for their dedication, determination, and solidarity over the years and wishing them many more successful and prosperous times in the future.

BOEING CO. CELEBRATES ITS 75TH ANNIVERSARY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FOLEY. Mr. Speaker, I would like to take note today of the 75th anniversary of the Boeing Co. which began on July 15, 1916. I would like to extend my heartfelt thanks to all of the employees of the Boeing Co. for making possible this unique industrial and technological organization.

It gives me pride that the Boeing Co. was founded in the State of Washington and has grown to be the dominant industry in our State—and the world's foremost leader in civil aviation.

The Boeing name is known the world over to be synonymous with manufacturing excellence. The company's distinguished history has been marked by major contributions to the defense of our country, to the world's commercial air transportation systems, and to the exploration of space. These magnificent achievements can be attributed to its employees—the men and women of Boeing—and to the generations of employees before them who were dedicated to excellence.

Their pride, vision, and high standards show in Boeing's products the world over. That is why it is with great pleasure that I congratulate each of them on this historical occasion and commend them for their individual contributions to a true American success story.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 16, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 17

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business. SD-430

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program. SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business. SD-366

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on non-point sources of pollution. SD-406

Governmental Affairs

To hold hearings to examine Department of Defense management inventory. SD-342

10:00 a.m.

Budget

To hold hearings on the Office of Management and Budget's mid-session review. SD-608

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 734, to prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act with respect to certain submerged lands off the State of Florida, and S. 736, to revise the Outer Continental Shelf Lands Act to revise the environmental standards under which Outer Continental Shelf leases or permits shall be cancelled. SD-366

Foreign Relations

African Affairs Subcommittee

To hold hearings to review the report on the African-American Summit held in Abidjan, West Africa. SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

Business meeting, to mark up S. 474, to prohibit sports gambling under State law, S. 654, to revise Federal patent law to provide for the patentability of certain processes along with a machine, manufacture, or composition of matter with which they are associated, and S. 758 and S. 759, bills to provide that neither the States, their officers, nor their instrumentalities are immune from trademark infringement liability, and to provide the same remedies for trademark infringement against State entities as are available against any private entity. SD-226

Select on Intelligence

Closed business meeting, to resume markup of proposed legislation authorizing funds for fiscal year 1992 for intelligence matters. SH-219

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of William Happer, of New Jersey, to be Director of the Office of Energy Research, Department of Energy. SD-366

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on coastal protection, clean lakes, and the Great Lakes and Mexico border areas. SD-406

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings on government-sponsored enterprises. SD-342

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings to examine the future role of women in the workplace. SD-430

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business. SD-226

Select on Indian Affairs

Business meeting, to mark up S. 291, San Carlos Apache Water Rights Act, S. 668, Consolidated Environmental Grants, S. 362, Mowa Band of Choctaw Indians Recognition Act, S. 45, Jena Band of Choctaw Indians Recognition Act, and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed by hearing on S. 1287, Tribal Self-Governance Demonstration Project Act. SR-485

2:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on compliance and enforcement, and State certification of Federal projects. SD-406

Foreign Relations

To hold hearings on the Protocol amending the Extradition Treaty between the U.S. and Canada (Treaty Doc. 101-17), Amendments to the 1928 Convention concerning International Expositions (Treaty Doc. 101-15), the Protocol amending the Convention on International Civil Aviation (Treaty Doc. 101-14), and the Convention Providing a Uniform Law on the Form of an International Will (Treaty Doc. 99-29). SD-419

3:00 p.m.
Energy and Natural Resources
To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.
SD-366

3:30 p.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the Federal Maritime Commission.
SR-253

JULY 19

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Judiciary
To hold hearings on the nominations of Andrew J. Kleinfeld, of Alaska, to be United States Circuit Judge for the Ninth Circuit, Benson Everett Legg, to be United States District Judge for the District of Maryland, Dee V. Benson, to be United States District Judge for the District of Utah, and Donald L. Graham, to be United States District Judge for the Southern District of Florida.
SD-226

10:00 a.m.
Finance
Medicare and Long-Term Care Subcommittee
To resume hearings on the Health Care Administration's proposal to institute a prospective payment system for inpatient hospital capital costs under the Medicare program.
SD-215

Foreign Relations
To hold hearings on the nomination of Charles G. Untermeyer, of Texas, to be an Associate Director of the U.S. Information Agency.
SD-419

JULY 22

9:30 a.m.
Small Business
To hold hearings to examine the small business impact of proposed enterprise zone legislation, including S. 1032, to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments.
SR-428A

JULY 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 140, to increase Federal payments in lieu of taxes to units of general local government for entitlement land, and S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.
SD-366

Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.
SR-301

10:00 a.m.
Environment and Public Works
To hold hearings on S. 481, to authorize a two-phase program of research and development to produce water of a certain quality from saline or biologically impaired waters.
SD-124

2:00 p.m.
Energy and Natural Resources
To hold hearings on Senate Joint Resolutions 23 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.
SD-366

JULY 24

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1410, to protect the rights of consumers from unsolicited telephone marketing calls, and S. 1462, to revise the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.
SR-253

Special on Aging
To hold hearings to examine the treatment of low-income Medicare beneficiaries.
SH-216

Joint Printing
To resume hearings to examine the technological future of the Government Printing Office.
B-318 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), and the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Doc. 102-7).
SD-419

JULY 25

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 621 and H.R. 543, to establish the Manzanar National Historic Site in California, S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area in California, S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history, and H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn.
SD-366

Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.
SR-301

10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.
SR-301

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.
SR-485

Select on Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.
SR-485

JULY 29

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on oversight of the Government Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.
SD-406

JULY 30

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.
SD-366

2:30 p.m.
Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold hearings on S. 1179, to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants, and S. 1187, to revise the Stock Raising Homestead Act to provide certain procedures for entry onto the Stock Raising Homestead Act lands.
SD-366

JULY 31

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Commerce.
SR-253

Finance
To resume hearings on S. 612, to encourage savings and investment through individual retirement accounts (IRAs) in

an effort to stimulate economic growth for Americans and the nation.

SD-215

AUGUST 1

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Forest Service in the States of California, Oregon, and Washington.

SD-366

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on a proposed Department of Transportation headquarters, and the relationship between the Judiciary and the Government Services Administration for the provision of space for the Courts.

SD-406