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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

SENATE—*Friday, October 2, 1992*

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore [Mr. KOHL].

PRAYER

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

Let us pray:

Baruch HaShem. Blessed be the name of the Lord.

Have mercy upon me, O God, according to thy lovingkindness: according unto the multitude of thy tender mercies blot out my transgressions. Wash me thoroughly from mine iniquity, and cleanse me from my sin. For I acknowledge my transgressions: and my sin is ever before me. Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest. Behold I was shapen in iniquity, and in sin did my mother conceive me. Behold thou desirest truth in the inward parts: and in the hidden part thou shalt make me to know wisdom. Purge me with Hyssop, and I shall be clean: wash me, and I shall be whiter than snow. Make me to hear joy and gladness; that the bones which thou hast broken may rejoice. Hide thy face from my sins, and blot out all mine iniquities. Create in me a clean heart, O God; and renew a right spirit within me.—Psalm 51:1–10.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders is reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the Senate will debate for 1 hour the motion to invoke cloture on the education bill. At the completion of that debate, a vote will occur on that motion. Following disposition of that bill, the Senate will debate for 1 hour and then vote on the crime bill conference report and then we will vote on that motion. Following disposition of that bill, the Senate will debate for 1 hour and vote on a cloture motion on the reauthorization bill for the National Institutes of Health.

Since the disposition of the matters will depend upon the outcome of each of the cloture votes, it is not possible

NOTICE

A final issue of the Congressional Record for the 102d Congress, second session, will be printed after the sine die adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than October 29, 1992. The interim issue will be dated October 29, 1992, and delivered on October 30.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

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By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

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

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now to know with certaint when the second and third votes will occur. But we intend to press forward on all of these and other measures as we attempt to meet the deadline for adjournment of this Congress set some weeks ago by the Speaker and myself.

I thank my colleagues for their cooperation. Senators should be aware that there may be a late session this evening. It may be necessary for the Senate to be in session on Saturday. If necessary, there could be a session on Sunday. It is my preference that we not meet on Sunday if we can arrange our affairs in such a manner so as to make it unnecessary, but that will require extraordinary cooperation from our colleagues, and I will not make a decision or announcement about the sessions on Saturday and Sunday until later this evening.

I thank my colleagues, and I yield the floor.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour for debate, equally divided, on the motion to invoke cloture on the conference report accompanying S. 2, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, this morning, the Senate is being asked to invoke cloture so that we may approve the conference report on the Neighborhood Schools Improvement Act (S. 2).

This is a strong bill that will take important steps to improve our schools. The bill provides for national education goals, the establishment of voluntary national education standards, the development of model national assessments, and regulatory flexibility initiatives for local schools.

The bill also establishes a formula grants program that will provide Federal funds to States to make competitive grants to local schools to improve student achievement. Those with the best proposals will get funded. Those that do not have good ideas will not win awards.

Funds will be provided to schools over a 5-year period. Schools must show gains in academic achievement. Schools that do not show gains will lose their money. Schools that show gains in academic performance will continue to receive funds.

The opponents of this bill claim that it is deficient because it does not include the initiatives advanced by the Bush administration. With one exception, this is wrong.

There are five principal parts to this bill. Four are initiatives that the administration has previously supported. These are: First, putting the national goals panel on a statutory basis; second, establishing voluntary national education standards; third, developing voluntary model tests and assessments; and fourth, providing greater regulatory flexibility in Federal education programs.

The fifth part of the bill is the Neighborhood Schools Improvement Grants Program, which provides funds to local schools for school reform and links individual school activities with State and local systemwide reform plans.

Unlike the administration's new American schools proposal, this plan will be available to benefit all public schools—not just 535 new schools, one in each congressional district, as the administration proposed.

In addition, this bill will not divert scarce public funds from public schools to private schools.

Unlike the administration's proposal, school reform will be directed by the States and local schools, the Federal Department of Education would not set the terms or pick the winning schools.

Unlike the President's proposal, this bill incorporates strict accountability. Funds will be cut off if the schools do not demonstrate improved academic performance.

The Neighborhood Schools Improvement Act rejects the concept of privatizing education in America, abandoning the public schools, or giving the Secretary of Education final say on where to spend the money. If Federal control of local education is a danger, this bill avoids it far more effectively than the administration's plan.

Yesterday, I received a copy of a letter from Secretary Alexander to the majority leader, GEORGE MITCHELL. The letter cites five reasons for opposing this bill. Secretary Alexander's points are distortions of the legislation, and for the most part contradict positions the administration has previously taken.

First, he claims that the bill "pokes the Federal Government's nose too far in to local decisions—it creates at least the beginnings of a national school board that could make day-to-day school decisions on curriculum."

It is true that the education bill contains national education standards and takes a step forward in the direction of developing a national assessment of education. That is something the administration has eagerly supported.

It was the first point of the President's America 2000 proposal. He called for "new world standards" and "nationwide American achievement tests," developed in conjunction with the National Goals Panel. This bill provides for those standards. It is difficult to understand how Secretary Alexander can now claim that this step will create a National Board of Education.

Second, Secretary Alexander claims that the legislation will allow States to retain 20 percent of their funds, and local education agencies to retain 10 percent of their funds, for systemwide planning and innovative school reform.

Again, the administration has changed its position. In the Senate the administration wanted the States to keep 35 percent of the funds, so they could support innovative new schools.

This bill allows the States and local education agencies together to keep 30 percent—hardly a difference that justifies a veto.

Third, Secretary Alexander complains that the regulatory flexibility proposal does not go far enough.

In fact, it does go quite far. The program initially covers 17 education and social programs, 10 States and 750 schools, far more programs and States than in the original Senate bill.

It is the most comprehensive regulatory reform initiative ever attempted in Federal education policy.

There were good reasons for being careful not to go too far in this process: The Federal regulatory provisions in education are the result of years of evidence that funds were improperly spent. This new flexibility approved in this bill establishes the groundwork for further regulatory reform in the future.

Fourth, Secretary Alexander complains that the bill does not authorize private school choice. Both the House and Senate had rollcall votes on proposals to use Federal funds for such programs and were decisively rejected. Nothing in the bill prevents any State or local agency from spending all its funds from the program on choice among public schools, if that is what States and local schools want.

What the bill does not do is impose choice from the Federal level on States and local schools that choose not to spend it. It is difficult to believe that Secretary Alexander, if he is truly concerned about Federal control, would have it any other way.

Fifth and finally, Secretary Alexander objects to the failure of the bill to authorize 535 new American schools as proposed by the President, at $1 million each, one for each congressional district, to create private, for-profit or

religious, schools as chosen by the Secretary himself.

But one per congressional district picked by the Secretary was a bad idea. Innovative new schools are a good idea and the bill specifically allows it. If any State wants to fund new American schools, the bill specifically authorizes funding of "innovative school reform activities."

That term can certainly include new American schools, as long as they are new American public schools.

This bill is an excellent start on school reform. It is the same basic bill that the Senate approved by a vote of 92 to 6 in January. It includes most of the things that the President wants—national goals, education standards, educational assessments, and money for reform of local schools.

We hope that all 92 Members who supported this bill in January will act to approve the conference report and send the bill to the President.

This is a good bill and it deserves to be approved by the Senate. A vote to invoke cloture will be a step in that direction.

Mr. President, I will include these endorsements of the legislation, but I want to just take a moment of the Senate's time in quoting first of all the National Alliance of Business, which includes many of the most important and successful companies and corporations in the country. I will include the full statement in the RECORD. Here is one paragraph:

Constructive Federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the Governors in Charlottesville, Virginia, which first established a national education goal.

Here we have a letter from the Council of Chief State School Officers. I will include the full letter in the RECORD.

The Neighborhood Schools Improvement Act supports schoolwide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that Governors, State legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

We will hear comments about the structures that are set up and whether it has been overbureaucratized. Here the National Business Alliance urges the Senate to support this proposal, and the Council of Chief State School Officers who are out on the firing line day in and day out.

Let me continue what they say:

This legislation includes fundamental changes proposed by the President and Members of both parties on the way the Federal Government promotes educational change and excellence. Our schools, school districts and States need the help this act promises as rapidly as possible.

My characterization of the legislation is not only what the legislation states, but it is what those individuals who are on the firing line day in and day out say is needed.

And I continue with the National PTA and will include their full statement.

The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves.

This is the organization that represents the parents. Important provisions in this legislation include parental involvement, and this is what they say, the organization:

The act allows for parental involvement and recognizes the importance of parent participation in school change.

The act focuses on the most impoverished schools and students in both rural and urban settings.

The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services.

An extremely important position. And finally:

The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

These are the organizations that understand what this bill is all about. These are the groups that are on the firing line day in and day out.

I will include others, but I welcome the kind of endorsement that they have given to this legislation. That is what we attempted to do. That is what I believe we have achieved. And we welcome the fact that those individuals and organizations that are out on the firing line day in and day out and that are closest to the students and the parents and the communities have given such a ringing endorsement to this legislation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

NATIONAL ALLIANCE OF BUSINESS,
Washington, DC, September 29, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express support of the National Alliance of Business for approval of the final conference report on education reform legislation, the "Neighborhood Schools Improvement Act."

Constructive federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the governors in Charlottesville, Virginia, which first established national education goals. We recognize that the bill is not ideal, but it represents a critical step toward achieving the goals.

From a business perspective, the key contributions of the bill would be to codify the national education goals into law and to establish federal objectives to help meet the goals. The bill would reconstitute the National Education Goals Panel, and, most important, would authorize a process to develop a system of voluntary, national education standards and assessments. Federal grants to local school districts and schools would be awarded competitively based on state and local plans for comprehensive school restructuring which would be developed with business participation. Schools must show gains in academic achievement or funds are cut off, establishing accountability and responsibility for school reform at the local level.

We view this bill as one important step in the bipartisan effort to improve American education. We commend your efforts to shape and complete a bill in this Congress, and urge your support for final enactment into law.

Sincerely,

WILLIAM H. KOLBERG,
President.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC, September 28, 1992.

Re vote "Yes" on the Neighborhood Schools Improvement Act (S. 2) Conference Report.

DEAR SENATOR: This week the conference report on the Neighborhood Schools Improvement Act (NSIA) will come before the Senate for final passage. The nation's chief state school officers urge you to vote "yes" on this essential legislation.

The Neighborhood Schools Improvement Act supports school-wide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that governors, state legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

This Act codifies the National Education Goals; authorizes development of voluntary national education content standards for students and voluntary national school delivery standards. It provides funds for developing model assessments in mathematics and science. These are all breakthroughs in Federal legislation.

The Neighborhood Schools Improvement Act provides for demonstration of deregulation by giving flexibility to states and school districts in administering Federal programs. This flexibility is brand new in Federal education legislation.

This legislation includes fundamental changes proposed by the President and members of both parties on the way the Federal government promotes educational change and excellence. Our schools, school districts and states need the help this Act promises as rapidly as possible.

Once again, we urge you to vote "yes" to the conference agreement on S. 2. Thank you in advance.

Sincerely,

GORDON M. AMBACH,
Executive Director.

THE NATIONAL PTA,
Chicago, IL, September 29, 1992.

DEAR SENATOR: The Neighborhood Schools Improvement Act conference report is anticipated to be taken up by the full Senate later this week. The National PTA, com-

prised of over 6.9 million parents, teachers and other child advocates, urge you to vote for the conference report. This provides financial help to public schools that either are currently or will be undertaking initiatives for educational restructuring and reform.

The Neighborhood Schools Improvement Act should be passed for the following reasons:

1. The act provides assistance solely for needy public schools and does not include funding for private or religious schools in any form;

2. The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves;

3. The act allows for parental involvement and recognizes the importance of parental participation in school change;

4. The act focuses on the most impoverished schools and students in both rural and urban settings;

5. The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services;

6. The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

The National PTA supports this bill in its current form and asks that you cast your vote in support.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

THE NATIONAL COALITION
FOR PUBLIC EDUCATION,
Washington, DC, September 29, 1992.

DEAR SENATOR: This week, the Senate will be taking up the Neighborhood Schools Improvement Act Conference report, S. 2 and H.R. 4323. The National Coalition for Public Education (NCPE) has been working with members of both the House and the Senate to assure that monies from this act be allocated only to public elementary and secondary schools. The NCPE strongly supported the Senate's defeat of several private school amendments when S. 2 was originally passed on January 22, 1992; and NCPE was also strongly supportive of the House's overwhelming defeat of similar private school voucher amendments when H.R. 4323 was passed on August 11, 1992. This decisive action on behalf of public schools sends a clear signal that Congress does not believe that private school vouchers are a legitimate educational reform vehicle.

As the Neighborhood Schools Improvement Act comes up for a vote later this week, we ask that you take into account that the act rightly allocates money to public schools only. We ask that you oppose all parliamentary ploys intended to add private school parental choice including the President's G.I. Bill or any other form of private school aid. The National Coalition for Public Education is an organization of over 40 education, religious, civic and civil rights group opposed to public money going to private and religious schools.

We thank you for your attention in this matter.

American Association of School Administrators.
American Civil Liberties Union.
American Federation of Teachers.
American Jewish Committee.
American Association of University Women.
Baptist Joint Committee.
Council of Chief State of School Officers.
General Conference of Seventh-day Adventists.
Council of the Great City Schools.
International Reading Association.
National Association of Elementary School Principals.
National Committee for Citizens in Education.
National Association of State Boards of Education.
National Coalition for Public Education and Religious Liberty (PEARL).
National Education Association.
National Congress of Parents and Teachers Association.

Mr. KENNEDY. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I rise to express my opposition to the conference report on S. 2, the Neighborhood Schools Improvement Act, and urge that all my colleagues join me in voting against cloture on this measure.

Mr. President, it is not for political reasons that I oppose this legislation. It is because I support sound, sensible measures regarding education, and I do not believe that this is one. It is a great disappointment to me to have to be arguing against a measure I would like to support. The bill we passed in January was one which I did support, as did a large majority of the Senate, as was pointed out by the Senator from Massachusetts.

However, little of that Senate bill is now in this conference bill before us, and I would say to the chairman of the Labor and Human Resources Committee, it is not basically the same bill which was passed by the Senate in January.

I would like to go through some of the reasons why I believe this is not a sound or sensible approach at this time.

It goes without saying that it is difficult for any of us to oppose a bill that has education in its title. No one opposes education. No one argues against its importance in assuring that our Nation stands tall in an increasingly competitive world.

In many respects, the easiest thing to do would be to just let this bill go. We all know there is not any money available to fund this program. Moreover, any action we take at this late date will surely be overshadowed by the reauthorization of the Elementary and Secondary Education Act during the next Congress. The gesture might be meaningless, but we could all go home and say we voted for education reform.

However, it is simply too late to be considering this bill. The conference report for the Labor-HHS-Education fiscal year 1993 appropriations bill was filed last night. There is not one penny of the $800 million authorized by S. 2 in that measure. In fact, funds are already tight for the proven, existing education programs already on the books. That is going to be a very important reauthorization beginning the first of 1993.

Moreover, even under the best of circumstances, by the time any school could expect to receive funds under this bill, we will have passed a major reauthorization of Federal elementary and secondary education programs—involving over $13 billion of funds which are available and are being spent.

The most we can hope to accomplish by approving this measure at this late date is to send a signal that Congress is interested in education reform. However, if we do so, we will be sending the wrong signal. This is a bill which promotes bureaucracy—not reform. By once again saying that the Federal Government knows best, we threaten to strangle creativity and innovation at the State and local levels.

As a former school board member of a small rural school district, in Kansas, I cannot tell you how strongly I feel about increasing bureaucracy at the Federal level regarding our educational system.

Having been a member of the conference committee on this bill and having reviewed its final provisions, I have determined that I cannot simply cast my vote in favor of this legislation just because it concerns education. This is a course I simply cannot take. The structures we build in one piece of legislation are often superimposed on other programs, and—once built—they rarely go away. I believe the structure of this bill is not sound education policy and think it would be a tragedy if it were to serve as a cornerstone of other new or existing Federal assistance programs.

It was dismaying to me to see the features of the Senate bill which I believed were most important hit the cutting room floor during conference deliberations. The bill which left the Senate included a streamlined administrative structure, a direct focus on local neighborhood schools, and a strong emphasis on targeting assistance to those schools in greatest need. By contrast, the conference bill establishes an elaborate maze of new bureaucracies for schools to try to negotiate and fails to target assistance in any meaningful way.

My single biggest concern with the bill is, in fact, its creation of a bureaucracy which could potentially stifle rather than assist reform efforts which are already underway at the State and local levels.

Many of us worked very hard to streamline the process included in earlier versions of the Senate bill, and I was very appreciative of the assistance given by the Senator from Massachusetts in that endeavor, and the chairman of the Education Subcommittee, Senator PELL.

The bill which passed the Senate provided for the provision of grant funds to State education agencies [SEA's],

which developed a State reform plan in consultation with an advisory council. Local schools desiring assistance would develop a proposal in cooperation with school officials, community participants, and a local education agency [LEA]. The LEA would then submit the application to the State which would make funding decisions.

The requirements which emerged from conference, however, are much like the before and after pictures of a weight-loss ad—in reverse. And I dislike having to spend some time laying out the bureaucracy of it all.

But under the conference bill—and I would just like to explain how complicated this gets—a State first applies for a planning grant, then establishes a State improvement panel. The panel then develops a plan and sends it to the State education agency, which may approve it or disapprove it or send it back for revision.

When a suitable plan is developed, the SEA submits it to the Secretary—who cannot disapprove it except after giving the State notice, technical assistance, and an opportunity for a hearing.

Local education agencies wishing to receive funding undergo a parallel process—also establishing a reform committee. A peer-review process must be established at the State level to review LEA applications. In the meantime, the LEA selects schools to receive funding and submits both its local reform plan and school funding proposals to the State.

Finally, schools which wish to obtain grant support must submit a restructuring proposal to the LEA.

So the State, the local education agency, and schools by and of themselves, all go through the same elaborate procedure.

I should also point out that, not only does the bill require the establishment of State and local policymaking panels outside those which already exist, but it also specifies who should serve on those bodies. If the point of all these reform committees is to bring in fresh blood and new ideas, we should at least leave room for States and localities to identify such individuals themselves.

The structure I have just described is exactly the reason that the American public is frustrated with the Federal Government and with all of us. Washington is seen not so much a source of support as of aggravation.

Another major point of difference between the House and Senate bills was whether reform will be accomplished from the top-down or from the bottom-up. Clearly, the top-down approach favored by the House prevailed in the conference bill.

I believe that most of us in the Senate were very disappointed with this outcome. Whatever one may say about the failings of our current system and our need for improvement, it would be foolhardy not to recognize that one of the real strengths of the system is the personal stake that individuals and communities have in their schools.

We cannot legislate the kinds of individuals who are involved in schools on a day-to-day basis, nor can we regulate their day-to-day behavior. It is the commitment, talents, and interests of teachers, parents, and administrators that will make or break any reform effort. Reform takes the constant prodding and adjustments which can only be done by those on the scene who are committed to that effort.

The fact of the matter is that the future of education reform in this country does not hinge on the enactment of this legislation. Our tendency to offer Federal assistance in the form of a one-size-fits-all regulatory straitjacket could actually produce the opposite result.

All over this country, States and localities are actively engaged in exciting and innovative reform efforts. They have undertaken these efforts without a Federal prescription regarding the type of committees they should establish, the membership of those committees, or the specific reform methods to be included. They undertook those reforms because people in their districts and in their education arenas believed that they could do it and knew what they wanted for their schools.

I am sure that every Member of this body can produce a list of innovations underway in his own State, whether it is Massachusetts, Kansas, or Utah or any of the other States so represented here on the floor.

One wonders how many of these programs could meet the specs outlined in this bill. I am not sure that they could with the innovations which they are undertaking.

President Bush has called upon communities across the Nation to undertake a concerted examination of what they want from their schools. In a country as diverse as our own, a variety of exciting and thoughtful responses have emerged. Let us not strangle these efforts in their infancy with reams of redtape.

Other aspects of the legislation before us are disappointing as well. It includes a statement of the six national goals, along with a series of findings calling for unrealistic levels of spending for a variety of Federal programs—unfairly raising expectations that the Federal Government will honor commitments in the future which has been unable to honor in the past.

It omits any specific mention of the innovative reform ideas included in the Senate bill. These ideas—such as new American schools, comer schools, essential schools, charter schools—are not even referenced in report language. This totally ignores the substantial interest in this area, as evidenced by the fact that the privately funded New American Schools Development Corporation received proposals from 686 groups.

It also sets the stage for Federal involvement in areas more appropriately left to State and local governments. For example, it calls for data collection activities in the area of school finance. Unless the Federal Government is prepared to help assume the general operating costs of local schools, which I doubt, there are serious questions regarding our ability to play a constructive role in this sensitive and complex area.

Likewise, provisions in the bill relating to the development of school delivery standards open the door to future attempts to decide at the Federal level, educational inputs, ranging from class size to teacher credentials. In addition, at a time when we are trying to do more to look at educational outcomes, this brings us back to looking at inputs and may have the effect of requiring or encouraging every school in the Nation to do everything in the same way, whether or not that makes sense for them.

I also note that there are some good features of the bill. It gives statutory recognition to the National Education Goals Panel, which was established following the 1989 education summit between President Bush and the Nation's Governors. Earlier this week, this group issued the 1992 National Educational Goals Report. This bill also provides the waivers of Federal requirements which stand in the way of efforts to serve students more effectively. Such waivers would be permitted in up to 750 schools across the country. Contrary to the thrust of this bill, this provision recognizes that Federal statutory and regulatory requirements can get in the way of good ideas at the local level.

In conclusion, I urge that, before casting their votes, all Members consider these important points:

First, this bill is not the right thing to do for education and may, in fact, stifle the flexibility needed to achieve true reform.

Second, it holds out false promises and expectations because not one penny of the $800 million authorized for fiscal year 1993 has been appropriated. In fact, it has proven impossible under current budget circumstances to fund existing, proven programs at the levels we would like to see.

I wonder if any of the groups that are endorsing this legislation know that. Although my office has not received any of them, the Senator from Massachusetts says that five or six groups have sent letters of endorsement. However, I wonder if they really know there is nothing in this but, perhaps, false hopes for the future.

Third, even if funds were appropriated in some future year, little, if any, money would be available for pro-

grams in schools until a second year of funding was provided. First-year funding would be solely devoted to planning.

Fourth, nearly 2 years after this bill was introduced, and 8 months after it was approved by the Senate, we are considering an elementary and secondary education bill in the waning hours of the 102d Congress. Within the 103d Congress, when it reconvenes in just 3 months, we will begin a comprehensive review of the elementary and secondary education programs—for which over $13 billion are available and being spent—in preparation for reauthorization of the Elementary and Secondary Education Act.

That is the appropriate forum for a serious discussion of the effect of the Federal role in promoting education reform.

Mr. President, for all these reasons, I urge that we not go forward with this bill at this time.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 17 minutes, 40 seconds.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, I listened with great interest to my friend and colleague characterize the legislation and the shortage of resources in terms of this legislation. That is very true. It is interesting to have our Republican colleagues urging that we need the additional funding for education programs. We do need it. Although money is not the only answer, the level of funding does reflect the Nation's priorities. I am very hopeful that that attitude will continue as we move forward on other education programs.

What is not mentioned, however, is what is included in this legislation. This legislation is a national statement of policy on education. We have standards and the development of assessments. We have flexibility and waiver provisions. We authorize waiver provisions in this legislation that will help States eliminate some of the Federal regulations on some 17 different programs. That was argued about here in January and was actually proposed by the Senator from Oregon [Mr. HATFIELD]. I know he wishes that we had even more flexibility even though we did 6 States in the Senate bill and have 10 States and 17 programs. Nonetheless, it is not as expansive as some would like. With the authorization however, the process can begin and we can start eliminating interference, duplications, and overlap and the bureaucracy of many programs.

We are for that. We support it. It is in this legislation, and we are delaying eliminating these problems unless we pass it.

Second, the costs of the standards and the costs of the assessments, Mr. President, are not great. These concepts have been supported by the President of the United States. We provide specific authorization for moving ahead. We have to try and determine what our children ought to know in key subjects, such as math and history and other extremely important subjects. Developing assessments for those standards is also enormously important. It is going to take time. How are we going to develop assessments that will be fair and be able to look at various considerations of children's performance? Those are matters that are included in this program.

Finally, Mr. President, if this was as bureaucratic as my friend and colleague has pointed out, it is difficult for me to believe that we would have the kind of support from the business community that we have. They have indicated a ringing endorsement for it. On the one hand, those that are opposed to this legislation say we are not providing new people, new ideas, new opportunities, for parents and community leaders and business leaders to be involved in the education reform. So we have tried to do that by developing groups at the local level and the State level that can provide that kind of input. Now we have done that, we are told that we are developing an additional bureaucracy, and therefore you cannot support it. We have tried to provide a balance, and I think we have a good balance.

On the one hand, our Republican colleagues are complaining about the bureaucracy and, on the other hand, we have the support of the chief of State School Offices, the National State Board Association, the National School Boards, the Council of Great City Schools, the National PTA Association, the Association of Elementary School Principals, and the Association of Secondary School Principals. You cannot have it both ways. It is difficult to believe we could have those endorsements and have provided a mechanism for those that are involved at the local level in the school reform. In such a way that we have the strong and overwhelming support of the business community, and yet still have created a bureaucracy.

So, Mr. President, I hope at least for some of those reasons, and others which identified earlier, that we would support the bill.

Mr. PELL addressed the Chair.

ADDITIONAL CONFEREES—H.R. 5334

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following Senators from the Environment and Public Works Committee be appointed as additional conferees with respect to title X of H.R. 5334, the Affordable Housing and Community Development Reauthorization Act: Senators MOYNIHAN, REID, and CHAFEE.

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

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with consideration of the cloture motion.

Mr. PELL. Mr. President, I express my strong support for the conference agreement that has been reached on S. 2, the Neighborhood Schools Improvement Act. It is important legislation, and I hope very much that we can approve the conference report so that this legislation can be sent to the President for his signature.

The Senate-House agreement provides an authorization of $800 million for a grant program to encourage systemic education reform at the local school level. My home State of Rhode Island would be eligible to receive approximately $2 million a year to support education reform programs in schools throughout the State.

The legislation also provides for a demonstration program to support flexibility in Federal education programs in 10 States. The purpose of the program would be to reduce Federal regulatory burden and achieve program simplification. Both of these goals compliment and strengthen my longstanding commitment and efforts to reduce the paperwork burden in our Federal education programs. Our goal should always be to make sure that our education programs efficiently and effectively serve the students who need our help most, and the demonstration program that is a part of this legislation is designed to do just that.

Finally, the legislation supports the development of voluntary national content standards in all areas, and of model assessments in mathematics and science. The standards are absolutely necessary as a statement of what students should be expected to know in vaious subject areas. This is critical if our education system is to be truly world class, and if we are to achieve the national goals in education set forth almost 3 years ago.

The Department of Education, often in cooperation with other Federal agencies, has already made grants for the development of standards in areas such as history, civics and government, and the arts. This legislation recognizes the work that is already in progress. It seeks not to interrupt that work, but to add to it. It seeks to strengthen the process of stsandards development, and provides for the certification of such standards by the National Goals Panel. These are important steps in the right direction of bringing true reform to the American schools.

Standards are not enough, however, and I am very encouraged that we not

only encourage but support, as part of the Eisenhower Math and Science Act, the development of model assessments in mathematics and science. I am equally encouraged that we do not preclude the work on assessments in other areas. Our efforts mean little if we do not have assessments to determine if we are meeting the standards we set forth.

As my colleagues know, I have long believed that we should have a national test or a series of national tests to measure what students know. That measurement would help us understand what we have to do to improve the education of students nationwide. It would also help us target those students most in need of our help, and identify those schools and local education agencies where the need for improvement is most pressing. That information would not only help us help students but also help us improve American education overall.

Our goal is to make American education world class in every classroom in the Nation. None should be left out, and none should be neglected. Make no mistake about it, our efforts are to lift the quality of education everywhere. And, to my mind, that means a very specific, concentrated effort in those schools where improvement is the most difficult to achieve, and with those students who most need our assistance.

This legislation is a step in the right direction, but it is only a step. I would hope, therefore, that we would view it as a precursor to what we should be considering when we begin our work to reauthorize the Elementary and Secondary Education Act next year.

Mr. President, I urge my colleagues to join me in approving this important conference agreement.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from Mississippi [Mr. COCHRAN].

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from Kansas for yielding time to me.

Mr. President, the vote we will be called upon to cast after this 1 hour of debate is completed is on cloture on the motion to proceed to the consideration of the conference report. Some of us have the very strong feeling that this conference report should not be considered by the Senate at this time. I feel very strongly that it should not be considered, and I am going to vote against invoking cloture on this motion.

The reason is because of my serious concern about the discussions that we had in conference, the absolute failure of the conferees on the part of the House to consider seriously or discuss any of the reforms contained in the bill passed by the Senate.

It became clear as the conference proceeded that House Democrats did not want this bill. They were not interested in including any provisions that the Senate had thought were important to authorize, for example, the establishment of new American schools. That was included in the conference in Charlottesville as one of the ways to help improve education in America. The Governors and the President, we all remember, met in Charlottesville to talk about establishment of goals for the future for education in America, how do we improve our schools.

One of the ways was to get the Federal Government to loosen up its regulations on how Federal funds could be spent and let local communities, individual school districts, local administrators, teachers, the private sector get involved in trying to come up with new and better ways to teach our children, to develop new schools for the future.

So, this bill was an opportunity for us to cooperate in the education reform effort and loosen up some of the Federal strings that had been attached to Federal funds that had been allocated to elementary and secondary education in the past.

But House Democrats would not have any of it. They refused to include even the use of the words "new American schools" in the bill. Wherever that appeared in Senate language, it was stricken and no consideration given to reconsidering that decision.

It seems to me, Mr. President, that we ought to recognize that this conference report does not reflect a compromise at all. It does not include important Senate provisions, because the House Democrats would not agree to any compromise on those reform provisions in the Senate bill.

So this conference report should not be considered by the Senate. Next year the Elementary and Secondary Education Act comes up for reauthorization. We will have another opportunity next year, because that is legislation that I am sure the Senate will consider. We will have hearings. We will get input from those who are interested in education reform. We will make a new effort next year to get a better bill after a conference with the House, which I hope will produce some compromise.

But I am very disappointed in the failure of this conference to produce a compromise bill. It is a bill that is not really supported by those involved in education back in the States. It gives the States more regulations, more controls than we already have on the efforts of those at the local level.

It seems to me this is really an effort in disguise to impose more Federal control over local decisionmaking than we have had before. The Federal Government contributes only 6 percent of the money that is used for education back in the States, yet it wants 100 percent of the say-so as to how the funds will be used.

I am hoping the Senate will reject the notion of taking up and seriously considering this conference report. And so I hope Senators will vote "no" on the cloture motion.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

It is extraordinary to hear criticisms of this legislation, saying this program is a top-down program, from those who are supporting the administration's program that would have the Secretary of Education select 535 programs and 535 school districts. Talk about a top-down program, you have it there, unless top down does not mean that. The administration's approach is 535 programs in 535 congressional districts. If that is not a top-down approach, then I don't know what is.

We have a formula program of grants to the States, and the emphasis is on competition among the local schools working through the LEA's.

Let me list the kinds of programs that are already taking place that we want to support, Mr. President:

In the State of Maine, they have a rural middle school. Teams of teachers and students spend 2 years together, and the teams control their own budgeting and their own scheduling.

You have in New Jersey models for ungraded schools with emphasis on K through 3. There will be team teaching, individual school development, and family participation. Head Start will be available to all eligible students by 1998. The first 2 years of the plan are focusing on teacher training in primary grades to learn how to devise interdisciplinary curricula. They are also looking at adding 40 days to the school year over the next two decades.

These are the things that this bill could support. In Rockdale, GA, after joining the Coalition of Essential Schools, the teachers and students redesigned the academic program to eliminate tracking. Textbooks are used only as supplements to lessons which are interdisciplinary, and they make use of computers for math and science tests and use essay questions even in math.

In Baltimore, 6 elementary schools in the Success for All Program have regrouped their students for 90 minutes each day where the youngest students are in classes of 15 and have intensive reading. It has been so successful that it has now spread to Philadelphia.

This is what we are trying to further. This is what we are trying to help. This is what we are trying to stimulate. We used these examples developing this legislation.

Mr. President, these are examples of strategies that we are going to support, and I think it is important to recognize that.

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 6 minutes, 50 seconds.

Who yields time?

Mrs. KASSEBAUM. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Kansas has 8 minutes, 32 seconds.

Mrs. KASSEBAUM. I yield 8 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the distinguished Senator from Kansas.

I can assure this body the business community would not support this bill. The National Alliance for Business certainly is a respected smaller group within the community, but I have to tell you many in the business community do not support this bill.

I also want to compliment our distinguished ranking member, Senator KASSEBAUM, for the work that she has done on this. I know how disappointed she is that we were unable to get together and have basically the Senate version of this bill. We all fought for and which was a compromise. S. 2, as passed by the Senate, was not everything the distinguished Secretary of Education wanted but, nevertheless, was so much better than what we have come up with in this conference report, which is a political exercise to try and get the President to veto an education bill so that they then can say that the President is against education.

It is really pitiful that we get one of the finest Secretaries of Education who is renowned for his work to improve education as a Governor, who is certainly considered to be a moderate, who has tried to work with our committee and with the House of Representatives for something that would create new American schools, and other innovative and break-the-mold-type approaches, and it gets dissolved into some sort of politics like this one.

This really bothers me. In 16 years of service on this committee, I have never seen a more politicized bill than this one. And it was very apparent when we went to conference that the House of Representatives, after gumming the bill up, was not going to accept any reasonable suggestion. In fact, I made reasonable negotiated suggestions to them that ordinarily would have been grabbed like that by those on both sides. They would not consider the slightest suggestion in any way, shape, or form. So this is a political exercise and I hope everybody understands that.

Now I have to say we have heard quoted by the distinguished Senator from Massachusetts about this bill being a breakthrough for the Federal Government. Well, I suggest that a breakthrough by the Federal Government is a breakdown of State and local control, and that is what this bill is.

Mr. President, this is an important debate because it is going to determine just where we go from here. I have to say that there is not a lot in this bill that the administration wanted. There are no real reform measures in this bill. Innovative educational ideas like new American schools or charter schools are not even mentioned in this bill.

We are told these ideas can be funded out of the small reserve fund left to the States, but no State education officials would even know that because there is not a mention of it in the bill. Nothing to encourage it. And that includes public school choice programs, which Governor Clinton supports. There was not one bit of a chance of having that included in this bill. There is nothing to suggest that any of these innovative suggestions that the Secretary has made even exists as an option.

The Senate passed its version of S. 2 which I was pleased to support. The distinguished Senator from Kansas supported it, as well as the distinguished Senator from Massachusetts. It was a bipartisan bill. We worked together, as we always do. It contained ground-breaking proposals to demonstrate educational flexibility.

But I would just like to say to my distinguished colleague from Oregon, Senator HATFIELD, that I think he would be very upset how the House of Representatives diminished the ed-flex proposal.

It is hard to have a concept for which you have worked so hard to be rejected out of hand.

But, here was a real reform that would have helped States and local school districts better target their resources. Instead of spending money to comply with certain program requirements, they could obtain waivers and spend the funds to meet other needs.

But, Senator HATFIELD would not recognize the vestige of it that is left in the bill, at least I do not think he would.

One can only speculate that the supporters of S. 2 only intend more of the same old thing for education. This, in my book, is an empty promise.

The second reason to reject this bill is this bill creates even more educational bureaucracy.

In my view, we ought to be getting the investment of those scarce resources we have into the classrooms as quickly as possible. This conference agreement plainly does not do that.

For starters, this bill authorizes $800 million in the first year. Not a dime of it will flow down to individual schools. It will go to States for a year's worth of planning activities.

If parents think that their childrens' schools are going to see any quick improvements as a result of this bill, they can forget it. That is an empty promise.

Well, how about the second year? Nothing in the second year either. In the second year, the $800 million authorized would flow to States and then to local education agencies [LEA's] for planning.

Mr. President, I am all in favor of planning, but this strikes me as just a little ridiculous. Two years worth of planning assumes that State and local education agencies, Governors, legislatures, or school boards have never given a moment's thought to their educational needs and how they would like to address them.

Now, how about that planning process? Let me show it to you. I believe my colleagues will agree that the conferees should have stuck with the Senate bill.

This chart shows the procedure States and local education agencies would have to follow, as outlined in the conference report and how it works. It looks like a roadmap of the United States. You start here, go to there, here, here, here, here, here, here, then up here, through all of these various program requirements right down to all of those.

It is so complex that one has to wonder just what in the world are we trying to do bureaucratizing the educational establishment even more than it is now. This is done by devotees of the Federal Government. And it is done to impose the Federal Government ultimately upon the backs of public schools. And I have to tell you, this is the beginning of a Federal takeover of our schools.

Now that is going to be refuted, but I do not think so. If you look at what this really says, you are going to be concerned.

Now, we are going to make the States establish duplicate school boards and commissions and advisory councils. Why is any of that necessary?

Why are we forcing State and local education dollars—not to mention the dollars allocated by this bill—to be spent on planning and not on kids in the classroom?

I am also very concerned about national school delivery standards, which will basically prescribe to every school district in the United States how to run their schools.

National school delivery standards could include, for example, minimum per pupil expenditures, maximum student-teacher ratios, minimum teacher salaries, number of books in the library, and so forth.

And some States may or may not be able to meet what the Federal Government thinks are the standards they should meet.

National school delivery standards developed by tax dollars sound very reasonable. They say it is really up to the States to adopt them. But this is the beginning of Federal control of education.

There is a lot more I have to say, but my time is nearly up. But before I conclude, let me share a letter from 10 State Governors expressing their oppo-

sition and concern about this conference report:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, September 30, 1992.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR: At the Charlottesville Education Summit in September of 1989, the Nation's governors and the President agreed to institute a process to establish performance-based education goals for the nation and a way to hold ourselves accountable for progress toward those goals. Legislation currently before Congress, the conference version of S. 2, is framed around the goals and the bill has been characterized as furthering the governors' education agenda. It does not.

Since the Summit, governors have been active in promoting a national education agenda that is based on the national goals and high standards, but quite specifically relies on state and local strategies to achieve them. Our emphasis has been on performance and outcomes, not programs and input. Unfortunately, the conference version of S. 2 totally reverses that emphasis by including language requiring states to adopt school delivery standards as a condition for receipt of federal funds. From a gubernatorial point of view, S. 2 is fatally flawed in several other ways and could in fact stymie our efforts to achieve real results-based education reform.

Today, the National Education Goals Panel, a group of eight governors, four Members of Congress and two members of the Administration, released the second of 10 National Education Goals Reports. The Panel represents a fairly unusual if not unique experiment in federalism and it is making credible progress in an important domestic policy area. The process has not always been easy, but the panel does its work in a bipartisan way, operating in the spirit of consensus. By contrast, S. 2 does not reflect this cooperative approach.

Many of us have worked with the Congress through the National Governors' Association and others in trying to craft legislation that would further the governors' reform agenda, not stifle it. And, in fact, the original Senate-passed version of S. 2 would have done that. We are deeply concerned, however, that passage of this current version of S. 2 will cripple future opportunities to produce real reform legislation, and we urge you to oppose this Conference Report.

Sincerely,

Tommy Thompson, Governor of Wisconsin; John Ashcroft, Governor of Missouri; John Engler, Governor of Michigan; Jim Martin, Governor of North Carolina; Norman Bangerter, Governor of Utah; Carroll Campbell, Governor of South Carolina; Terry Branstad, Governor of Iowa; Arne H. Carlson, Governor of Minnesota; Jim Edgar, Governor of Illinois; Peter Coleman, Governor of American Samoa.

Let me reiterate what the Senate bill was. Just a very simple plan that would have worked. From this chart the application process goes from right down there, to right there and right there. There are basically only three steps. But to be fair, we put in every little step in the overall process, and it amounts to eight steps. So compare that with the hobgoblin of Federal bureaucratese—found in this conference report, completed without incorporating one suggestion from this side.

How can anybody vote for this and call it an education reform bill?

There is not going to be money for this bill to begin with. This is a fancy charade that we ought to vote down here today. And I hope all of our colleagues vote against cloture here today because basically it is the only way that we can stand up for States and local school districts in the States.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

Mr. KENNEDY. Mr. President, how much time remains.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes and 42 seconds.

Mr. KENNEDY. Mr. President, as pointed out in the earlier debate, the opponents of this legislation somehow are suggesting that this is a Federal takeover. What we have incorporated in this legislation is that the resources go to the States in formula, and that the local schools or the local LEA's will make application for competitive grants. Those competitive grants will then be decided on by a peer review operation or an organization that, based on what will strengthen and improve academic achievement, will make recommendations.

That was in the bill that passed the Senate. And it is in the conference report.

Let us be crystal clear on what is at stake with the vote on cloture for the Neighborhood Schools Improvement Act.

A vote against cloture is a vote to kill this bill for 1993. It is a vote against the establishment of National Education Goals and Federal policies to achieve them.

It is a vote against the establishment of a national education goals panel with two-thirds of its members being State legislators and Governors. It is a vote against establishing voluntary national standards for education. It is a vote against development of assessments. It is a vote against deregulation and flexibility in the administration of Federal education programs.

It is a vote against an $800 million program for individual school restructuring and school system change with decisions made at the State and local level, not by the Secretary of Education. That is what a vote against cloture means. That is what is at stake in this cloture vote.

I urge my colleagues to join in voting for cloture so there is an opportunity for the will of the Senate to be exercised. Let us not lose, as we did in 1990, the opportunity to act on an essential Elementary and Secondary Education Reform Act.

Let us not lose the opportunity to transmit this bill to the President for his choice as to whether he will sign a bill with his national goals, standards, assessments, flexibility, and restructuring schools programs or veto it.

I wish that we knew where the President stood on this legislation. We know where the Secretary of Education stands. But we do not know where the President stands. This is probably the first education bill that I have seen on the floor of the U.S. Senate where we have not had a position from the President of the United States. We know where the Secretary is. But from someone who wanted to be the education President, why do we not have some message to know where he stands on this program?

Mr. President, I hope the Senate will enact cloture so we can make an important step in terms of reforming the schools at the local levels in this country.

The PRESIDING OFFICER. The Senator from Kansas has 40 seconds remaining.

Mrs. KASSEBAUM. Mr. President, I would like to say I know where the President stands on this measure. The President stands for sound, sensible education reform. He cares a great deal about elementary and secondary education and the ability to be innovative, the ability to draw communities together and to establish what they believe important for education.

I feel strongly that this cloture vote is an important vote. We should not proceed ahead with this bill at this time. I strongly urge my colleagues to vote no on cloture, because we will have the opportunity, within only months, to address these same issues with the reauthorization of the Elementary Education Act. I yield my time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 30 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have to confess when my friend Senator HATCH was talking about this bill I did not recognize it. I think there are three fundamental thrusts in this. One is to promote voluntary national standards so that we can have in other fields what the teachers of mathematics have had—some standards.

If, for example, the Presiding Officer, Senator LIEBERMAN, were suddenly a school administrator and he has to hire a French teacher—perhaps he is an expert in French but I am not aware of it if he is—how does he know whether that French teacher is competent?

So this bill suggests that we have voluntary national standards in other fields. I think that is a significant step forward.

Second, it has innovation. It did not take in the conference the President's

title "New American Schools." Frankly, I cannot get excited about that one way or the other. But that is a compromise that was made. But there is innovation.

And the third thing that was rejected is assistance to private schools. Frankly, we have two or three States that are now experimenting in this area. We have a 50-State system, so that we have laboratories. We do not need to make national mistakes. Let us not rush into this area of aid to private schools.

My feeling is that this is a solid piece of legislation. Senator HATCH says there is no quick improvement here. Perhaps no quick movement, but I think substantial improvement, particularly in promoting voluntary national standards.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senate majority leader.

Mr. MITCHELL. Mr. President, I ask Senator KENNEDY if he would yield me the rest of his time and then I will use a brief amount of leader time.

Mr. KENNEDY. Mr. President, I yield such time as remains.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the second consecutive Congress, we have the opportunity to approve legislation which will begin the process of national education reform. But again, for the second consecutive Congress, we face obstruction designed to kill the bill.

I hope today that we can invoke cloture on S. 2, the Neighborhood Schools Improvement Act, and end the obstruction that has prevented this good bill becoming law.

Ten years ago, the National Council on Excellence issued a report entitled "A Nation at Risk," which alerted all America to the urgent need for change and renewal in our education system. The second graders of 1982 are this year's high school graduates.

In 1989, at the education summit, the Nation's Governors agreed on a series of explicit education goals. The President endorsed those goals. The high school freshman class of 1989 are this year's high school graduates.

The majority in the Congress responded to the call of the Nation's Governors in 1989.

The education reform bill of the 101st Congress codified the Governor's goals. It would have been the first step in education reform. Instead, a minority of Republican Senators blocked action on it.

We risk the same outcome today. A minority of Republican Senators may again block action. If they do, that will condemn this year's freshmen, this year's third graders to an education system without the resources or the leadership needed for reform.

We have the opportunity today by stopping this filibuster on this legislation to act on the political promises of education reform which everyone is making.

Let us be clear. A majority of Senators favor this bill. It is a minority that is preventing action on the bill.

Our children deserve better than empty promises and grand speeches. We owe them more. The neighborhood schools bill is our chance to make good on those promises and act on those speeches.

The bill codifies the national education goals endorsed by the Nation's Governors at the 1989 education summit; it encourages the development of models for testing and assessment in critical academic areas—math, basic science, history, and English. Without tests to measure student achievement, a school cannot know if its reforms are working; parents cannot know if the school is giving their children the teaching they deserve.

For the first time in the history of Federal aid to education, the neighborhood schools bill makes funds available directly to schools, as opposed to specific students, or student populations. Funds are designed to go only to States and schools that have locally developed reform programs. Instead of top-down directives, there are incentives for grassroots change.

It was interesting to hear the comment about Federal bureaucracy. The President's bill, the bill supported by Republican colleagues, would have had all of the crucial decisions made by the Secretary of Education, a Federal official. This bill has the decisions made by State and local officials. That is one reason why the Secretary of Education is against this bill. He wanted the President's bill, which would have centralized decisionmaking in the Federal Government, in the person of the Secretary of Education.

So the argument turned the facts upside down. The bill that would centralize control at the Federal level in the person of the Secretary of Education was the bill proposed by the President. The bill that will decentralize authority, that will permit decisions to be made not by the Federal Government, not by the Secretary of Education, but by State and local officials is the bill now before us and that is why the Secretary of Education is against it.

So, if you want to vote to decentralize authority, if you want to vote to give authority to State and local officials, you will vote for this bill. If you want to vote to give all of the power to the Federal bureaucracy, if you want to give the Secretary of Education the crucial decisionmaking process, then you will vote against cloture. It is as simple and straightforward as that.

This bill embodies four of the President's education reform proposals and a modified version of the fifth proposal.

I urge my colleagues to reject obstructionism. Our Nation deserves better. Our children deserve better. Our parents deserve better.

A vote for cloture will be a vote to stop the endless circular debate over whose reforms are real reforms and start the process of change that is crucially needed. Our schools and our students need action, not more talk. Let us end the filibuster. Let us end the talk. Let us vote and start action today.

Mr. President, I yield the floor

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given just 1 minute of the leader's time.

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

Mr. HATCH. Mr. President, I have been interested in the distinguished majority leader's comments, but, the issue is not whether the Secretary of Education was going to win on this issue or not. He was not. The issue is whether the Senate bill, which was a reasonable bill, was put together in a bipartisan manner. The Senate bill does not have all this bureaucracy. The Senate bill was given no consideration by the House of Representatives. And I am sorry to report to you, it was not given one ounce of consideration by the House of Representatives because they wanted to make this a political football and they wanted to play politics with this.

I tried to get a bipartisan bill. We have done it on this committee for 16 solid years. We have put together bipartisan education bills for 16 years, Republicans and Democrats. It has been a matter of course. This is the first time I can recall where we have gone into it like this. Even more important is the content of this bill. We are going to have the Federal Government making suggestions for voluntary school delivery standards for the State and local school districts. That is the beginning of the takeover of our State and local control over our schools.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will just take a moment to make a final response.

If this were to deprive local officials of their authority and concentrate it in the Federal Government, what would you expect the response of local officials to be? Why, of course, they would be against it.

But let us look at who is for it: The State school officers, the State board associations, the school board associations—all local officials—the Council of City Schools; the Parent Teachers Association; the Elementary School Principals Association; the Secondary School Principals Association. Vir-

tually every local school official in the country favors the bill that our colleagues say takes authority away from them and gives it to the Federal bureaucracy.

It is the exact opposite of the facts. This bill empowers local school officials. The Republican bill empowers the Secretary of Education. That is the difference between the two bills. If you are for local control, you vote for this bill. If you are for Federal control in the person of the Secretary of Education, you vote against this bill.

Mr. LIEBERMAN. Mr. President, I note that the version of S. 2 reported out by the conference committee does not contain explicit language allowing States to use a portion of the funds that can be held at the State level for the startup of new, innovative public schools, including charter schools, and I want to clarify the committee's intent regarding this program. Chartered public schools offer a significant opportunity for educational improvement by enabling those who know best what our children need to succeed and how to provide it, parents and teachers, to create new and diverse public schools. Chartered public schools can be tailored to meet the particular needs of a community or a group of students. Because they enter into an outcomes based contract with the chartering agency, each school will be held accountable for their performance to the Government, their students, and the parents who decide to send their children there.

Despite the fact that mention of charter schools is not explicit in the conference committee's agreement on S. 2, I understand that under the agreement States may still use available funds to develop new types of public schools. I would like to engage in a brief colloquy with the distinguished Senator from Massachusetts, Senator KENNEDY, to confirm the intent of the language in the conference committee's agreement regarding allowable State uses of funds authorized under section 8305(B)(2)(a)(iii).

I understand that States are authorized to use not more than 20 percent of the total cost of the State's program in the second and succeeding years following enactment for several purposes including "other innovative school reform activities that are consistent with such State's plan and subject to peer review." I ask the Senator from Massachusetts if it is his intention that a State could use a portion of the money set-aside pursuant to this section for startup funding for new, innovative public schools, including charter schools? This would assume, of course, that providing State-level startup funding for charter schools is consistent with the State's plan and subject to the required peer review.

Mr. KENNEDY. Yes, given that assumption, these funds could be used for the startup of such new schools provided that the new schools receiving funds are public schools operating under the authority of a State or local education agency, nonsectarian in their programs, admissions policies, employment practices, and all other operations, and not affiliated with a nonpublic sectarian or religious school or institution. The committee's intent was to provide general program guidance to the States allowing maximum flexibility to the States to design their own programs consistent with the requirements we have discussed.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Massachusetts for the assurance that it is his intention that startup funding for new public schools, including charter schools, will be allowable State uses of funds authorized under section 8305.

Mr. D'AMATO. Mr. President, I wonder if my colleague from Kansas, Senator KASSEBAUM, would be willing to engage in a brief colloquy regarding a program, known as Parents as Teachers [PAT], that was included in the House version of S. 2 but not, as I understand it, in the Senate version of this bill. I have reviewed the bill language on the program and have spoken to a number of my constituents in New York and have some concerns about this program.

My concerns center around the requirements that in some PAT programs parents receive and participate in home visits from an educator, social worker, or other State representative. I know a number of my constituents are troubled by reports of abuse of this requirement in States which already have this program. They are concerned that under certain criteria that have been established, they and their families might be labeled as dysfunctional or even have their children removed from the home.

I would like to ask for some clarification on this matter from my colleague, Senator KASSEBAUM, who serves as the ranking minority member of the Education, Arts, and Humanities, Labor and Human Resources Committee.

It is my understanding that the PAT Program proposed by the House is no longer in the conference bill. I would ask my colleague from Kansas whether this is, in fact, the case.

Mrs. KASSEBAUM. Mr. President, I can assure my colleague from New York that the Parents as Teachers Program, as included in the House version (H.R. 4323) of the Neighborhood Schools Improvement Act is no longer included in this conference bill.

Because the Senator from New York and a number of our colleagues had concerns about this program, we took a careful look at this program and decided that the best course of action for now was not to include the program in the conference bill. In its place, we substituted a directive—an assignment, actually—to the Secretary of Education to conduct a review of the existing evaluations of this program. A number of States already have programs of this type. The review is simply a literature-type review—no Federal program is being established. This review is to be completed and presented to the Senate for its consideration in 6 months.

Mr. D'AMATO. So while we will have an opportunity to consider the Secretary of Education's findings in 6 months, at this point, the bill does not establish a Federal program. Am I correct in my understanding?

Mrs. KASSEBAUM. Yes, the Senator from New York is correct.

Mr. D'AMATO. I thank the Senator from Kansas for this information. I agree that this is a reasonable way to proceed.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on the Neighborhoods Schools Improvement Act.

We are all aware of the serious problems facing our Nation's schools, and the need to improve our educational system to meet the challenges of the 21st century.

This legislation represents an important step toward this end. It demonstrates our commitment to the national education goals, establishes a program to help our neighborhood public schools achieve these goals, and provides a means for determining our progress.

The core of the bill is the Neighborhood Schools Improvement Program, which will provide sustained assistance to help States and local public schools undertake comprehensive, systemic reform. Neighborhood public schools, working in cooperation with teachers, parents, and the local community, will decide what they need to do to improve student achievement. Schools may use funds for initiatives which will result in comprehensive schoolwide change, including such things as early childhood education, school-based management initiatives, professional and staff development, parent education, and involvement programs, expanded use of technology, alternative programs for school dropouts, and class-size reduction programs.

Unlike the administration's plan to create 535 new American schools, this program is designed to help improve education for all American students in all American public elementary and secondary schools. Its focus is on meeting the real needs of our public school system.

And, Mr. President, I believe that support for our public schools is the best investment we can make in the future of our Nation.

That is why I so strongly opposed the President's proposal to divert scarce Federal resources from our public schools to fund a voucher program for

students attending private and religious schools. I believe that proposal is bad public policy, which would unwisely break down the barrier between church and State and distract our attention from the real needs of our public schools.

I am pleased that during consideration of the Neighborhood Schools Improvement Act, both the Senate and the House voted decisively to reject this ill-advised plan.

In this regard, I want to call special attention to the language in this bill that emphasizes that, with the exception of section 8310 regarding information and teacher training, none of the authorized funds may "directly or indirectly benefit any school other than a public school." I don't think we can make any plainer our intention that we are authorizing funds for public schools only. We are not authorizing funds for private schools, nor to create new private schools, nor for school choice or voucher programs involving private or religious schools.

Now some in the administration, in proposing choice programs involving private schools, have argued that they should be permissible since they provide money to families rather than institutions, and after all, they say, public education ultimately benefits. The Senate has rejected that proposal, and that reasoning, and the language I have called attention to is designed to ensure that the Federal funds we authorize in this bill cannot be put to those purposes.

The words "directly or indirectly" mean that the money cannot be used for private schools, whether it flows there through the Government or through parents. It cannot end up in the hands of any educational authorities, other than public school authorities. That is what this body means by this language.

I would like to ask the distinguished chairman of the Labor and Human Resources Committee if that is the effect of the provision I have cited.

Mr. KENNEDY. Yes; the Senator is correct. In January, the Senate decisively rejected an amendment to authorize a private school choice program. The provision you have quoted will ensure that none of the funds authorized by this legislation may be used for voucher programs involving private schools.

Mr. METZENBAUM. I thank the Senator for his confirmation of this important point. I urge my colleagues to support the conference report.

SCHOOL HEALTH PROGRAMS

Mr. DURENBERGER. Mr. President, today, we know that Americans smoke too much, abuse alcohol and drugs, suffer from violence and accidents, engage in unsafe sexual activity, fail to follow healthy diets, and exercise too little. Too many babies are born to unmarried teenagers who have not received adequate prenatal care. Too many of our children are uninsured and lack access to care.

The consequences of personal behavior can be seen in the hospital emergency room and the neonatal intensive care unit. The hospital is asked to provide extraordinarily expensive medical solutions for the consequences of the decisions we have made about our personal behaviors.

We are learning that we can prevent many of these costly diseases through personal choices and community action. Many of the expenses associated with preventable disease can be eliminated if individuals make healthy lifestyle choices. Family and community support for healthy lifestyles, however, must be cultivated at the earliest possible age. This support must begin at home, with families, but must also be emphasized in the nurturing environment of schools.

Mr. President, I rise today to express my desire that we foster healthy children so that they are able to learn and thrive in school. I want to emphasize my commitment to address this important issue in the next session of Congress.

Support for school health services is growing in our States and communities. My distinguished colleagues and I must make every effort to eliminate obstacles to that support and to provide assistance for the development of community-based school health programs.

This important concern is one which I share with many of my distinguished colleagues, Mr. President. Several months ago, the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, introduced the Comprehensive Services for Youth Act of 1992 to assist States and communities to establish integrated health and social services in schools.

I was enthusiastic about this bill because it was consistent with my goals of streamlining health and social services and improving access to children so they are ready to learn.

I was unable to cosponsor this bill, however, because I did not want it to serve as a vehicle for circumventing current requirements regarding Federal funding for abortion. The broader objectives of this bill were too important to compromise with a protracted discussion about abortion.

On July 28, 1992, the Labor and Human Resources Committee held a hearing on the bill. One witness at that hearing was Donna Zimmerman, the executive director of Health Start, a pioneering school-based clinic program in St. Paul, MN. The program provides comprehensive health care services to students who would not otherwise have access to care, and helps students integrate health, wellness, and responsible decisionmaking into their lives.

During the hearing, Donna and several other witnesses talked about the importance of local flexibility and the need to work with parents and teachers to design appropriate school health programs. Several witnesses indicated that they were currently using funds from the maternal and child health block grant to support their school health programs.

This testimony led me to propose an amendment to title V of the Social Security Act to encourage States and communities to use the maternal and child health block grant to support school health services and to increase the authorization for appropriations for this important program.

Mr. President, at least 24 States are currently using MCH block grant funds to support school-based health services. Since the 1930's, these funds have provided resources to support basic school health programs in most States.

In my own State of Minnesota, both the Minneapolis and St. Paul school districts have made school-based clinics a high priority for a number of years. The Health Start Program opened the doors to the first school-based clinic in St. Paul in 1973 and it now serves over 3,000 students in its school-based clinics. This program provides a one-stop shopping model of comprehensive health and social services based on the need of each school's community.

Mr. President, with support from Governors Rudy Perpich and Arne Carlson, the Minnesota Legislature initiated a State grant program to encourage colocation of services in schools. Now in its fourth year, this program has provided both planning and implementation grants to several dozen communities all over the State.

Colocation of services in schools is also a high priority for Minnesota 2000, our State's response to President Bush's America 2000 initiative. And, colocation of services is a major goal of Minnesota's winning entry in the grant competition announced recently by the New American Schools Development Corporation.

Finally, Mr. President, Minnesota leaders—from Governor Carlson to Minneapolis Mayor Don Fraser to Honeywell CEO Jim Renier have made our State a leader in redesigning and colocating a broad range of health, nutrition, education, and social services for children from conception forward—conveniently located and accessible to all.

Two examples of that leadership are the Minneapolis United Way's Success by Six Program—long championed by Honeywell CEO Jim Renier—and the neighborhood family resource center proposal that has been advanced by Minneapolis Mayor Don Fraser.

Mr. President, based upon these innovative efforts in my State and support from the Association of Maternal and Child Health Programs, I worked with

Senators HARKIN and BENTSEN to seek authorization for additional appropriations for the maternal and child health block grant and to include reference to school health in the authorization language.

Because this amendment was not time-sensitive for the closing days of this Congress, it was not included in S. 3274, the Medicare and Medicaid Amendments Act of 1992 and additional funds were not available for fiscal year 1993 appropriations.

Mr. President, I continue to be committed to supporting comprehensive school health services. During the next session of Congress, I will be exploring effective ways to expand funding for comprehensive health and other services through schools. I will also be working with Senator KENNEDY and others who share my support for longer range and more comprehensive ways of encouraging colocation of services within the context of next year's reauthorization of the Elementary and Secondary Education Act.

A number of my colleagues in both parties have expressed an interest in considering legislation that would promote colocation of health and other services in schools in a more proactive and comprehensive manner.

As we move ahead, there are a number of issues that will need to be explored. School health programs must become self-sufficient through collection of third-party payments, including Medicaid and EPSDT. These programs should also be designed to promote continuity of care by establishing relationships with managed care programs.

Mr. President, I intend to hold a series of meetings and public forums in Minnesota on colocation services through schools later this fall. I hope to return next year more knowledgeable about the problems facing our children in school and about creating local solutions.

I intend to translate that knowledge into new legislation that builds upon my commitment to streamlining Government support to States and communities, and supporting local flexibility to design appropriate, integrated school health programs.

Mr. ADAMS. Mr. President, I rise in support of the conference report on the Neighborhood Schools Improvement Act. I am pleased to have been an original cosponsor of this legislation. The bill is an important step toward addressing education reform in the United States.

The Congress will reauthorize the Elementary and Secondary Education Act next year. That reauthorization will include a thorough review of all Federal programs that affect our elementary and secondary schools. The conference report before us now is an appropriate foundation for education reform in our public schools. The bill includes several important provisions to improve education at the local level. Funds are provided to States for grants to local districts and schools. These grants will assist local districts to develop reform initiatives for improving academic achievement and student performance.

Critics of this legislation will continue to express their frustration at the exclusion of President Bush's private school choice proposal—a proposal which I oppose. The Senate has been very clear on this issue. During consideration of S. 2 earlier this year, the Senate defeated a private school choice amendment by a vote of 57 to 36. Public funds should not be used to support private, parochial, or religious schools. We must continue to provide the necessary support for our Nation's public schools—schools that must take in all students, not a select few. The Neighborhood Schools Improvement Act is an important step toward that goal.

During this year when education reform has been an issue of great concern to Americans everywhere, and a priority of the Congress, I am disappointed to learn that the education President is likely to veto this bill. The House approved the conference report on Wednesday. I urge my colleagues in the Senate to join me in support of the conference report on S. 2.

Mr. SIMPSON. Mr. President, I rise today to oppose the conference report to S. 2, the education bill. I do not believe this legislation, in its present form, will empower schools to solve the problems that plague our Nation's educational system, nor is the final conference report a true reflection of the original legislation that was passed by an overwhelmingly majority of the Senate, including me, in January.

The crisis in our schools has not diminished. Children's achievement test scores are stagnant or in decline, violence in schools is on the upswing, and local revenues that pay for the bulk of educational activities are decreasing. There is no benefit in pointing fingers at who is to blame for this state of affairs, but it is clear that creativity and innovations are needed.

We have innovative efforts at the local and State level, but the Democratic-controlled Congress has been loathe to legislate a policy that would be supportive and responsive to those grassroots initiatives. The original version of S. 2, while not as far-reaching or innovative as the President's America 2000 education plan, did offer support and encouragement to local school systems. That is why I decided to support it in its final form earlier this year.

I did not believe the House education bill was anywhere near as sound a policy as the Senate bill, and I was hopeful that the final conference report would be more reflective of the Senate version than the House—but that is not the case. However, a cursory glance at the report shows that the $800 million worth of authorizations included in the agreement creates bureaucracy and pays only lip service to the problems our schools face and does more harm than good to our Nation's schoolchildren.

This report does not enjoy the support that the original version of S. 2 did. In fact, the House is not all that happy with the final version of the bill. There was even a motion on the floor to recommit the bill to conference. That motion failed along largely party lines—but the final vote was 166 to 254. I would not call that a vote of confidence for the conference report by any means.

I view the report as an attempt by Members on the other side of the aisle to ram a very bad education bill down the President's throat—all in the name of improving education. House and Senate Republicans view were wholly ignored during conference, and consequently, we have a report that is completely partisan. That is simply no way to legislate. So now we are put in the position of voting on a bill that does nothing to help our schools and is clearly unfunded. There is no private school choice in this bill. There is no recognition or reward for schools that are reforming or improving their performances. There is an awful lot of bureaucracy—a ton of it—and a mandate for States to pay for programs they have not even chosen to implement—at a time when they can hardly round up enough money to pay for existing programs.

The fact is there was an opportunity for the Congress to do something truly proactive on education. We could have debated the President's education bill. His plan was the first one introduced, but it was never debated. Why? Because the House Democratic leadership knew it was an excellent plan and that the President could garner the bipartisan support needed to get the bill passed.

The President has kept his promise to do something about education. He has signed 10 major pieces of education legislation during his term. He responded to the Nation's education problems with his America 2000 plan. It encourages and rewards change. But the bill was never considered on the floor of the Senate or House. It was never even reported out of committee because the House Democrats didn't want the Bush bill to become a law and that is exactly what would have happened if the process worked the way it is supposed to. Instead, it was manipulated by the Democratic leadership.

Let's be honest about all this: this conference report is an obvious attempt to draw lines on who is for or against education improvement. I think everyone would say they are for improvement. But when we legislate policy that does not include the ideas

of all who have a vested interest in the process—and Republicans were surely not included in the conference committee decisionmaking process—then we are using our children as a weapon in the battle for votes. They deserve better than that. They deserve laws that will help free teachers to teach and parents to make informed choices. They deserve the equality of school choice and the chance to excel.

During the next session of Congress, we will take up consideration of the Elementary and Secondary Education Act. A thorough review of every Federal education program is already in progress by the Department of Education and the Congress. I believe we will have a better opportunity at that time to legislate a policy that will truly help our children. I urge my colleagues to join me in voting against this conference report.

Mr. GORTON. Mr. President, I would like to express my opposition to the conference report accompanying S. 2. I cannot support a bill that is supposed to bring fundamental reform to our schools, but instead plugs $800 million into business as usual programs.

Although it codifies the six national education goals adopted by the National Education Conference in 1989, it does little to achieve them. It fails to offer fundamental education reform to those who seek it—Americans who want the best for today's students.

School choice, for example, is a promising concept that has achieved considerable success in my State. It provides powerful incentives for teachers and administrators to demonstrate academic excellence by allowing parents to choose their children's schools. Choice extends educational opportunities to disadvantaged families who desperately want a better life for their children, and who know that a good education is the key. Choice is the ultimate path to accountability in our schools, and S. 2 has failed to include it as an avenue for reform.

Another failure of S. 2 is its deletion of the new American schools concept which would have given each congressional district the opportunity to "break the mold" and reinvent American schools from scratch. This program fosters increased involvement by parents and community leaders with teachers and students. Their combined efforts could develop schools that reflect the best of teaching, learning, the educational technology. S. 2 has failed to extend this unique opportunity to communities who seek school improvement.

The programs that remain in this final version of S. 2 are not new, and they assuredly are not innovative. The education reform legislation we adopt should give specific recognition to truly innovative reform ideas. The opportunity to make significant improvements in our children's education will be lost if we continue to shy away from bold new concepts such as these.

My State has not only taken a step towards reform by adopting choice programs, but has established a program to award innovative educational projects. Washington's Schools for the 21st Century are connected by an electronic network, which enables teachers to discuss ideas and share lesson plans. The program supports a 10-day supplemental contract which, in effect, sets aside 2 weeks for school-level planning, staff development, and instructional improvement. Common themes among projects include outcome-based education, integrated curricula, cross-age grouping of students, parental involvement, and technology.

"Washington's Schools for the 21st Century" are light-years ahead of DC bureaucrats when it comes to education reform. How can I ask Washington taxpayers to pay for Federal education programs that do not take them forward, but bring them back to "business-as-usual" education?

Educators want to implement innovative reform programs that work. My State's educators have passionately taken on bold new programs. This legislation does not reward, commend, or offer support for their hard and spirited work. Instead, it forces them to return to education practices that have failed our students.

Federal education policy should correct problems that have faced educators for years. Overreaching bureaucratic mandates plague our education system and are burdensome to the extent that educators cannot do their jobs. Educators should be able to focus their attention on improving students' skills. They should not have to spend their time and energy interpreting Federal regulations.

Separate regulations and reporting requirements often result in chapter 1 students being removed from a regular reading period, moved across the room, and placed in a chapter 1 reading activity. This senseless interruption is dictated by regulations that harm, not help, chapter 1 students. S. 2 fails to address this frustrating problem.

The provision addressing regulatory flexibility—which is fundamental to any education reform—allows for only a limited number of waivers for a limited period of time for a limited purpose. We have agreed that too many Federal programs are burdened with detailed requirements on what schools can and cannot do with their funding. Yet this legislation opts to relieve only a small number of schools from that burden. Furthermore, those select 750 schools are forced to go through a maze of additional red tape if they are to participate in the waiver program.

If we choose to confront this problem, we should not address it through token national recognition. We should implement a policy that corrects it. Unless school officials can consistently expect flexibility from the Federal Government, these token waivers are of little or no benefit.

The President's America 2000 education reform strategy, however, will reduce the red tape that suffocates innovative teachers in thousands of schools. Because real education improvement happens school by school, teachers and parents in each school must be given the authority and responsibility to make important decisions about how the school will operate. Federal red tape must be cut.

America 2000 calls on the Government to remove Federal constraints that impede the ability of States to spend education resources more effectively. America 2000 asks that this opportunity be given to thousands of schools anxious to answer society's call for education reform. The timid regulatory flexibility proposal in S. 2 gives this opportunity to a mere 750 schools.

I asked educators in my State what single thing can Congress do to improve education. I got the same response from all those I asked: "Let us do our jobs." Their calls for regulatory relief ranged from rescinding specific reporting requirements to a ban on new programs that justify increased bureaucracy. These people who dedicate their lives to teaching should not be required to spend half of their time as administrative lawyers.

S. 2 does nothing to respond to their requests—instead, it heaps new layers on an already swelled bureaucracy. In the first year, the entire $800 million is allocated solely for planning purposes. Not one dollar of this money will go directly to schools, teachers, or students. It would take 1 year of Federal money and paperwork to squeeze any kind of direct support for our schools from this legislation.

Worse yet, by establishing national school delivery standards, the Federal Government begins to direct schools towards particular curriculum and instructional material. School delivery standards make an attempt at defining teacher quality and practices. This does not respect the traditional role of States and localities in providing education. Federal support should assist—not direct—State and local reform efforts.

As long as we continue to build and fund a bureaucratized education system, we cannot expect the results to be any different than they have been for the last decade—less learning, less creatively, and increased frustration.

The conference bill fails to acknowledge bold new reform strategies, it limits the scope of regulatory flexibility initiatives, and it creates a myriad of new bureaucracies.

Mr. President, I supported the original version of S. 2. I cannot support an unfunded initiative that guts the original version and which ultimately does

little to promote true reform. I will not support S. 2 in its final form.

Mr. BURNS. Mr. President, I rise to express my opposition to the conference report accompanying S. 2, the Neighborhood Schools Improvement Act. I have supported the Senate bill and voted for it three times. I believe strongly in the need to revitalize our education system. However, in my opinion, this bill does just the opposite and must be defeated.

It is a misnomer to call this the Neighborhood Schools Improvement Act when the only neighborhood that will benefit from this bill is down the street at the Department of Education. Once again the major constituency of the Democratic controlled Congress—the bureaucracy—wins out. This bill sets national delivery standards mandating the resources and conditions under which State and local education agencies should operate. It comes dangerously close to establishing the equivalent of a national school board, a notion which I find very troubling.

In other areas, this bill takes some positive steps toward reform, but then ties them down with redtape. It offers grants to State education agencies to reform local schools, but only if they appoint another level of bureaucracy and get the plan approved by Washington. By the time the grant money filters through the bureaucracy, the schools in our Montana neighborhoods will receive only 68 percent of the money. It offers freedom from certain regulations to a small number of local school boards, but only if they work their way through the bureaucratic maze of State and Federal approval. This is reform? It sounds like business-as-usual to me, Mr. President.

In sum, this bill steals the initiative for reform from the local school boards and puts it in the hands of the State and Federal Governments. It is on the local level that true reform can, and does, happen and I must reject this attempt to usurp their authority in the name of reform.

It is with great disappointment that I vote against this conference report. I only hope that next session we can break free from the grip of the bureaucracy and the special interests and pass true educational reform for our sake of our children and our Nation.

Mr. DODD. Mr. President, I rise in strong support of the conference report on S. 2, the Neighborhood Schools Improvement Act, which will provide communities across the country with assistance in restructuring their schools.

Frankly, Mr. President, I am a little stunned that we find ourselves in a fight this morning to save this bill rather than joining together with many from the other side of the aisle to vote in support of this bill—a bill which will assist States and schools across the country in improving their schools.

Just a little about what is actually in the conference report, as it seems there is some confusion on this point.

S. 2 codifies the six national education goals which were established by the President and our Nation's Governors—school readiness, student achievement, school completion, lifelong learning, achievement in math and science, and drug-free, safe, and disciplined schools. It provides for a standard setting process so that we can reach these goals and for the establishment of model assessments to measure our Nation's progress. These elements of the bill are noncontroversial—supported by the President, the Congress, by governors, teachers, and community leaders.

The heart of the bill is a $800 million formula grant program, which will provide every State in the Nation with funding to pursue school improvement and restructuring. The States will use these funds to make competitive grants to local schools to improve student achievement. The bill does not establish a new program with new Federal mandates—it is an invitation to communities to organize to improve their own schools. It says to parents, teachers, and business leaders if you have a quality plan to improve your children's education, we will help you.

The bill also establishes a demonstration program in educational flexibility, an idea strongly supported by the President. Under this program, 750 schools in ten States will assess the impact of waiving Federal regulations on student achievement. The program will demonstrate if schools can do a better job through an emphasis on results rather than on meeting the various regulatory and statutory requirements.

Just last month as schools began, I held a hearing in New Haven to talk about school reform and explore the success of the initiatives in my State. Over and over, when I asked witnesses about the Federal role in school reform, they talked about the importance of Federal assistance. But they didn't want advice, they wanted funds—funds that they could flexibly in their communities to make the improvements their communities identified. That's what this bill would do. It would empower communities to begin the fundamental restructuring which is so critical to our Nation's future.

Just this week the national education goals panels, which would be statutorily established with this bill, released its third annual report on the state of education in our Nation. Some of their figures were startling; 13-year-olds in U.S. schools were consistently outperformed by students from other industrialized nations in science and math. Sixteen percent of high school students were threatened with a weapon at school. Less than half of all preschoolers were read to daily.

In my State of Connecticut, the statistics also demonstrate the need for this legislation. Twenty percent of our students drop out. Eleven percent are from homes where English is not spoken. Of the 48,545 children born in Connecticut last year, over 8,000 had no prenatal care, nearly 5,000 were born with drug exposure. Each day, our schools are confronted with this reality—and our schools need our help.

But its not just our schools. Not only are we failing to secure a future for our own children, but also the future of our own economy. If you look at some of our major international competitors, with dropout rates near 1 percent, you must ask yourself, how we are going to compete in the high-technology marketplace of the 21st century.

Our school system was designed around an agrarian calendar—afternoons and long summers off for farm work. Basics were reading and writing and arithmetic, not trigonometry, and computer science. Our educational system, in many parts of the country, has just not kept up with the rapid changes in the economy of the world or this Nation.

In years past, a high school diploma opened many doors. Even without a diploma, a hard-working 16-year-old who left school could often find work to support themselves and their families, to purchase homes, and to provide for some financial security.

But the economy has dramatically changed, and in the next decade, less than 1 percent of new jobs will be available to people in this country who have less than a high school diploma.

There are many who are quick to blame others for the problems in our Nation's schools. They blame teachers, or parents, or the bureaucracy of government, or a failure of family values. The blame game is unending, but most would admit it is not the answer. We must all commit ourselves, regardless of what else we do in our lives, to working together to improve our Nation's public educational system.

We need to ask ourselves, as a people, who loses when a young person drops out of school; who loses when a middle-income family is unable to afford the skyrocketing costs of higher education.

If we believe that it is only the dropout, only the jobless, only the under-educated who are the losers, then, I believe there is little hope of changing our priorities in this country.

If, however, we understand that when a student stays in school, when a person has a good paying, decent job, and when a young person receives a college diploma or a degree from a community technical college, then we are all winners.

Reaching these goals is the challenge that lies in front of every one of us, and we can start right here today—by voting to support this bill.

During the waning hours of the last Congress, another education reform

bill came before the Senate and was killed by a filibuster similar to the one before us today. The Senate missed that opportunity to provide our communities with vital educational assistance.

The Senate cannot afford to make the same mistake again today. Our communities, schools, and children need our help. I urge my colleagues to join me in support of this bill.

Mr. SASSER. Mr. President, I want to take just a moment to commend the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Education, Senator PELL, for their leadership for serious school reform.

The Conference report on S. 2, the Neighborhood Schools Improvement Act, has reached the Senate floor only because of their tenacity and tireless work. This legislation is not business as usual.

For the first time, Federal dollars for educational innovation will be passed through to individual schools. For the first time, schools have been recognized by Congress as the site for the most promising reform efforts.

The vast bulk of the $821 million authorized by this legislation will fund local school restructuring plans; plans collectively developed by principals, teachers, parents, and community representatives. I believe in this blending of Federal resources with local know-how. Therefore, I urge my colleagues to support the conference report on S. 2.

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss the cloture vote on the conference report to accompany S. 2, the Neighborhood Schools Improvement Act. Earlier this year, I joined 91 of my colleagues in supporting S. 2. As approved by the Senate, the bill incorporated some new ideas, such as new American schools and regulatory flexibility. But I plan to vote against cloture today.

I think many of us agree that the conference agreement does not even come close to reflecting what the Senate approved. Much of what the Senate accomplished was dismantled in conference and replaced with provisions of the House bill.

The conference agreement makes no mention of new American schools, and the regulatory flexibility provision—which I think shows real promise in helping our schools achieve better results—has been scaled back severely.

So what we have here essentially is the House bill that requires States and local education agencies to establish advisory councils to develop State and local school improvement plans—a system that has the potential to stifle innovation by increasing unnecessary bureaucracy.

Further, it concerns me that the entire first year authorization of $800 million would be devoted to planning costs. If you really think about it, the title of the bill is somewhat misleading—the Neighborhood Schools Improvement Act—yet none of the funds in the first year go to local schools.

Mr. President, there clearly is cause for concern over what is happening in our educational system. Studies show that our high school students lag behind those of other nations in math and science ability, and our graduates often lack the skills necessary to obtain entry level employment.

These and other painful observations have led to a desperate call for reform. As you well know, those in government will sometimes try anything to achieve better results. And that is what we have here today.

This certainly is an ambitious plan to embark upon just three months before Congress will begin its work to revise and extend the Elementary and Secondary Education Act [ESEA], and when many of the ESEA programs are not adequately funded to serve all eligible students. And it is my understanding that the conference committee completed its work on the Labor-Health and Human Services appropriations bill for next year, which does not include any funding for programs that would be authorized under this conference agreement.

The solutions to the problems in our Nation's education system will not come easily and reform will not be achieved overnight. We have a tremendous responsibility to ensure that our Nation's students receive a quality education—it is in our Nation's best interest. But we should not vote today just for the sake of saying, "Well, we voted for an education bill this year."

Mr. President, as I mentioned, my decision was not an easy one. The conference agreement does take some steps in the right direction, but it does little to guarantee that innovative ideas will receive attention.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will now report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the conference report accompanying S. 2, the Neighborhood Schools Improvement Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—59

Adams	Ford	Mitchell
Akaka	Fowler	Moynihan
Baucus	Glenn	Nunn
Bentsen	Gore	Packwood
Biden	Graham	Pell
Bingaman	Harkin	Pryor
Boren	Heflin	Reid
Bradley	Hollings	Riegle
Breaux	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick, Jocelyn	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Cranston	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford
Exon	Mikulski	

NAYS—40

Bond	Gramm	Nickles
Brown	Grassley	Pressler
Burns	Hatch	Roth
Chafee	Hatfield	Rudman
Coats	Helms	Seymour
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Smith
Craig	Kasten	Stevens
D'Amato	Lott	Symms
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Garn	McConnell	
Gorton	Murkowski	

NOT VOTING—1

Durenberger

The PRESIDING OFFICER (Mr. DASCHLE). On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I believe that all parents, all children, all schoolteachers, all the members of the business community, those who have been involved in constructive efforts across the country, and who believe that those efforts to increase and enhance academic achievement for our schoolchildren ought to be supported are disappointed today by the effective blocking by our Republican friends of an opportunity to pass this legislation. We have missed a very, very important opportunity.

Make no mistake about it, Mr. President. The underlying thrust of the administration's proposal was, No. 1, to have the Secretary of Education, the Federal officer, make the decisions,

and second, to divert scarce public resources for private schools.

It is those two elements and the differences between us and the administration on those two elements that have virtually prohibited us from making progress on education reform.

We are not going to be deterred. We are going to continue to be committed to this concept. We are going to bring this legislation back time in and time out until we give support at the local level for those that are really trying to do something to enhance school achievement of the children of America.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Massachusetts, we are just as committed on this side, as is President Bush, to bringing assistance to the local level in all the constructive ways that we can. We are going to have the opportunity to revisit this next year with the reauthorization of the Elementary and Secondary Education Act.

When the Senator from Massachusetts speaks to the Federal bureaucracy and the fact that the administration was wanting all the power to reside in the Secretary of Education, that is not the shape of the bill that left the U.S. Senate, and it was the Senate legislation that was supported here by a majority on both sides of the aisle.

With that in mind, I believe that we can work next year, in the appropriate fashion and at the appropriate time, with a bill that will be supported by a strong majority on both sides of the aisle, that will be a sensible approach to the problems in education. I think that we have addressed all of the problems with this bill. I look forward to working next year in the reauthorization to accomplish what we all hope to achieve in education reform.

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

The PRESIDING OFFICER. There will now be an hour equally divided on the debate on the motion to invoke cloture on the conference report accompanying H.R. 3371. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Chair reminds the Senators that we now are in an hour of debate, equally divided, on the motion to invoke cloture on the conference report accompanying H.R. 3371.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, are we on the crime bill? We want to be sure any time used will not be counted against the crime bill time.

The PRESIDING OFFICER. The hour of debate is currently running.

Mr. THURMOND. We need every minute on this crime bill.

Mr. BIDEN. Mr. President, is the time equally controlled?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. The Senator from Delaware is controlling one-half hour?

The PRESIDING OFFICER. Correct.

Mr. BIDEN. I yield 1 minute to my friend from New Hampshire for unrelated business.

TRIBUTE TO TOM McINTYRE

Mr. RUDMAN. Mr. President, when Senator Tom McIntyre died in August, I lost a dear friend.

And New Hampshire, the U.S. Senate, and our country lost a good and faithful public servant.

We in New Hampshire remember Tom McIntyre with respect and pride—as a native son. Our Government flourishes best when our officials bring to the people's work a deeply rooted sense of place. Tom McIntyre, throughout his 16th years in the Senate, never lost his love for his home State, its people, its physical beauty, and its character.

We learned from Tip O'Neill that all politics is local. Tom McIntyre knew that all policy is local as well, because its effects are experienced by Americans at home where they live and work and play. So for Tom McIntyre a policy proposal's most demanding reality test was how it would work in practice at home.

Tom McIntyre also never lost touch with the values we prize in New England. He always saw himself as a moderate and was proud of it. And indeed, he was one of a distinguished tradition of moderate Senators of both parties whom New England proudly sent to Washington. Tom McIntyre—like George Aiken, Ed Muskie, Charles Tobey, Ralph Flanders, Margaret Chase Smith, and Ed Brooke—brought to the Senate a New Englander's hard work, independence, practicality, common sense, deliberate judgment, and disdain for pomposity.

And when ideological extremes tore at the heart of our country in the 1970's, Tom McIntyre, like these other quiet New Englanders in similar times of stress, defended the most basic American principles of tolerance, due process, and the right to be free of fear. In doing so he helped restore the conscience, civility, and soul of the New England town meeting to a troubled America when we needed it most.

We in the Senate also remember Tom McIntyre with respect and pride—as a self-made legislator.

Tom McIntyre was not a professional politician. He had had no legislative experience when he was elected to the Senate in 1962. He was not a policy expert. He had not been schooled in the policy schools and institutes that have cropped up in recent decades.

He did bring to his Senate work his firsthand experience. Before we had a name for environmental policy, he had led a successful effort to stop the pollution of the beautiful Lake Winnipesaukee near his hometown of Laconia.

Before we had a name for the communications revolution, Tom McIntyre and his wife, Myrtle, had pioneered in bringing cable television to the mountain locked Laconia, even as television itself was in its infancy.

Before we had a budget crisis, let alone a name for it, Tom McIntyre balanced budgets as the mayor of Laconia with classic New England frugality and common sense. One of his favorite stories was about the time he opposed a request from the city fire department for a new firetruck with ladders higher than the highest buildings in Laconia.

And before we had a name for Soviet studies and arms control policy, Tom McIntyre had learned from his own personal experience about dealing with the Soviets. As a young artillery officer he and his unit had linked up with Soviet soldiers in Czechoslovakia at the end of the war. During the impromptu celebration of this historic moment, Major McIntyre noticed Soviet soldiers were smilingly about to heist his jeep. When they didn't respond to his requests to back off, he drew his 45, slammed it on the fender, and said in a clear loud voice: "Dammit, I said, 'Back Off.'" They did, and the celebration of their joint victory over nazism resumed.

So Tom McIntyre brought to the Senate what he had learned from these and other direct experiences with real problems. He also brought to the Senate his own good judgment, common sense, and nonideological practicality.

But he had to learn how to be a legislator. And he had to learn the old fashioned way—through hard work as a Senator.

When he was put on the Senate Banking Committee, he confessed his anxieties about his lack of training in economics or finance to Senator Paul Douglas who, of course, had been a distinguished economist at the University of Chicago. Douglas reassured him, saying: "Don't worry about it Tom. You will have the advantage of not having your mind cluttered up with a lot academic prejudices."

We in the Senate know how Tom developed into one of the Senate's most thoughtful and creative legislators in the field of banking. He chaired the key Subcommittee on Financial Institutions and helped bring into being familiar innovations that we now take for granted—NOW accounts and automatic cash machines.

As he did this work, the McIntyre and his subcommittee became the target of the powerful and willfully competing sectors of the banking industry. Each thought it could dominate and tilt Tom's work to its advantage. But he resisted them all and stood his ground as the people's own independent Senator as he did this extraordinarily consequential work.

His growth as a legislator on the Senate Armed Services Committee was even more impressive. At first he asked to serve there primarily to protect the Portsmouth Naval Shipyard. And he helped preserve that national asset against the shortsightedness of Robert McNamara and Adm. Hyman Rickover.

Otherwise he had little opportunity to shape policy on the Armed Services Committee during his first years. The committee was run firmly from the top of Chairman Richard Russell and one or two other senior Senators.

Tom later recounted his frustrations. He said that 1 day when Senator Russell was quietly consulting at the top of the table with Senator Smith and Senator Stennis on a matter, Tom raised his hand at the bottom of the committee table and asked the chairman: "Would you mind speaking a bit louder please, so Harry Byrd and I could hear what you are deciding up there." This passed for audacity from a junior member of the Senate Armed Services Committee in the 1960's.

But in 1969, Chairman John Stennis asked Tom McIntyre to undertake what proved to be his most consequential senatorial work when he asked Tom to chair a new Subcommittee on Military Research and Development. He protested that he "didn't have a Ph.D. from MIT," but he rolled up his sleeves and set out to learn how to do this work.

For 10 years Tom McIntyre pioneered congressional oversight of this most critical work in the Department of Defense—the seedbed of our military technological advantage in the crucial stages of the cold war and today. His judgments could not have been more consequential to our country's security. Troubled programs like the Patriot had to be made to work. Revolutionary technologies like cruise missiles had to be protected against hostile service interests. And Tom knew that if we invested in the wrong developments, we could make our country less secure by underfunding the necessary programs and by fueling the arms race.

Tom did this work quietly, usually in executive sessions. He annually built consensus among his subcommittee colleagues who rarely agreed on little else—Barry Goldwater and John Culver, Robert Taft, and Harold Hughes, for example. Over 10 years his subcommittee reportedly unanimously 20,000 or so individual recommendations and divided only on a handful.

And Tom so earned the respect of his colleagues on the full Armed Services Committee that they endorsed his recommendations in all but a dozen times or so over a decade. And during this decade the full Senate accepted Tom McIntyre's on these thousands of judgments on all but five or so times. When he left the Senate he was the Congress' most respected and authoritative member regarding military technology.

For all these contributions, we in the Senate remember Tom McIntyre with special respect. We remember he developed a quiet authority, so that when Tom McIntyre spoke on the issues for which he was responsible, the Senate listened and was led.

Our country should also remember Tom McIntyre with respect and gratitude—as an American whose straightforward and unassuming service to our Republic mattered.

Our Government was designed to be directed by citizens, not professionals. And Tom McIntyre's work in the Senate demonstrates yet again that this is both proper and possible. He served in World War Two as a citizen-soldier. And he served in the Senate as a citizen-Senator. He did both jobs with a simple patriotism.

We have won the cold war. The old nuclear danger has eased. And Tom McIntyre is an unsung hero of both of these accomplishments which have made Americans safer tonight.

Finally, Mr. President, let me say that I personally remember Tom McIntyre not only with respect, but also with affection and gratitude—as a friend.

Tom was a role model for many of us in New Hampshire who entered public life in the 1960's. We did not have to be of his party or to share his views to learn from and value his easy good will, his forthrightness, his political courage, and his integrity.

In August, I joined his neighbors and other friends to honor him in St. Joseph's Church in Laconia, where he had worshiped as a boy. An old friend of mine, Larry Smith, gave the final eulogy. Larry had served as Tom's administrative assistant, had worked with him closely as a professional staff member of Senate Armed Services, and loved Tom McIntyre like a father.

Mr. President, I as unanimous consent that Larry's eulogy be printed in the RECORD. He spoke for us all.

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

FOR OUR CHILDREN AND THEIR CHILDREN . . .

A EULOGY FOR SENATOR THOMAS J. MC'INTYRE

(By Larry K. Smith, Administrative Assistant to former U.S. Senator Thomas J. McIntyre of New Hampshire)

Children wherever we live will ask us about Tom McIntyre and why they should remember him.

We might tell them about his remarkable Senatorial achievements—laws he wrote, debates he won, causes he championed.

But, above all, we should be sure to tell our children about Tom McIntyre's most profound legacy—a legacy of enduring values about public life.

We should be sure to tell our children that Tom McIntyre pursued politics primarily as a matter of public service.

He believed one should run for office not for personal gain, not out of a compulsion for celebrity, not to bolster one's ego, but basically as a duty, a civic responsibility. Politics, properly understood, is therefore a calling, not a career.

Robert Frost told us how he, as a New Hampshire lad, loved to climb birch trees—up a "snow-white truck toward Heaven till the tree could bear no more . . ." Frost remembered, "This climb will be good both going and coming back."

Washington is filled with driven ambitions who find only climbing good.

But anyone who knew Tom McIntyre well understood that he went to Washington, not to climb, but to serve. And his heart was always here in New Hampshire—here in Laconia. And he agreed with Frost, "One could do worse than being a swinger of birches."

We should also tell our children that Tom McIntyre mastered the art of practical politics as a public responsibility.

He believed that if an office is worth standing for, then it is worth running for—to win. If a cause is worth believing in, then it is worth working for—to prevail. The deeper one's convictions about a cause, the greater one's obligation to be effective. There is no room in this tradition for political kibitzers, dilettantes, or summer candidates.

And Tom and Myrtle McIntyre's campaigns over the years still stand as models of the practical political art.

We should also tell our children that Tom McIntyre's legacy values integrity—insists on integrity.

To him, it meant telling the truth. It meant keeping one's word. It meant standing up for one's conviction even at personal cost. It meant respecting public office as a public trust with standards of ethics and appearance higher than even those set by law.

And let us celebrate today that throughout thirty years of rock'm-sock'm New Hampshire politics, Tom McIntyre's good name and the public's confidence in his integrity met these high standards.

We should also tell our children that Tom McIntyre valued the free competition of ideas.

For two hundred years Americans have understood that a diversity of interests and a competition of ideas are crucial to our liberty.

So Tom McIntyre spent his own earned political capital to try to build a two-party system. He recruited young talents all over New Hampshire and helped them into the fray. Many are here today to honor him.

He also defended the integrity of this political competition. He opposed those who would stifle the free contest of ideas, those who would emulsify the two parties, those who would insist on having two parties in name, but one party in fact.

Let's also tell our children that Tom McIntyre's legacy includes a politics of civility.

Civility—a fancy word—for Tom McIntyre's politics of good cheer and gentleness. His campaigns—for all their seriousness and sense of purpose—were fun. He campaigned with elan, with a twinkle, and with an Irish song.

He also taught us to think well of others until there is a reason not to. He tried his best not to use "mean words" in his campaigns.

So Tom McIntyre's politics was not a politics for fear which appealed to our darker sides. It was not a politics of anger which took pleasure in inflicting pain. It was not a politics of paranoia unable to distinguish between friends and foe. It was not a politics of vengeance which made all adversaries into enemies.

Think of his friendships with Norris Cotton and with Warren Rudman. Their mutual respect transcended political differences. Their friendships were models of civility that gentled debates and campaigns.

And we should also be sure to tell our children Tom McIntyre valued practicality.

Because Tom McIntyre was a practical man. He knew that the true test of public policy is whether it works in practice.

He loved to tell Washington how he, as Mayor of Laconia, rejected the fire department's request for a ladder truck several stories higher than the town's highest building.

Such pragmatism was for centuries America's central philosophic tradition. Only recently have theoreticians without practical experience begun to dominate policy making. This may have made Tom McIntyre's practicality rather unfashionable in some Washington seminars and drawing rooms.

But he was right. And we need to tell our children.

The great Irish poet, W.B. Yeats (and Tom McIntyre loved his Irish poets), summed it up:

God guard me from those thoughts men think
In the mind alone.
He that sings a lasting song
Thinks in a marrow bone.

Finally, above all, let's tell our children that the passionate center of Tom McIntyre's political legacy was his moral courage to defend the soul of our Republic—our freedom—abroad and here at home.

He, along with millions of others, did this in uniform.

And here in New Hampshire in the 1970s, his ringing defenses of the rule of law, the right of the other fellow to be heard, and the right of all Americans to be free of fear of intimidation were New Englander's love of liberty in full flower.

And to do this required grit. It required true grit, because others sat in silence.

Tom McIntyre's moral courage was all the more remarkable because he, unlike many politicians, found no joy in a fight, and because he, unlike the ideologies, lacked their bracing self-certainty.

These public values—service, effectiveness, integrity, the competition of ideas, civility, practicality and a passion for liberty—I invite you now to add your own favorite—were, of course, not invented by Tom McIntyre. He never wrote them out. He would be the first to tell us how he did not measure up to these standards. Nonetheless, they were the heart of his witness as a public person and the core of his beliefs as a private man.

And these are not partisan values. They are above party and above personal political persuasion. In this respect, we are all republicans; we are all democrats.

Henry Adams said, "No one can tell where a teacher's influence stops." This legacy of Tom McIntyre is similarly enduring, because it is a set of values larger than his career, yet nurtured and enhanced by his efforts to realize them.

So when we go home today and our children ask us about Tom McIntyre, let's tell them about his legacy of values. Let's sing these lasting songs in a marrow bone to them, because these are values for our children.

They live for all the children of New Hampshire, and for their children * * * and for their children * * * and for their children.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Beverly Gastright of my staff be allowed the full privilege of the floor on this crime bill.

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

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with the consideration of the motion.

Mr. BIDEN. As they say in the vernacular, "this is it." This is it. We have been working on this crime bill, this conference report, which has been held hostage for 300 days by the opponents.

Mr. President, this is the final, final moment for us to decide whether we are going to do anything about crime this year.

The Senator for whom I have an enormous amount of respect, Senator KASSEBAUM, said something earlier unrelated to the crime bill just a moment ago. As we concluded debate on attempting to invoke cloture on the education bill, she was summing up—I have enormous respect for her—she said something that maybe is a Freudian slip that slipped into the jargon and I think the subconscious shoes of my colleague.

She said, well, we did not get the education bill, but maybe next time we can get a consensus that we have a real majority for the education bill.

There were 59 votes for the education bill. Where I come from, that is a real majority. If there is 100 votes, it is 59 percent. If there are 59 votes, that is almost 60 percent of the vote. I call that a real majority.

What our Republican friends have done in these waning days on important issues—and I will stick to my issue of crime here—they have redefined what constitutes a real majority. They have done it legally under the rules. They have said that for the last 300 days, notwithstanding the fact that I believe 57 Senators on the floor of the U.S. Senate believe strongly that we should free the crime bill, that we should enact the death penalty, that we should reform habeas corpus, that we should provide help for local police officers, that we should deal with violence against women, and that we should deal with violence against children. Notwithstanding that, 56 or 57, depending how many are present today, U.S. Senators think we should do that. Notwithstanding the fact that the House of Representatives voted, finally, for this conference report, a majority of them. For refusing to allow the American people, for refusing to allow the police, for refusing to allow the citizens of this country the overwhelming and undeniable beneficial impact of this significant legislation for 300 days, this has been held hostage.

Sarah Brady is standing outside these doors. She worked for years on a simple, little, tiny provision of the law that many of our States have already, which says that we do not want felons buying guns. It is against the law for felons, convicted felons, to buy guns.

So, she came up with an idea and said, look, you saw what happened to my husband when he got shot with Ronald Reagan. We have to do something about crazy people walking in and buying guns. She wants to have a computer check so that gun dealer can press a button and look and see whether or not the person giving them their driver's license to buy the gun is a convicted felon. What an outrageous notion.

But since most States do not have those laws, or that capacity at the moment, she said until they do, somebody should have to wait 7 days to buy a handgun, so they can run a check. They can pick up the phone and call the local police and say, hey, is John Doe down here a felon? Because that provision, the so-called Brady bill, is in this 500-page crime bill, undeniably the toughest crime bill in the history of this country. I have the presidents and the chief executive officers of every major police organization in America in my office, as I speak, in my conference room. They have been there since 5 o'clock last night, since 5 o'clock. We negotiated with the administration—them acting as the mediator.

They came to me and said, "Look, Joe, we are for the conference report, but we need a crime bill. Our folks are in trouble. So, Joe, are you willing to compromise even further than the crime bill is?" I said "Yes." They said, "We make a proposal, a former proposal, to you." To the best of my knowledge it has never been done and no chairman of any committee has ever agreed to this before, to the best of my knowledge. They said, "Would you agree to let us be the mediator, to literally sit in and mediate between you and the Justice Department?" And I said "Yes."

So last night until 2 o'clock in the morning, Mr. President, I sat in my regular office and I waited to be called in by these nine police chiefs and presidents. This is of the National Association of Police Organizations, the chiefs of police, the Fraternal Order of Police. I will get the whole list of them. And I went in and they said, "Would you compromise on this? The attorneys general say this is not good enough." "OK, I will compromise on that."

We went back and forth like that, me sitting there as chairman of the Judiciary Committee in my office, waiting on call in my office for these police organizations to say to me, "OK, Joe, come on back in now. The Justice Department just stepped out. How about this?" They end up at 2:30 in the morning and they said, "OK, here is what we police think is a legitimate compromise," and they laid it on the table.

I have been selling that compromise to the Members of the House and others since we met. As I speak, my understanding is—and I am going to ask my staff to get up right now and go call, please—my understanding is that the Justice Department will not compromise. You know why, Mr. President, what is this all about?

You are going to hear from my friend—whom I have an inordinate amount of respect for, truly he is my friend—from South Carolina, Senator THURMOND, that this is about habeas corpus. I believe it is about habeas corpus with him, but it is not habeas corpus, Mr. President. This is about Sarah Brady and her drive to do something about keeping the guns outside of the hands of felons. It was about the NRA. That is what this is about.

I agreed with the attorneys general and with these police officers. I will give you the list: National Association of Police Organizations, NAPO, second largest in America; National Fraternal Order of Police, the largest in America; National Brotherhood of Police Officers; International Union of Police Associations; National Troopers coalition; Police Executive Research Foundation; National Organization of Black Law Enforcement Executives; Major City Chiefs; and the Federal Law Enforcement Officers Association.

Their presidents or chief executives have been in my office since 5 o'clock last night. Some of them openly endorsed President Bush, the organizations, the troopers. Some of them have openly endorsed Governor Clinton, NAPO. Some have not endorsed anybody. These guys are not in there for politics. They are in there because they are crying for help. They flew in from around the country, sitting in my office until 2 o'clock in the morning. Finally, a little after 12, we bought them five pizzas, the first thing they had eaten. They care about this. They care about this. I have tried.

I am just told that the Attorney General's office rejected the offer the police put forward to them last night—to me and to them.

Mr. President, the point I want to make here is this is not about habeas corpus. What this is about is guns, guns and the power of the NRA. And we may very well fall three or four votes short of getting a supermajority.

The insistence for 300 days on the part of my Republican friends and the administration, for 300 days. In the meantime, what happened in the 300 days, Mr. President?

Well, there have been 20,978 murders in America, carnage, pure, simple carnage. There have been 90,528 rapes in the last 300 days, Mr. President. There have been 584,099 robberies, Mr. President. There have been 928,081 aggravated assaults, Mr. President, and there have been 1,623,687 violent crimes since the filibuster began 310 days ago.

Mr. President, it is against my political interest to say this, but I agreed, over the howling objections of my friends on the left, to take out of this bill the one objection they say exists with regard to the bill—habeas corpus, the so-called taking provisions in the bill. I agreed to drop it. I had heard for 200 days that the reason this was a bad bill was the provision in this bill that the House has passed, the Senate had passed and needs 4 votes to be put on the President's desk. If they let us vote up or down, it does not need any more votes to be put on the President's desk.

I agreed to drop it. I went over to the House side and got agreement from my friends on the House side to drop it. And we heard a whole raft of new objections. Mr. President, 310 days ago this filibuster began. Three hundred ten days ago there were 1,623,687 fewer violent crimes committed in America.

Mr. President, I am not suggesting to you or anyone within earshot of my voice that had this conference report been the law, there would not be any crime in America. But I am testifying to you that I believe with every fiber of my being, just as the police in America, believe, had this been law, there would have been fewer, would have been fewer.

Mr. President, my friends now, as we say, in my State, having found religion after a year of objecting, came forward and now agree with the Biden proposal in the bill to fund local police officers. So we have no fight about that. They say they are for the Brady bill now. They say that.

But, Mr. President, in this compromise we had when they sent me back a compromise, that would be something other than what we have before us, so we could all unanimously agree on something, guess what, a little change in the Brady bill. The Brady bill up there makes sure that the police are indemnified, so if the police officer, when a gun dealer calls and says, "Could we sell this gun to John Doe?" The police officer, in good faith, looks down the list and says, "No, you cannot sell to John Doe." It turns out later you could have. It was the wrong Doe, and the John Doe that went in to buy the gun could have bought the gun. We all thought that the police officer should be held harmless on that.

My friends, riding around, knocking on doors saying it is a police officer knocking down the door in good faith, there should be compensation, but they do not want compensation for a police officer who makes a mistake if, in fact, he says to a gun dealer when he looks down the record, "No, you cannot sell to that person."

So they say we are for Brady. I am not talking about my colleague here; I am talking about the Justice Department. They said we are for Brady, but a little change, we do not want to indemnify police that way. Guess what that does, Mr. President? It puts an overwhelming burden on the cop when in doubt to say, "Sell." When in doubt say, "Sell." When it is close, say, "Sell."

Mr. President, this is about guns. But you know the worst part of it is—as you and I know, I have been a Senator for 20 years. To the chagrin of my constituents, I am not known as gun control Senator. I am viewed as an anti-gun-control Senator. But even I, Mr. President, recognizing the right of the second amendment, the right for people to bear arms, do not see how any legitimate person is going to be hurt by the existence of a system that says unless we can check quickly you have to wait up to 7 days to be able to buy a handgun so we can find out whether you are a felon.

Mr. President, my State of Delaware probably has as many gun owners per capita as any State in the United States of America, I would guess.

I do not know that for a fact. Big hunting State—duck hunting, bird hunting; big State hunting.

In my State, we found ourselves in the situation where we invoked such a law at the State level. And guess what? In the first 3 months people came in—I do not have the exact figures. I ask unanimous consent that I may be permitted to submit the exact figures.

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

Mr. BIDEN. Out of the first 1,360 people, something like that, who came in to buy a gun under our new law, 10 percent were convicted felons. One out of ten of them who walked in the door—no, I am sorry, it is the first 1,063 people that came in—the number not eligible to buy guns was 10 percent. One out of ten of them, roughly 106 of them, when they looked down the list, they said, oh, this guy is a convicted felon.

So, Mr. President, these laws work. What Sarah Brady has been pouring her heart and soul out to get passed, with the strong support of leaders like Senator METZENBAUM and Senator

MITCHELL and Senator DOLE and others, Senator KOHL, Congressperson SCHUMER on the House side, what 70 percent of the American people support, what a majority of the NRA membership, I am told, supports, but we are stopping an entire crime bill because of that.

Mr. President, it seems like I have made this speech 10 times too many times. I must tell you, I am disheartened. I have worked for years, and in this case on this legislation I have never worked any harder for the past 2 years, to get a tough crime bill passed. It contains capital punishment—a lot of people do not like my position being for capital punishment. It contains significant restrictions on habeas corpus, further willing to restrict them. It contains significant help for local law enforcement.

You know the only thing we know about crime and violence in America for certain is we know that if there are more cops standing on the street, there is less violence. We think we know a lot of other things, but that is the only thing we know with absolute certainty.

And guess what, Mr. President? As this wave of violence—I would like to be able to walk up and have every member—I do not know a single person sitting up in the gallery. I do not know a single American or visitor sitting up in the gallery. I do not know one of them. But I would be willing to bet if we opened up the mike and allowed them to march down here, you would not find one Democrat, Republican, liberal, conservative, crazy right, crazy left, middle, to walk down and stand at this microphone, look at you and look at the American people on C-SPAN and say, "No, America is a safer place today than it was 5 years ago."

I am willing to bet you, you would not find a single person.

Mr. President, here we are, because the NRA does not like the Brady bill, I am required to get a supermajority to do something to make it a little bit safer.

In the last 10 years, Mr. President, that this wave of violence has increased, do you know how many officers have increased on the streets in 10 years? One percent.

We provide help in here, Mr. President, for local law enforcement.

And by the way, I know you will hear my friends say, "Look, law enforcement, that is a local problem, because of local crimes." Drugs are not a local problem, Mr. President. They are grown overseas. They come in through the ports of New York and New Orleans and Wilmington, DE, and California. They come across the border. And they spawn violence; 71,000 murders, Mr. President, since President Bush took office; 71,000 Americans murdered.

What do we do? Well, we insist on the Senate rules and procedures that we require a supermajority in order to be able to remain sure that—I would like my friend, when he stands up—and I am going to save the remainder of my time—to explain to me, other than habeas corpus, what does he object to in this bill? If it is habeas corpus he objects to, I will drop all the habeas corpus out of it, take it all out, every bit of it, take it out and let us pass the bill without it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, once again, instead of considering a true crime bill which the prosecutors, police, and victims can all support, the majority party has seen fit to drag out the lifeless remains of a crime bill twice rejected by the Senate.

I have remained strongly committed to passing a true crime bill despite the political objectives of the majority party. In fact, I continued to work with my colleagues to try and resolve our differences as did Attorney General William Barr. Negotiations, it seems, were complete when the Attorney General and I agreed to a compromise with Senator BIDEN. This compromise was to have included the Senate passed Brady bill, the President's death penalty title, a middle-of-the-road compromise on habeas corpus, and all of the funding proposed for additional law enforcement. According to the Attorney General, he and Senator BIDEN had negotiated a package that both agreed was an acceptable basis for compromise.

Unfortunately, the Democrats have retreated and distanced themselves from what we believed to be an accepted compromise. Instead of debating a tough bill, or the compromise we thought had been agreed to, we are once again considering the conference report. This bill is not an anti-crime bill. It is a pro-criminal bill.

For example, the most troubling provision in this bill is the habeas corpus language. Senator BIDEN has stated that it is the most contentious area of negotiations. The language in the conference report would reverse over 14 Supreme Court decisions favorable to law enforcement. This provision will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, wrote President Bush urging him to "protect the American people" and veto this bill. They wrote that any bill containing this habeas proposal, and I quote: "cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill".

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

Mr. THURMOND. Mr. President, I will not yield. I will let him respond later if he wants to.

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the bill authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented.

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. Both provide that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement and prosecutors. It substantially narrows the current good faith exception to the exclusionary rule. It is yet another provision which expands the rights of criminals.

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was harmless and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fulminante. This case involved a man who took his 11-year-old stepdaughter into a desert, choked her, sexually assaulted her, and then shot her in the head after forcing her to beg for her life. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers like Fulminante. The decision of the Democrats to include this measure in their bill reflects an arbitrary determination to free criminals solely on the basis of technicalities.

If convicted criminals are unable to avail themselves of this bill's new loopholes to overturn their convictions, this bill still lets them out of prison early. Believe it or not, this bill reduces the sentences of violent offenders if they participate in drug treatment programs.

This report also drops several provisions aimed at fighting sexual violence and increasing victims' rights. It also drops several mandatory minimum penalties. Mandatory restitution re-

quirements for victims of rape, child molestation, and other crimes were dropped. Finally, mandatory HIV testing for rapists was dropped.

Mr. President, a few weeks ago, a young mother named Pamela Basu was brutally murdered in suburban Maryland when she was dragged to her death by two young men who stole her car. It was a heinous offense which focused the Nation's attention on the need to crack down on depraved killers. Yet, if this conference report becomes law it will impede the investigation and prosecution of this and other cases. For example, her assailants apparently confessed to the crime. Yet, if convicted, the admissibility of confessions provision contained in this bill could be asserted to overturn their convictions regardless of whether there was other overwhelming evidence of guilt. Critical evidence proving the killers' guilt was discovered at the scene of the crime. Yet, the type of change to the exclusionary rule this bill proposes could result in the evidence being thrown out or their convictions overturned on mere technicalities. Finally, Maryland has the death penalty. This bill's habeas corpus provision will certainly play a role in whether the death penalty is even sought. Even if the prosecutors seek the death penalty and a jury sees fit to impose it, this bill's habeas corpus proposal will virtually guarantee that the sentence will never be carried out.

Mr. President, I have discussed the Basu case to make a point that these procriminal provisions are real. They will affect real cases where men and women have been murdered or assaulted. Given the violent crime crisis we now face, can this Congress afford to pass a bill which will expand the rights of criminals? The measures I have discussed have the potential to affect virtually every single violent crime investigation and prosecution in this country. Long after all of the additional money authorized by this bill runs out—if it is ever appropriated—the procriminal provisions contained in this bill will still be on the books. As a result, more criminals will walk free, more violent offenders will have their convictions set aside on mere technicalities, and more victims will be outraged. This bill furthers the liberal agenda where technicalities take precedence over the issue of whether a criminal is actually guilty of the crime he has been convicted of. No, Mr. President, this is not a tough crime bill.

In closing, many of the supporters of this conference report have stated that we oppose this report because it contains the Senate-passed Brady language. Yet, a fact that seems to have been missed by my colleagues is that, while I am the Senator leading this opposition, I am also one of the Senators who voted in favor of the Senate-passed Brady provision. The notion that I would oppose a bill simply because it contains this provision is wrong.

The Senate must not permit this bill to pass. It is a bad bill. It is a bad deal for victims, law enforcement, and the other good people of America. I urge my colleagues to vote against cloture on the conference report.

The PRESIDING OFFICER. The chair informs all Senators that the Senator from South Carolina has 20 minutes remaining. The Senator from Delaware has 7 minutes remaining.

Mr. THURMOND. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to extend the time for debate by 10 minutes to be equally divided.

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

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

Mr. President, assume what the Senator from South Carolina says is correct, and I disagree with it all. But if he is correct, I stand here now and I ask unanimous consent that we remove from the conference report all provisions relating to habeas corpus and all provisions relating to Fulminante.

The PRESIDING OFFICER. Is there objection? The Senator from South Carolina.

Mr. THURMOND. Mr. President, the need to enact true provisions on habeas corpus is extremely important. We cannot pass a bill without a tough, strong habeas corpus reform proposal. That is the main trouble with the death penalty now.

For instance, in my State a man was on death row for over 11 years——

The PRESIDING OFFICER. Does the Senator object? Does the Senator reserve the right to object and so does object?

Mr. THURMOND. Yes, I object, Mr. President.

Mr. BIDEN. Mr. President, I yield myself an additional 30 seconds.

Mr. President, as we say in other forums, I think the answer speaks for itself.

You just heard why. You heard this whole long speech: The reason why this is a procriminal bill is because of habeas corpus and Fulminante. I said let us drop it. Guess what—what does that leave? What is it that they do not like?

Mr. President, sitting in the gallery are those police officers I talked about. One I left out was Bud Meeks, the head of the Sheriffs Association. I have never known them all to be grouped as a bunch of whacko liberals. I ask you to ask yourself this question, I say to my colleagues: Why, if this is procriminal, does every single police organization of America—not only support it but badly want it?

I yield to my friend from Tennessee, who I thank so much for canceling three major State engagements today to come back here because he felt this was so important.

I thank him for that and I yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I want to thank the distinguished chairman of the committee for yielding me time. May I say in response to his kind comment that there was no question in my mind about being here for this vote. This is one of the most important votes of this entire session of Congress.

We have seen records for violent crime in each of the last 2 years—1990 set a record, 1991 set another record. And the Senator from Delaware has worked for an incredibly long period of time, with great skill and energy, with police officers all across this country and experts on crime all across this country, to come up with the toughest crime bill ever to come before the Congress of the United States.

It has to rise above politics. This is a measure that has to be passed.

So I am very pleased to be here. I will just say, very clearly, that I think a vote against this bill is a vote to refuse to help police officers across this country deal with the worst crime epidemic this Nation has ever seen.

This bill does what is needed. It ought to have strong bipartisan support because all of the provisions in this bill will go right down the drain unless we can get enough support from the other side of the aisle to help pass this legislation.

Another 71,000 Americans were murdered during the first 3 years of the current administration. That is not the fault of the administration. But the failure to do anything about it is the fault of the administration.

The chairman of this committee has been working diligently to put together a bipartisan coalition and craft a bill that will be extremely effective in dealing with this matter. By the end of this 4-year period, over 90,000 Americans will have been murdered. We are all familiar with how that compares on a per capita basis with every other nation in the world. What are we going to do about it? Murder, armed robbery, rape. There were over 100,000 reported rapes in the United States last year, and the experts tell us that for every 1 that was reported, there were another 6 that were not. When are we going to do something about it?

Crime among kids is escalating dramatically on any given day. And 135,000 children carry a gun into the classroom. Have you met with schoolchildren lately in some of the cities of this country and asked them: How many of you have been personally fearful of a loaded gun in your classroom? How many of them raised their hands? Sixth, seventh, eighth graders, ninth graders, tenth graders. What are we coming to when we can have a situation like that and no response to it?

Last year, more than 2,200 kids were murdered. The murder toll among such children is rising more than twice as fast as the overall total. And now among children in cities, do you know what the number one cause of death is? Murder. And we are sitting here debating these provisions that allegedly lead to the objections, and we say OK, we will take them out of the bill, and they say: No, no, no, we have some other problems.

The violent crime arrest rate for youth between 10 and 17 held fairly steady between 1980 and 1987, but it has risen dramatically during the last 3½ years.

This legislation provides an effective response to the crisis of crime in America. It provides the largest assistance ever to local police officers all across this country, major new funding for prosecutors and local police, increased penalties for crimes involving firearms, and the largest expansion of the Federal death penalty in the history of this country, including death penalty for drug kingpins, for the murders of law enforcement officers, for drive-by shootings and for terrorist killings and, yes, the Brady bill, a 5-day waiting period for handguns until an instant check system to prevent felons from getting their hands on guns is in place.

I was very pleased to work closely with the chairman of the committee, and with the majority leader, and with others to craft a compromise provision that I think is balanced and extremely effective. But it has more as well: New boot camps, and regional prisons to house drug offenders, new antigang, and rural crime programs, new antichild abuse measures, and much more.

Where the assistance to local law enforcement officers is concerned, this legislation will add 10,000 police officers and prosecutors to our streets and courtrooms in cities all across the United States. That is real help. That is a real response. That is an effective set of measures to do something about this problem.

By sharp contrast, the administration has proposed deep cuts to State and local law enforcement. They would remove 1,000 police officers from the frontlines under the provisions this President has sent to the Congress.

We want to go in the other direction. Military style boot camps as I said, drug treatment prisons, and other law enforcement programs will house 40,000 Federal, State, and local offenders. The drug emergency areas program will put 2,000 more police on the streets within that program, and 60,000 more drug addicts in treatment in the areas most ravaged by drugs and crime.

The police corps program is in this bill. That, too, will go down the drain unless we get enough votes from the other side to get the number we need to pass it. The police corps program would recruit more than 20,000 young police officers to help beef up our war against crime.

This bill also has prison based drug programs that will treat more than 90,000 drug addicted State and local prisoners; aid to rural areas that will treat 10,000 hardcore addicts; antiyouth gang efforts to provide alternatives such as boys and girls clubs in hundreds of public housing projects. And, finally, Federal law enforcement will be boosted in this bill by 400 more DEA agents, 20 new State and local task forces, 1,000 more FBI agents, 900 more agents attacking the flow of drugs through our borders, and 350 more Federal prosecutors.

I plead with my colleagues on both sides of the aisle, pass this bill. Let us get tough with crime. This is the toughest anticrime bill we have ever had a chance to vote on. Do not play politics with it. Let us have a bipartisan vote to pass it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for cloture on this strong, balanced anticrime package crafted by Chairman BIDEN and others. This measure will create tougher laws, put more police on the street, and result in greater certainty of punishment. Moreover, it includes the Brady bill, which would help keep guns out of the hands of criminals and drug traffickers, and provide a cooling-off period for gun purchasers consumed by violent passion. It is undoubtedly the last clear chance we have this year to pass this crucial measure.

Six weeks ago a 15-year-old honor student named Alain Clamaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm, and once in the back side. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he was not carrying a weapon; in fact, he had no previous contact with the assailant—Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Clamaco, he told them it was because he "had an urge to do it."

This motive bears repeating: Sean Lee Qualls killed Alain Clamaco simply because he "had an urge to do it."

Many of us watched the family and friends of Alain Clamaco on television. We understood their grief, their loss, their feelings of helplessness. We understood it because the sad truth is that similar tragedies occur across America every day.

And while we did not see or hear or read much about the family or friends of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Of course, there is no panacea for the senseless violence: We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will ever make Alain Clamaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage: We can enact the Brady bill.

Mr. President, more than 15 months ago the majority leader, AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. Our compromise measure has three major components: A mandatory background check for all firearm purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records.

The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by everyone from Ronald Reagan to Bill Clinton and from HOWARD METZENBAUM—who has tirelessly led the fight in Congress for sane handgun laws—to the minority leader. Our amendment passed the Senate by an overwhelming 67–32 margin more than a year ago.

Yet during this same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled young man drove his truck into Luby's Cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people. At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead. All in all, in the 450 or so days that the President has played politics with the Brady bill and the crime bill, more than 17,000 Americans have been murdered by firearms.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 482 people were murdered last year in Washington, DC, alone.

I am not saying that all of these tragedies would have been averted had we enacted the Brady bill, but I am sure that at least a few of these lives would have been saved. And don't take my word for it, ask the NRA. It supports mandatory background checks, which the bill would impose. And in the past it has even endorsed a waiting

period. According to its 1976 publication entitled "On Firearms Control":

A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The NRA was right then; it is wrong now.

Mr. President, the measure before us gives Congress a chance to do something about this carnage. Chairman BIDEN has worked hard for this legislation; I will support it; and I hope it is signed into law.

But I want to make one more point to my colleagues who believe they can filibuster the crime bill as a way of stopping Brady: that strategy will fail. The Brady bill has the support of 90 percent of the American people and the endorsement of every major law enforcement organization. In the end, it is going to pass the Senate and it is going to become law. If not today, then tomorrow; if not tomorrow, then next week; if not next week, then next year.

Why? Because America will not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Just open your newspaper or turn on your TV and you will discover this sad fact: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

So as votes are cast, consider this choice: Do you want to enact the Brady bill as a free-standing measure—or do you want to combine it with the death penalty, habeas corpus reform, and other tough criminal law provisions?

Mr. President, I urge my colleagues to vote for cloture.

Mr. GRASSLEY. Mr. President, if General Douglas MacArthur were here today, he might say, "Old crime bills never fade away; they just die." I had hoped that this crime bill would just fade away. The conference report has been forgotten, a relic of a conference committee that took the weaker version of Senate and House crime provisions. But instead of letting it fade away, this bill continues to be considered, despite the fact that it has no chance of ever becoming law.

This bill was a bad bill in November. It was a bad bill when it was killed earlier this year. And it is still a bad bill. The continuing crime sprees across our country are much too great a match for the weak provisions of this bill.

A serious crime bill would not contain a weak exclusionary rule provision. If police act in good faith, the exclusionary rule will not deter police misconduct. This bill actually creates exceptions to a police officer's ability to rely on facially valid warrants, and will lead to unnecessary disputes regarding the warrant.

A serious crime bill would not contain weak habeas corpus provisions. This crime bill would expand opportunities for criminals to challenge their convictions. And it would allow them to raise arguments from decisions that had not even been handed down at the time of their convictions. Habeas petitions take too long now; expanding the ability to file habeas petitions can only reduce the finality of judgment and show further disregard for victims of crime and their families. Moreover, the capital punishment provisions of this bill are illusory because of the bill's expansion of habeas availability.

The American people want action on fighting crime, not a charade that actually expands the rights of criminals. This bill is not worth voting on.

Mr. DOLE. Mr. President, my remarks will be short. We have been over this time and again.

And let me just say that I appreciate Senator BIDEN'S offer to begin amending this bill on the floor, but it comes a bit too late.

The time to amend this bill was in the conference committee. and instead of asking for the help of Senator THURMOND, the administration, or any other Republican, the Democrat Majority rammed a bill through without any input from our side of the aisle.

Now that is their right. They have the majority. But part of being in the majority is taking responsibility for their actions.

So they have to take responsibility for taking a strong Senate-passed anticrime bill, and a strong House-passed anticrime bill and turning them into mush.

Go on down the line, from habeas corpus to the death penalty, and you will find that in almost every instance, the conference committee reported out the weakest provisions possible.

And, as others have said, just as important as what the conference bill contains is what it does not contain. Seventy tough, no-nonsense anticrime provisions were stripped from the bill.

For some reason that still escapes me, those provisions included a whole series of ones which increased penalties on those who assault women. These provisions included a doubling of maximum penalties for recidivist sex offenders, and HIV testing of defendants in sex offense cases with disclosure of test results to victims.

Mr. President, the sad fact is that Senator GORE and others would rather play the blame game, than sit down in good faith to negotiate a true anticrime bill which would help the American people.

Mr. SIMPSON. Mr. President, this conference committee report is a criminal rights bill, not a crime bill.

As I said on the floor 2 nights ago, President Bush has agreed to a crime bill compromise that was first suggested by a Democrat—but that it was the majority party—the Democrats—who later refused that compromise.

That compromise did have the Brady bill included as a part of it.

It is not the Republican Party or our fine President of the United States who is obstructing this process.

It is the majority party.

Today, we are going to be voting for the second time on whether to invoke cloture on motions to proceed to the conference committee bill. This is pure partisan politics, not legislating.

The series of votes we are having today are being used by the majority party—the Democrats—in a well orchestrated attempt to mislead the public and to shore up Governor Clinton's diminishing lead in the polls.

Let us not forget what we are about here.

Two nights ago, I introduced into the RECORD a copy of the letter from Attorney General Barr accepting a compromise on the crime bill—a compromise which included the gun control. Senator THURMOND has outlined that compromise today. It was once again rejected by our Judiciary Committee chairman.

The conference committee report is a compilation of the worst provisions from the respective Senate and House versions of the crime bill. It includes the worst habeas corpus provisions, the worst of the exclusionary rule provisions, the worst imaginable provisions regarding so-called coerced confessions. And, Mr. President, it incorporates the worst of all the various versions of the so-called Brady bill. That provisions, which the majority introduced separately this week, was not even close to the Dole-Mitchell compromise passed by the Senate.

My record is clear on the gun issue—I have always opposed gun control. My opposition to that shallow solution to crime control is especially dogged when the so-called solution—this conference committee bill—itself is nothing more than a shell of empty promises and it also expands, rather than restricts, the opportunities for criminals to abuse our system of justice.

Let's make no mistake about this: This debate and this cloture is about purely partisan politics. It is an attempt to pump up the Democrats' efforts to take over the White House by misleading the American public.

For over 2 months now, our leadership has been calling upon all Members to come forward with amendments to various bills in a timely manner and to move the appropriations bills promptly so that we can adjourn by October 3. Instead, we are engaging in this exercise—an exercise to generate the stuff for more 30-second spots and election year hype.

Instead, we will dedicate most of today to debating at least three separate motions to invoke cloture on matters that will not become law. In this case, we are rehashing a debate that the Senate has visited twice in the past year—first when the conference committee bill was railroaded through conference, and again a few months ago.

This conference committee bill is a total loser, Mr. President.

The Senate has already recognized that fact twice now. The American people are not being well served this day.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute. The Senator from South Carolina has 25 minutes.

Mr. THURMOND. Mr. President, I hold in my hands a letter written to the President of the United States on this very subject by 31 attorneys general; 15 are Democrats, 16 are Republicans. Here are their signatures, signing this letter, opposing this provision, opposing this bill.

I repeat, 31 States' attorneys general—16 Republicans, 15 Democrats—wrote President Bush strongly urging him to veto any bill which contained the habeas corpus provision as contained in this conference report.

They wrote that "any bill containing this weak proposal cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." That is what the attorneys general of the States say about it.

Are we willing to listen to them? They are responsible for law enforcement in every State.

Now, the National Association of Attorneys General overwhelmingly passed a resolution urging President Bush to veto the conference report because it adopts provisions that weaken existing law. And here is what they said: "It broadens the range of circumstances in which the convictions of criminals will be reversed."

We certainly do not want to do that, and that is what this conference report does.

The National District Attorneys Association wrote that the conference report "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners."

They urge the Senate "to reject this poor excuse for a crime control bill."

Now, who was I talking about? I was talking about the National District Attorneys Association that is all over the country—all the States. They went on record urging the President not to sign this bill and stating how dangerous it is.

Twelve Democratic district attorneys, 12 Democratic district attorneys alone wrote a separate letter urging that the conference report be vetoed—12 Democratic district attorneys wrote a separate letter in addition to joining in on the other, "because it contains provisions which would hamstring our efforts to combat crime." That is what they said. Do we want to pass a conference report that will hamstring our efforts to combat crime? That is what the Democratic district attorneys said.

The Conference of Chief Justices, which represents the chief justices of our State supreme courts, oppose the habeas reform contained in the conference report because this is not true reform.

Now, that is the Conference of Chief Justices of the Nation—Conference of Chief Justices—the top judge in every State in the Nation, chief justices. They wrote opposing this matter. Who are we going to listen to?

Numerous victims organizations—and these are the people who have suffered; these are the victims who have suffered from criminals—have written letters opposing the conference report stating that "a vote for the cloture motion is a vote against crime victims. We support S. 2305." And that was the Republican proposal.

"We oppose the conference report." These are the victims of the Nation, people who have been robbed, people who have been raped, and people who have had assaults committed upon them. These victims organizations have gone on record as opposing this conference report.

Attorney General William Barr opposes the conference report stating that the conference report has "let down law enforcement, let down victims, and let down those in Congress who have voted for tough anticrime measures." The Attorney General of the United States. Is the Congress going to listen to him any? Attorney General Barr, what does he say? It lets down law enforcement. It lets down victims. It lets down those in Congress who have voted for tough anticrime measures.

The attorney general of California, for instance, and every single one of that State's 58 district attorneys wrote the Congress urging that this conference report be defeated. They wrote that the measure "provides convicted murderers more opportunities to challenge their convictions instead of less, forces victims and their families to endure more delay and litigation, and makes it more difficult for law enforcement to obtain finality in our criminal justice process."

Now, Mr. President, who are we going to listen to? These are the officials responsible for law enforcement—the attorneys general and all these people.

I want to quote this letter from the National District Attorneys Association. This is written to Honorable GEORGE MITCHELL, Honorable ROBERT DOLE, Honorable THOMAS FOLEY, and Honorable ROBERT MICHEL.

Mr. President, before I do this, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes 15 seconds.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. I thank my colleague for yielding.

I stand in strong opposition and urge a "no" vote on the cloture motion as it relates to the crime bill conference.

Mr. President, let me speak specifically to a point in this crime bill that is open, often discussed, and found very contentious by many people. That is the issue of a 5-day waiting period on the purchase of a firearm and the instantaneous background check that is proposed within this legislation.

The reason I believe we ought to vote in opposition to cloture is that provision, yes, but, more importantly, language that was put into the conference, Mr. President, that the Senate never voted on and that the House never voted on, new language that no Senator unless he or she has read the fine print of the crime conference knows about.

Let me talk about it for a few moments, because what I am talking about is legislation that the chairman has blinked on and suggested that we can violate civil rights or that we can allow law enforcement officers in this country to violate the civil rights of American citizens and get away with it.

Now, we saw a city burn because it appeared that law enforcement officers had violated the civil rights of Rodney King. We saw a city go down in ashes and a Nation erupt because civil rights were apparently violated.

Let me read the language. "A law enforcement officer or other persons responsible for providing criminal history, background information pursuant to this subsection shall not be liable in an action at law for damages for failure"—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."

In other words, if they choose to arbitrarily not find the necessary information or cause information not to flow during this background check period that would clear that individual, they are not liable. They are not within the law. They do not have to adhere to the civil rights of that citizen under the Constitution.

Now, I do not know another law of the land we would want to support that would arbitrarily deny someone their civil rights, even as onerous as some of us may believe those rights to be.

I know that a lot of people do not believe in the second amendment rights to our Constitution or they believe that they are malleable or that we can adjust them or change them around a little bit. I disagree with that. I think those rights are absolute. But here we are saying to the law enforcement community, you can blink. We are saying to the local sheriff or the chief of police, if you really do not want guns in your community, you can find a way to disallow it through this method.

Another provision says neither a local government nor any employee of the Federal Government or any State or local government responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages for failure to prevent, for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

There may be a lot of ways to interpret it. I have given you my interpretation. It so happens that attorneys—and I am not one—who are professionals in this area, who hold themselves up to be experts in this area of the law, say that this Senator is absolutely correct.

That is why, Mr. President, we did not vote on this provision in this Senate. That is why the House never voted on it. That is why staff people got together in the conference and conjured up their neat idea that said, "Here is another avenue for disallowing the process to work."

So, in other words, a 5-day waiting period under this law, and a national instant background check under this law, says to those who are responsible for carrying the law out, "If you fail in your actions, you are not liable," and a failure enacted is a denial of a civil right in this country, a constitutional right under the second amendment.

That is why I am in opposition. But I thought our Senators really ought to know what the fine print says. Sometimes it is not wise to read the fine print of a conference report.

But let me suggest that, in the closing days of this session as we are in a rush to get out of here, is it not interesting that we have had so many opportunities to bring up this conference report, and now that Senators are anxious to go home to campaign, it is now time to pass it, it is now time to get it out. Let me suggest, Mr. President, that you and I do not want to intentionally create a law that allows law enforcement officers to act, without liability, to violate the civil rights of the citizens of this country.

A yes vote would do just that.

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

Mr. President, I want to go back to the beginning and basically give a summary of how we arrived where we are and what the choice is. This issue has been debated many times. Rather than debating it all again, I just want to hit the high points.

First of all, 1,237 days ago today the President asked Congress to pass the Nation's toughest and most comprehensive crime bill. That crime bill reinstituted a workable death penalty at the Federal level, had over 70 strong law enforcement provisions related to minimum mandatory sentencing and other anticrime measures, sought to end the endless delays in carrying out justice, sought to eliminate the situation where violent criminals walked the streets because of a technical error in filling out reports, and, in fact, sought to deal with a crisis that faced our bleeding nation as criminals preyed off the health, happiness, and lives of other citizens. That was 1,237 days ago today.

Today, we have yet to pass such a crime bill. We have certainly not passed the President's bill, and we are today looking at a conference report on a product that is totally different from the President's bill.

When we considered the crime bill in the Senate, we adopted many provisions, including 52 tough anticrime provisions. But when the Democrats who run this committee in the Senate and the Democrats who run the committee of jurisdiction in the House met together and wrote the final bill, they dropped some 70 House and Senate provisions that were aimed at grabbing criminals by the throat and not letting them go to get a better grip. I do not want to go through the whole 70. I have done that on another occasion. I simply want to talk about three.

I offered on the floor of the Senate the requirement that, if you are convicted of selling drugs to a minor, no matter who your daddy is or how society may have done you wrong, if you are convicted in the Federal system, you are going to the Federal penitentiary, and you are going to serve every day of 10 years in prison.

The second part of the amendment was, if you got out of prison and you did it again, if you went back and sold drugs to a child again, you got life imprisonment without parole. That amendment was adopted on the floor of the U.S. Senate. That amendment was dropped in conference and is not in this bill; that amendment and 69 others like it.

Another provision that was part of this bill was the so-called three-timer loser provision. What it said is, if a criminal goes out and commits a violent crime or a drug felony, not once, not twice, but three times they are convicted of a violent crime or a drug felony, we decide that maybe the time has come to protect society by putting this person in prison for life.

That amendment was offered on the floor of the Senate, and it was adopted by the Senate. But what happened to it? That provision and 69 others like it were dropped out of this bill in conference.

Amendments were offered to deal with guns, to deal with violent criminals who use guns. The amendments said, if you possess a firearm during the commission of a violent crime or a drug felony, whether you use the gun or not, you are going to prison if you are convicted of possessing that gun independent of the crime you commit other than having the gun, you are going to prison on the gun violation for 10 years, and you are going to serve every single day of 10 years in prison.

If you fire the firearm in the commission of a violent crime or drug felony with the intent to do bodily harm, the amendment says you are going to prison, not 10 years, but 20 years, and you are going to serve every single day of 20 years in the Federal penitentiary.

The amendments further said, if you kill somebody with a firearm during the commission of a violent crime or a drug felony, at a minimum, you are going to spend the rest of your life in prison with no parole, and, in aggravated cases, you are going to be put to death.

Guess what happened to those provisions? The provisions I offered here on the floor of the Senate were adopted overwhelmingly, and yet when the bill came back from conference, they and 67 other provisions were dropped from this bill. In fact, if you go through the Senate bill and the House bill and you look at each one of those bills, almost every grab the criminal by the throat provision was dropped and every soft provision was maintained.

I want to go back over—I know our dear colleague from South Carolina did it once. But I want to be sure that people understand that this bill is not an anticrime bill. You don't have to take just my word. You also have the word of the Senator from South Carolina.

Might I say, Mr. President, I do not know of any man in America who is more committed to protecting law-abiding citizens and grabbing criminals by the throat than our distinguished colleague from South Carolina. I want to thank him for his leadership on this issue. I want to express to him my disappointment that we do not yet have the crime bill that the American people want and need.

When this bill that is before us came out of conference and came to the floor of the Senate for a vote, 31 State attorneys general, 16 of them Republicans and 15 of them Democrats, wrote the President urging him to veto this bill. In fact, the National Association of Attorneys General overwhelmingly passed a resolution urging the President to veto this bill. Let me just read a few things they said.

They said: "This bill weakens existing law, broadens the range of circumstances in which convictions of criminals will be reversed." And then in the letter that they wrote about the bill, they said the following things: the bill "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handed the jailhouse keys to thousands of convicted State and Federal prisoners." They go on to say: "Reject ths poor excuse for a crime bill."

Mr. President, I cannot understand why we cannot have bipartisanship in

passing a crime bill. I know an effort has been made. I know the distinguished chairman and Senator THURMOND sat in meetings for months trying to work out a crime bill. I am not trying to impugn the efforts that anybody has undertaken. A lot of good people tried to get something done. The bottom line is that it did not get done. We have before us a bill that is not an anticrime bill, but a bill that actually, in an incredible move, overturns some 22 Supreme Court decisions that, in the last 30 years or so, have strengthened law enforcement.

Mr. President, what are we doing in the name of a crime bill overturning court decisions that have strengthened law enforcement? We ought to be passing laws to help the cops on the beat who are trying to protect law-abiding citizens.

So there is only one way we can get to that: Reject this conference report, and then let us, even in the waning hours of this session, sit down and try to work out a real anticrime bill.

I urge my colleagues to vote no.

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, our good friend and distinguished Senator from Delaware, the chairman of the Judiciary Committee, I regret to say, made a number of mistakes in connection with the bill which is before us now.

I believe his primary mistake to have been his failure to represent the position carefully thought out and voted upon over an extended period of time by the Senate, with respect to the most controversial issues connected with this bill.

Not only did he fail to represent that position, but he excluded the administration and Members of the Republican Party from any effective voice in writing this proposal. And it is presented to us on a take it or leave it basis. He can hardly expect the support of those who have been excluded from the process and whose views, when they were the views of a majority here in this body, have been ignored and rejected.

Most particularly, in the view of this Senator, he made a terrible mistake in rendering appeals and habeas corpus petitions on behalf of convicted persons more and not less complicated. He has reversed numerous decisions of the Supreme Court of the United States, which lead to both finality and to justice. As a consequence, he has the opinion of the National Association of Attorneys General, an organization of which this Senator was once President, who very substantially opposed to this bill, as not being one which improves the criminal code but which inhibits the search for justice.

For those reasons, regrettably, this cloture motion should be defeated, and we should start over again with a clean slate next year.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute, 23 seconds. The Senator from Delaware has 58 seconds.

Mr. BIDEN. Mr. President, I have been authorized by the leader to use up to 3 minutes of his leader time. So I assume I will have 3 minutes, 58 seconds.

I will respond to the last comment made——

Mr. THURMOND. Mr. President, I want to ask a question. Can someone else use the leader time, or do the leaders have to use it?

The PRESIDING OFFICER. The leaders are authorized to use their time, but the time can be used by others.

Mr. THURMOND. Would he have to be here to authorize that in person?

The PRESIDING OFFICER. The practice of the Senate is for the leader to be able to authorize it and for other Senators to be able to make that assertion without the leader being present.

Mr. THURMOND. We have already extended the time 10 minutes, I believe. We are ready to vote as soon as we can. How did the Chair rule on that?

The PRESIDING OFFICER. That the Senator from Delaware has 3 minutes of the leader time and 58 seconds of his own.

Mr. BIDEN. To my friend from the State of Washington, this legislation has had the most sought after views and effort of any piece of legislation anyone has ever had up here. I have met literally, over 300 or 400 hours, with every single Republican who wished to meet with me, with 16 different Republican Senators, 12 in the leadership office with Senator DOLE, with every single police organization in the country, with the leaders of the National District Attorneys Association, with the people sitting right here, with the Attorney General himself, personally, and with his representative for more time than the Senator from Washington has ever been near the Justice Department. I guarantee you that no piece of legislation has had the views of the U.S. Senate more than this one. No. 1.

No. 2. My friend from Texas, Senator GRAMM, says that he is disappointed that his tough gun provisions and sentencing did not get in. He did not mean it, probably, but his legislation weakened the gun law, because he allows increased penalties to run concurrent with other sentences. The Federal Sentencing Commission points out that the Senator's position weakened the penalties on gun laws, because they run concurrently and do not run as they do now, which is that you get convicted of one crime, of a gun crime, and it gets laid on top of your first conviction.

No. 3. Mr. President, you heard all this talk from the attorneys general and others, allegedly, disregarding that all of the police officers and their organizations support this crime bill—every single one. If that is the concern, I want my friend from South Carolina to listen, because I am about to propound a unanimous-consent request, if the concern is that habeas corpus is so terrible in this bill, and that is what weakens it and makes this a procriminal bill, because that is what the attorneys general say, nothing else, I point out to my friend from the State of Washington and my friend from the State of South Carolina.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of a concurrent resolution to correct the enrollment of H.R. 3371, the crime bill, that would strike title II, the habeas corpus provisions, from the crime bill; that there be no debate or amendments in order on the concurrent resolution; that the Senate proceed to vote without any intervening action or debate on the adoption of the concurrent resolution prior to the vote on cloture on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to ask my distinguished colleague whether he would be willing to accept a compromise that he reached with the Attorney General. That bill would include, as I understand—and we cannot amend a conference report, but we can introduce another bill today, if he will agree.

Mr. BIDEN. Mr. President, is there objection to my unanimous-consent request?

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, until we know more about what it is, yes. If the two Senators want to work something else out, I object now, and I will suggest the absence of a quorum.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I ask my distinguished colleague this: You worked with the Attorney General on the bill, and we understood you reached an agreement.

Mr. BIDEN. Not so.

Mr. THURMOND. He says you did.

Mr. BIDEN. No, he does not.

Mr. THURMOND. We will go from here. Would you agree that you and I introduce another bill today—listen now—that would include the Senate passed Brady provision, the administration's death penalty, no exclusionary rule, the power to make a habeas

corpus proposal, and all the money for law enforcement. Would you agree to join me in introducing such a bill today?

The PRESIDING OFFICER. The time allotted to the Senator has expired.

The Senator from Delaware has 1 minute and 10 seconds.

Mr. BIDEN. The answer is "no."

Mr. THURMOND. There you go. I knew that would be the answer.

Mr. BIDEN. Mr. President, with the remaining time I have, the Attorney General and I reached no agreement on that. I never said we reached an agreement on that, No. 1, and No. 2, I want to point out that last night the police mediating the agreement of the Attorney General and me to reach a compromise in this reached the solution and came up like mediators do with a proposal. We agreed to pursue it. The Attorney General concluded he could not live with it. Therefore, the old sticking point is habeas corpus. I agreed to drop it out, if it is so bad. It is not so bad. But I did it anyway. If it is so bad drop it out of the bill. I made that proposal. Within the rules I am able to do that. Obviously, they did not want to do that.

This is all about guns, Mr. President. We have 55 to 57 votes for this. We have been prevented for 300 days. There has been a filibuster to prevent us from voting on a tough crime bill.

I yield back my time.

Mr. THURMOND. Mr. President, I understand the time out.

I ask unanimous consent to print two letters here from the Attorney General in the RECORD confirming that agreement.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you outlined with me orally Wednesday night, and as further discussed yesterday, the following are the elements of a possible compromise crime bill:

1. The President's death penalty provision (set forth in the Gekas amendment passed by the House this Congress) plus a provision on jury instructions—attached at Tab A;

2. The Powell Commission habeas corpus provisions (set forth in the Hyde amendment passed by the House in 1990);

3. Your authorization provisions (see attachment at Tab B) plus the equal funding for habeas provision [section 208 of the conference report] as you and I discussed;

4. The Mitchell/Dole waiting period provision from the conference report [Title V Subtitle A] with proposed new section 18 U.S.C. 922(s)(7)(B) deleted, so that proposed new section 18 U.S.C. 922(s)(7) now reads:

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages for failure to prevent the sale of transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.";

and

5. No other provisions will be included in the package unless mutually agreed upon by us.

This letter will confirm, as you were told yesterday, that this package would be acceptable to the Administration.

Sincerely,

WILLIAM P. BARR,
Attorney General.

COMPROMISE LANGUAGE ON IMPOSITION OF DEATH PENALTY

On page 30 of S. 2305, line one, after "factors." add the following:

"In weighing aggravating and mitigating factors, the jury, or if there is no jury, the court, shall consider both statutory and nonstatutory mitigating factors, and any member of the jury who finds the existence of a mitigating factor and any member of the jury who finds the existence of a mitigating factor as provided in subsections (c) and (d) may consider the factor regardless of the concurrence or non-concurrence of other members of the jury concerning the establishment of the factor."

On page 30 of S. 2305, line ten, after "warrants." add the following:

"The jury shall be further instructed that the court will impose a sentence other than death that is authorized by law if the jury does not recommend a sentence of death. The jury shall be informed of the sentences other than death that are authorized by law for the offense or offenses for which the death penalty is sought, including the fact that life imprisonment without possibility of release is an authorized sentence."

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371

Program	Authorization	Body	S. 2305
Brady bill	$100,000,000	Senate	No.
National Child Protection Act (§ 911).	20,000,000	do	Yes (§ 741).
Safe Streets (§ 1101)	1,000,000,000	do	Yes (§ 901).
DNA Identification (§ 1121).	2,000,000	House	Yes (§ 1288).
DOJ Community Substance Abuse Prevention (§ 1131).	15,000,000	do	Yes (§ 1062).
Cop-On-The-Beat (§ 1151)	150,000,000	do	Yes (§ 961).
Drug Testing Upon Arrest (§ 1161).	100,000,000	do	Yes (§ 1064).
Midnight Basketball (§ 1181).	2,850,000	do	No.
Juvenile Drug Trafficking and Gang Prevention (§ 1191).	100,000,000	Senate	Yes (§ 511).
Trauma Centers (§ 1195)	50,000,000	House	Yes (§ 995).
Alternative Punishment for Young Offenders (§ 1198).	200,000,000	do	Yes (§ 523).
Law Enforcement Family Support (§ 1201).	5,000,000	do	Yes (§ 993).
Police Corps (§ 1231)	100,000,000	Senate	Yes (§ 935).
Law Enforcement Scholarships (§ 1241).	30,000,000	do	Yes (§ 942).
Federal Law Enforcement Agencies (§ 1301).	345,000,000	do	Yes (§ 1402).
DEA	100,500,000		
FBI	98,000,000		
INS	45,000,000		
U.S. Attorneys	45,000,000		
U.S. Marshals	10,000,000		
BATF	15,000,000		
U.S. Courts	20,000,000		
Federal Defender Service.	12,000,000		
U.S. Attorney's Office	35,000,000	Senate	Yes (§ 1284).
Drug Treatment in Federal Prisons (§ 1404).	such sums	do	No.
Regional Prisons (§ 1405)	700,000,000	do	No.
Boot Camps (§ 1406)	150,000,000	do	No.
Residential Substance Abuse Treatment for Prisoners (§ 1421).	100,000,000	House	Yes (§ 1063).
Mandatory Literacy (§ 1422).	10,000,000	Senate	Yes (§ 994).
Rural Law Enforcement (§ 1501).	50,000,000	do	Yes (§ 1054).
Rural Drug Enforcement Training (§ 1504).	1,000,000	do	Yes (§ 1053).
Rural Drug Prevention (§ 1511).	25,000,000	do	Yes (§ 1055).
Drug Emergency Areas (§ 1601).	300,000,000	House	Yes (§ 1061).
Missing Alzheimers Patients (§ 2101).	1,000,000	Senate	Yes (§ 991).
Safe Schools (§ 2901)	100,000,000	House	Yes (§ 1289).

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I received your letter of September 25. I must disagree with your recounting of events.

First, your statement that the Administration never showed any willingness to move beyond our first position on habeas is simply not true. We have come a long way. We dropped "full and fair" and court time limits.

I must also disagree with your characterization of our September 23 evening discussion as you merely offering to try to sell my best offer. On the contrary, we negotiated a package that we both agreed was an acceptable basis for compromise and would actively try to sell to our principals. In this context, you specifically agreed to accept "pure" Powell as part of the package. Further you insisted that we drop court time limits on habeas in return for the President's death penalty, which I agreed to.

It certainly was not my understanding that you would wait to hear back from me before discussing the compromise package with your colleagues. My recollection, as confirmed by your staff the next morning, was that we would both simultaneously try to sell this 4-point compromise to our principals. And I did that.

I certainly don't recall anything about a 12:00 noon deadline, and, in any event, I understand that Jim Baker placed his first call to you before noon and placed a second call at 12:40; these and further calls were not returned by you to Mr. Baker until late in the day. In any case, I cannot understand how a deal that would have been acceptable at 12:00 noon would not be acceptable shortly thereafter.

Your counterproposal seems to be a hardline retread of positions you took much earlier in the negotiations. Your counterproposal on habeas is one that you know is unacceptable; it is precisely the same proposal that you acknowledged Wednesday afternoon could not be a basis for compromise.

I urge you to proceed with the 4-point compromise we crafted Wednesday night and which the Administration has accepted. It reflects a true compromise, and it is certainly the best chance to get any legislation passed. There is little doubt that, if the leadership permits a vote on this package, it would pass both houses by substantial margins.

I urge you to move forward with the package we agreed upon Wednesday night.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. BIDEN. Mr. President, I ask unanimous consent that the statements of Dewey Stokes, president, National Fraternal Order of Police, and Sarah Brady be printed in the RECORD.

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

[Transcription of Crime Press Conference, Oct. 1, 1992]

STATEMENT OF DEWEY STOKES, PRESIDENT, NATIONAL FRATERNAL ORDER OF POLICE

Since November, when this went into what I call gridlock seventeen thousand people have died, many more wounded, and I asked the Congress, those Senators, to look in the eyes, the victims, the victims of these crimes. Sarah Brady is a victim of this crime. How can four of you deny two hundred and fifty-five million Americans, the right to bring about crime control and a crime bill that will stop some of the violence in America. How can you do that? Whoever you are, whether you are Republican or Democrat, you are elected to represent the people of the United States. At every poll, even the NRA poll of the membership, says we want the Brady Bill. We don't see any impediment. It does not deprive them of the right to own a firearm, under no circumstances. It gives us the right to make sure that those people who buy a firearm are not a convicted felon and are not mentally incompetent. And to stop a crime bill that is going to protect our people our law enforcement officers on the streets the highways and the institutions of this country is repulsive to me, and it should be to the American people. I would ask you to ask them, "Call those Senators. Give us the privilege and the right to listen to the vote of America."

STATEMENT OF SARAH BRADY

The law enforcement community and I started about six years ago working for the Brady bill. We have been to more press conferences together than you could shake a stick at. We have met all over the country and we've been fighting for one thing. During those six years, three Congresses, over 100,000 people have died, cops getting shot, I keep getting heckled, more cops died, and nothing has happened. And here we are at the very end of yet another Congress, where at the bitter end something has to happen, and I am going to be sure it does this time. I am tired of listening to excuses. I am tired of having to go back to the people all over this country who support us and say that politics as usual is keeping us from passing the Brady bill legislation that will save lives in this country. We're going to get it done this time. And tomorrow we have a sure-fire way of doing it. And I am going to say "Shame on any Member of Congress who keeps that from happening, "Shame" on any member of the administration that keeps that from happening. We have got to save lives today. Otherwise, we lost sixty five within the next twenty four hours, and sixty five more lives the next day, cops will continue to get shot, and I will continue to get heckled, but the lives cannot go on.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the call of the roll, pursuant to rule XXII, is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Omnibus Crime Control Act conference report accompanying H.R. 3371 shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. REID] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—55

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Pell
Boren	Harkin	Pryor
Bradley	Hollings	Riegle
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burdick, Jocelyn	Kassebaum	Sanford
Byrd	Kennedy	Sarbanes
Chafee	Kerrey	Sasser
Conrad	Kerry	Simon
Cranston	Kohl	Wellstone
Daschle	Lautenberg	Wirth
DeConcini	Leahy	Wofford
Dixon	Levin	
Dodd	Lieberman	

NAYS—43

Bond	Grassley	Pressler
Breaux	Hatch	Roth
Brown	Hatfield	Rudman
Burns	Heflin	Seymour
Coats	Helms	Shelby
Cochran	Johnston	Simpson
Cohen	Kasten	Smith
Craig	Lott	Specter
D'Amato	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	
Gramm	Packwood	

NOT VOTING—2

Durenberger	Reid

The PRESIDING OFFICER (Mr. BRYAN). On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I am pleased to say righteousness prevailed on that vote. Although we did not pass a tough crime bill, I would like to thank my staff, who worked tirelessly in this endeavor. Manus Cooney provided able counsel, as did Thad Strom. Beverly Gastright and Krista Ellis also provided valuable assistance.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak for 1 minute.

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

Mr. BIDEN. Mr. President, I do not have a claim on righteousness. I am extremely disappointed we are going to adjourn without having done anything on the crime bill. I stand ready to work with my friend from South Carolina next year to try, once again, to get a crime bill.

I thank my colleagues for their indulgence.

Several Senators addressed the Chair.

The PRESIDING OFFICER. There is a regular order.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to say we can pass a crime bill today with what I understood had been agreed to with the Attorney General anyway. It would include the Brady bill, the Powell committee recommendation on habeas corpus, President Bush's death penalty bill, and all of the proposed funding. If the distinguished Senator from Delaware wants to work with me, we can get a bill today and pass it.

NATIONAL INSTITUTES OF HEALTH AUTHORIZATIONS

MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 1 hour equally divided for debate on the motion to proceed to S. 2899.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know the Senator from Massachusetts is anxious to move forward. I know the Senator from North Dakota and myself would like to say a few words. I do not know the subject she would like to speak about. I would like to speak about the defeat of this and the relationship to the Brady bill. She needs 3 minutes, and I need 10 minutes. Would the Senator from Massachusetts object to a unanimous-consent request?

Mr. KENNEDY. Mr. President, in my heart, I would be glad to accommodate.

The majority leader has set times to proceed. I am trying to conform with what he indicated to me.

Mr. METZENBAUM. He knew we were going to make this request. I just feel so strongly about what has just transpired that I would like to take a few minutes to express myself.

The PRESIDING OFFICER. As the Chair understands the parliamentary situation, it would require unanimous consent of the body to provide the time that is requested by the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the regular order be set aside for a period of 3 minutes for the Senator from North Carolina [Mrs. BURDICK], and 10 minutes for the Senator from Ohio, with no intervening business and having no further impact upon the regular order as has been provided heretofore.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, I ask unanimous consent that I be recognized to speak for 3 minutes as in morning business.

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

THANKS FOR WARM WELCOME AND SUPPORT

Mrs. BURDICK. Mr. President, I want to thank each and every one of the Members of this distinguished body for the warm welcome and support I have received in my short time as a U.S. Senator.

My husband served in the Senate throughout our 32 years of marriage, always putting North Dakota's interests first. I have tried during these short weeks to complete Quentin's unfinished business, to assist his excellent staff as they explore new challenges, and to represent North Dakota's interests in all matters before the Senate. I hope that in some small measure, I have met each of those goals.

My husband was the first Democrat North Dakotans ever elected to the U.S. House of Representatives. I am honored to be the first woman to represent North Dakota in Congress. My appointment also made history for being the first time three women have served in the U.S. Senate at the same time. I hope that the 103d Congress will find many more women seated in this body.

My great grandmother, Matilda Joslyn Gage, was an early suffragist and feminist theologian who fought on the front lines of the struggle for human freedom, dignity, and the vote for women. She had a motto: "There is a word sweeter than mother, home, or heaven. That word is liberty."

To further the goal of liberty and the cause of equal rights, I have asked to be added as a cosponsor of the equal rights amendment, the Freedom of Choice Act, the Economic Equity Act, the Violence Against Women Act, and the Women's Health Equity Act. I am also proud to have cast my votes to override the President's vetoes of the Family and Medical Leave Act and the Pregnancy Counseling Act.

It is a tremendous honor for me to serve in this body. Once again, thank you.

The PRESIDING OFFICER. The Senator from Ohio is recognized pursuant to the unanimous-consent agreement.

Mr. METZENBAUM. Mr. President, I want to first commend my colleague, Senator BURDICK, for her remarks. More important, I wish to commend her for her able service. She has filled the shoes of our distinguished friend and colleague, Senator Quentin Burdick, and we are all very pleased and privileged to have had an opportunity to work with her.

She has attended to her duties properly and promptly and has been willing to stand up and be counted on the issues. I consider it a real privilege that I have had a chance to sit next to her during this period.

We are going to miss her.

Mr. KENNEDY. Mr. President, I, too, want to join in commending Senator BURDICK. As I mentioned on other occasions, I had a chance to serve with Senator Quentin Burdick for a considerable period of time, since he was an institution in the Senate when I first arrived here.

I have noticed over the period of these last days Senator BURDICK pouring over reports, reading majority and minority opinions about different parts of the legislation. That is something all of us are supposed to do. I notice Senator BURDICK developing a command of these complicated issues in a very thoughtful and studious way and bringing a very important and balanced judgment to these matters.

I, too, join in commending her and pay tribute to her and to the people of North Dakota for giving us the opportunity of serve with her.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken up between Senator KENNEDY and myself in connection with Senator BURDICK'S remarks not be charged against the time.

Mr. CONRAD. Will the Senator from Ohio yield for a brief comment?

Mr. METZENBAUM. Of course. I did not know the Senator was seeking the floor. I apologize.

Mr. CONRAD. I thank very much my colleague from Ohio.

I wanted to add my voice, Mr. President, to those who have spoken about my colleague, Senator BURDICK. It has been an absolute joy to have her join us in this Chamber. She has proved to be extraordinarily diligent in the work of the Senate, and I think we find a true affection in this body for her. I only wish that her service in this Chamber were going to be longer because I think she has already demonstrated she is an outstanding Member of the Senate.

She is independent minded; she is strong; she is an advocate for our State; and I think she is the best kind of U.S. Senator. I thank the Chair, and I thank my colleague from Ohio.

OPPOSITION TO THE BRADY BILL

Mr. METZENBAUM. Mr. President, the American people have just suffered a tragic loss. Let us not kid ourselves. The conference report on the crime bill was killed because of opposition to the Brady bill.

The President and my colleagues on the other side of the aisle have used habeas corpus as a smokescreen. We have fiddled while felons continue to buy guns without any difficulty. We have fiddled while the police plead for the Brady bill. We have fiddled while the American people wonder why this commonsense measure cannot become law.

The most effective anticrime provision in the conference report is the Brady bill. It will keep guns out of the hands of felons. The Brady bill will save lives and be of tremendous help to the police of this country. They supported it wholeheartedly. This Congress, this Senate has let them down. My colleagues on the opposite side of the aisle and the President of the United States have turned their backs on the police of this country.

I fear that the President and his allies in the Senate would rather carry out the will of the National Rifle Association than carry out the will of the American people. The Brady bill passed the Senate by a 2-to-1 margin last year. Polls show that over 90 percent of the American people support this measure. Every single major law enforcement organization in the country supports the Brady bill. Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support this measure. And you would be hard pressed to find a major newspaper anywhere in the country that opposes the Brady bill. There are not too many pieces of legislation that command that kind of support. But then there are not too many pieces of legislation that are as sensible as the Brady bill.

Here is a measure which can work and is supported by an overwhelming majority of the American people, by an overwhelming majority of gun owners, and by law enforcement. The American people are right to wonder why cannot this piece of legislation pass? Why cannot it be enacted into law?

The failure to enact the Brady bill is a textbook example of why the American people are losing their faith and confidence in our ability to address the Nation's problems.

The President has the failure of the Brady bill lying right on his doorstep. He opposed it. My colleagues on the other side of the aisle, with few exceptions, opposed it.

A well-funded, single issue, special interest group, the National Rifle Association, has turned this issue into a litmus test, and the President and many Members of Congress have shown themselves to be unwilling to stand up to this special interest group and do what is right for the American people.

Those who object to the Brady bill want to thwart the will of the overwhelming majority of our citizens. They would rather cave in to the wishes of the special interest extremists at the NRA than enact a special measure that will save lives and help the police.

NRA is wrong on this issue, and so is the President of the United States, dead wrong. But that is no surprise. The NRA has vehemently fought every reasonable piece of firearms legislation that has come down the pike. It does not matter to the NRA that the American people want the Brady bill. The NRA does not care that the vast majority of gun owners want the Brady bill. And the NRA does not even care that the police officers of this country are pleading with the Congress to enact the Brady bill so that they can feel just a little safer as they go about their job.

No; Mr. President, the NRA does not care what the cops think about this amendment. When the police officers plead for enactment of the Brady bill, time and time again the NRA responds by saying in essence that the cops do not know what they are talking about. The NRA's Washington lobbyists think they know better. That is absurd. Who do you think knows what is better for the cops on the street, the police officers themselves or the NRA's Washington lobbyists? We should have the courage to stand up to the NRA and do the right thing.

On September 28 of this year, former Presidents Reagan, Carter, Ford, and Nixon wrote a letter urging Senators to "put aside partisan politics and do what is right for the American people." The letter went on to say that these four former Presidents "strongly urge every Senator to stand up for the Nation's law enforcement community as well as for public safety by voting for the Brady bill and sending it immediately to President Bush, whom we urge to sign this important bill."

That letter from the last four Presidents of this country underlines the broad support for the Brady bill. The support is broad for the simple reason that the Brady bill makes sense and the American people want it to become the law of the land.

There is still time to enact the Brady bill. I call upon the President of the United States to send word to those who work with him on the other side of the aisle to join with us, let us pass the Brady bill in the closing days of the session. We can do it if the President will put his shoulder to the wheel and prevail upon those who stand in the way of progress on this important subject. We can save lives.

Let us go out of the Senate in a blaze of glory knowing that we have passed the Brady bill and that the President of the United States has pitched in to help, not to deter its passage.

Mr. President, I thank my colleague from Massachusetts for devoting me this extra time. I yield the floor.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

CLOTURE MOTION

The PRESIDING OFFICER. Under the regular order, there will now be an hour for debate equally divided on the motion to invoke cloture on the motion to proceed to S. 2899, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, the legislation now before the Senate to reauthorize the National Institutes of Health is a major opportunity to enhance America's leadership and excellence in biomedical research through the end of this century.

The pending bill is a modified version of the legislation that passed the Senate on June 4 by a vote of 85 to 12. It was vetoed by President Bush, and the House of Representatives failed by 14 votes to override the veto. Because this issue is so important, we are trying again, with compromises on several key issues, including fetal tissue transplantation research, in the hope that this important bill can be enacted into law this year.

This new bill is a good-faith effort to meet the concerns raised by the President in his veto message.

The most controversial issue continues to be fetal tissue transplantation research. The new bill gives the President's proposed tissue bank a year to become operational, starting from last May 19, the date of the President's Executive order establishing the bank. After May 19, 1993, researchers must continue to apply to the bank for tissue, but if the bank is unable to provide suitable material, the researchers are then free to obtain it from other sources.

The new bill contains all the safeguards in the previous bill to prevent abuses in fetal tissue transplantation research. Under these safeguards, a clear separation is maintained between a woman's decision to have an abortion and her decision to donate the tissue for research.

Many of us have serious reservations about the tissue bank proposal, which would restrict tissue to what is available from spontaneous abortions and ectopic pregnancies. The administration's estimates of the amount and quality of the tissue that would be available from the bank under these limitations are extremely dubious, and may well bear no relationship to reality. Many NIH officials themselves are clearly blowing the whistle on the bank as a realistic option. They are obviously extremely upset over the way these estimates were prepared and furnished to Congress. There are serious doubts that the tissue will be suitable for research. A top NIH official is reported as saying that senior HHS officials, in fact, misrepresented the amount of tissue that could be collected for the bank each year.

A group of researchers at Columbia University who conducted a study of tissue obtained from all spontaneous abortion specimens at a large Manhattan hospital from 1974 to 1986 have stated categorically that the current NIH plan for the tissue bank cannot be expected to produce sufficient numbers of usable specimens of fetal tissue for research.

Our concern is that political ideology is overruling basic science, and that the research doctors at the NIH are being abused by the spin doctors at White House. NIH has earned enormous credibility with Congress, the country, and the world. Researchers are clearly distressed at what HHS is saying and doing in their name. If this tissue bank is the sham it now seems to be, then valuable research is being unconscionably delayed.

The compromise proposal in this legislation is eminently reasonable. We have given the administration the benefit of the doubt—for another year. If this tissue bank goes the way of the S&L banks, then beginning in May of 1993, scientists will finally have an effective source of tissue for their research. And the victims of Parkinson's disease, Alzheimer's disease, diabetes, spinal cord injuries, and other presently incurable afflictions will have the new hope that they deserve, and that has been unreasonably denied the past 5 years.

The issue is not whether abortion is legal or not. It is what happens after an abortion, and whether tissue from an abortion may be used to save another life, or must be simply thrown away.

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This bill will not cause more abortions. Women do not have abortions in order to donate to research. After 5 years of debate and a thorough review of other research projects around the world, there is no evidence that such research is any incentive whatsoever to abortion.

The question is whether urgently needed medical research is to be carried out in accord with sound medical research priorities and public health priorities, or whether it is to be dictated by the most extreme zealots at the Republican Convention in Houston.

Every citizen has a stake in this legislation. Every family that has suffered the tragedy of Alzheimer's disease in a loved one has a stake in this legislation. Every family that has suffered from diabetes, or Parkinson's disease, or a spinal cord injury has a stake in this legislation, because research involving fetal tissue may hold the only hope of medical progress against these devastating afflictions. Those who delay such research because they want to play the rightwing politics of abortion are playing with real people's lives in every community in America.

In his other objections to the bill, the President opposed the levels of the authorizations, and the method of appointment of the Ethics Advisory Board. Our bill makes the following modifications to address these concerns.

First, the earlier bill contained 17 specific authorizations for fiscal year 1993, and authorized such sums as may be necessary for fiscal years 1994 through 1996. The administration objected to the specific levels, and 13 of the 17 have been modified to such sums as may be necessary for 1933.

Because of their special importance, four specific authorization for 1993 were not changed, relating to breast cancer, other gynecological cancers, prostate cancer, and osteoporosis research.

Second, in the original legislation, if the Ethics Advisory Board found that proposed research was ethical and should proceed, the Secretary could not override the decision. In response to concerns that the Secretary should have the final say in such matters, a provision has been added to allow the Secretary to review the decision of the board and set it aside, if the Secretary finds that the Board's decision is arbitrary and capricious. This common and well-known standard of review will provide both the researchers and the Secretary with clear guidance on the course to be pursued.

The opposition to this legislation is also delaying another vital area of research and reform. The women's health provisions of this bill are critical. Progress is being made at the NIH because of the leadership of Dr. Bernadine Healy. But we have no guarantee that this progress will continue under future NIH Directors.

For many years, women have been shockingly neglected in clinical research. In 1985, the Public Health Service Task Force on Women's Health Issues released a report assessing the status of women's health. One of the task force's principal recommendations was that biomedical and behavioral research should be expended to assure adequate emphasis on diseases prevalent among women in all age groups.

The failure to include women as subjects of research at NIH has had serious consequences. Heart disease claims the greatest number of women's lives. Yet all of the major studies on the causes and prevention of heart disease have been limited to men.

A 1988 study of 22,000 physicians funded by the Heart, Lung, and Blood Institute found that aspirin prevents heart attacks in men. Doctors subsequently recommended that older men at increased risk for heart disease take an aspirin every other day. They specifically stated, however, that they could not offer women the same advice. That discrepancy is a shocking indictment and proof of blatant sexism in medical research that must be rooted out immediately.

In addition, no women were included in a major study that examined premature heart disease in 13,000 men over a period of 15 years. Nor were women included in the 15-year coronary primary prevention trial that studied the effects of lower cholesterol levels in 4,000 men, despite evidence that women's cholesterol levels typically increase after menopause and are affected by factors such as smoking or the use of oral contraceptives.

The lack of research on women's health has resulted in second rate care for women. Recent studies show that women receive less effective health care than men in many other ways, not just in treating heart disease.

This legislation establishes permanent statutory authority for the Office of Research on Women's Health to oversee new plans and policies for addressing women's health concerns in each of the NIH institutes. It specifically requires women to be included in research projects supported or conducted by the NIH.

More than 180,000 cases of breast cancer will be diagnosed in 1992, and 46,000 women die from the disease. Every 12 minutes a woman dies of breast cancer. One in every nine American women will develop breast cancer at some point in their lives. The incidence of breast cancer is lower in African-American women than among white women, but the death rate for breast cancer is higher than in white women. If we relegate breast cancer research to second-class status, we cannot effectively target strategies for prevention, cure, and treatment. We must develop new avenues of research and attract new investigators. Research funding must be increased to support these efforts. New research initiatives are needed.

Ovarian cancer is the fifth leading cause of cancer death in women. Every year 20,000 new cases are diagnosed and 12,000 women die from the disease; 13,000 cases of cervical cancer are diagnosed each year and 6,000 women die from it.

NIH has not done enough in any of these areas. During fiscal year 1992, the National Cancer Institute will spend $133 million on breast cancer research, $32 million on cervical cancer research, $10 million on uterine cancer research and $20 million on ovarian cancer research. The NCI by-pass budget, reflecting the professional judgment of the National Cancer Institute, feels that a fiscal year 1993 budget of $430 million is needed to continue progress in the prevention and treatment of breast and other gynecological cancers.

The pending bill authorizes the National Cancer Institute to expand, intensify, and coordinate all these research efforts. The NCI would develop a comprehensive plan emphasizing prevention, early detection and treatment of breast cancer. It would submit to Congress a biennial report on all activities, a description of the plan, an assessment of its implementation, and an evaluation of the progress made in research on cancer in women.

The bill authorizes an additional $325 million to expand breast cancer research activities and an additional $75 million for ovarian, cervical, and other cancers of women's reproductive system.

Osteoporosis affects 24 million Americans. Its prevalence is expected to double in the next 30 years because of the aging of the population. It is responsible for over 1 million fractures a year in women. The rate of hip fractures is two to three times higher than for men. Spinal osteoporosis is eight times more likely to afflict women then men.

Currently, the annual cost of treating osteoporosis is $10 billion. The average cost per hip fracture patient requiring hospitalization and institutionalization is approximately $30,000. These costs are expected to increase as the baby boom generation retires. If current trends continue, the cost will reach $30 billion a year in 30 years. The pending bill authorizes $40 million to intensify basic, clinical, and behavioral research on osteoporosis and related bone disorders, and to establish an information clearinghouse to enhance the understanding of bone disorders by health professionals and the public.

These women's health provisions are essential to assure that the history of neglect of women's health will not be allowed to continue. The women of America deserve their fair share of health research conducted with Federal funds. They deserve a chance to participate in clinical trials. They deserve

a change to lead healthy and fulfilling lives. A veto of this bill would be unconscionable. It would elevate the ideological politics of extremists on abortion over the reality of the need to end the shocking discrimination that exists in women's health research.

This legislation is far more than lifting the ban on fetal tissue transplantation research, important as that is. In addition to the women's health initiatives, it also contains the following priorities:

A separate children's vaccine initiative to develop affordable new and improved vaccines for the prevention of other infectious diseases.

A study of the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in women, infants, and children.

A program to increase the competitiveness of research proposals in states whose facilities have experienced low success rates in obtaining research awards from the NIH.

A prostate cancer research program to expand and strengthen this research at the NIH. A prostate cancer prevention program at the CDC will provide early detection, screening, and prevention services for high-risk and low-income individuals.

A child health research center program to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Centers for basic and clinical research on cardiovascular disease in children will also be established.

A juvenile arthritis program to expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

New Federal policies will be developed on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

The past decade has confirmed the wisdom of funding for biomedical research. The NIH continues to produce impressive advances that improve the health of people everywhere. Over the past 2 years, we have witnessed tremendous growth in our understanding of disease. In areas such as the identification of the cystic fibrosis gene, NIH-supported research has resulted in numerous practical applications that bring the benefits of research to the bedside of the patient as rapidly as possible.

We all know the vital importance of biomedical research and the central role of the NIH. This major legislation should never have been vetoed in the first place. With these good-faith revisions, this compromise bill deserves to be enacted, and I urge the Senate to approve it by a margin sufficient to demonstrate that any veto would be overridden.

President Bush knows what is in this legislation. It would be an outrage if the President hides behind the 10-day period he has to sign it, and then pocket vetoes it to prevent Congress from acting to override the veto.

I want to, at the outset of this debate, commend the Senator from Washington for all of his work, particularly on the fetal transplantation issue. We have not been able to have an NIH bill that has dealt with that issue for a number of years, and I think to the greatest extent, the work that the Senator has done and the hearings that were held, helping to respond to many ideological issues and questions and to it in a responsible way, has added immeasurably to this very important phase of this particular legislation.

I also commend Senator MIKULSKI from Maryland, who was instrumental in fashioning and shaping the women's health package.

I thank the Senator from Washington.

Mr. ADAMS. Mr. President, I thank the chairman of the committee for his kind remarks and I express my appreciation to him for the great work he has done during this last year. I think that was a magnificent statement the chairman gave on the movement on women's health issues, in this Senate and on the particular importance of lifting the ban on fetal tissue transplantation research.

I agree completely that this should not be a political issue. I am hopeful that the Senator from Utah, who is my good friend, and who has been very cooperative on the committee, might help us pass this legislation. I hope in particular he would help with this cloture motion, so that we can pass legislation on behalf of the National Institutes of Health.

Many of my colleagues have come to me and asked, "Why do we have to take this bill up again when we adopted it 87 to 10 last April?"

Well, the reason is that the President vetoed this bill, and it is my understanding that the veto was primarily because of the fetal tissue transplantation research provision. I held the hearings, and I have dealt with the people most affected by this matter. I feel strongly about it. I have talked with many doctors about it and I have talked to the people who suffer from diseases. These people look forward with some hope to advancing this research—this is their only chance and only hope.

We have tried to compromise with the Senator from Utah, with this bill before us. I think it is a fair compromise, and I hope he supports us on this. I hope he supports it, because I would like to see 100 votes in support of this cloture motion.

Let me talk about why it is so vital that we pass this legislation today. Let me explain what the emergency is.

First, there are too many lives at stake. There are millions of Americans with juvenile diabetes, which can cause early blindness and early death; Parkinson's disease; Alzheimer's disease; spinal cord injuries; inborn genetic diseases; and they cannot wait for a cure any longer. People forget that the polio vaccine by Dr. Salk came from fetal tissue research.

I want to explain a case to show you why this research is important for people who are living today with these other diseases. It is absolutely vital that we pass this motion and the bill and that it not be vetoed.

I want to talk about Joan Samuelson for a moment. She has Parkinson's, and every day that we postpone lifting this ban, which was put in place by an administration official, not by the law, it means a greater loss of Joan's ability to speak and to move.

Let me spell it out for you so that you can understand. This is not an issue that is a theoretical thing. This is personal with me and with the people that have these diseases.

Joan first testified before the House committee in April 1990. She had full use of her right arm and partial use of her left arm. Today, she has no control over her left arm and is losing use of the so-called good right arm. Her only hope, her only chance, is fetal tissue transplantation research, which shows some promise with patients with Parkinson's disease.

I saw Mo Udall, our great colleague in the House of Representatives, just reduced to almost nothing by Parkinson's disease. His family was hopeful up to the day that this bill was vetoed that there might be an opportunity that he would be eligible for a fetal tissue transplantation. Believe me, these people are prepared to participate in this research. Otherwise, they will never be helped.

The second reason given—and I respect the fact that people have strong feelings on abortion, but this is not an abortion issue, as the chairman stated. We wanted to give the President's fetal tissue bank a chance to work.

That is why I hope everybody will vote for this cloture motion; vote "aye" because a new provision in the bill allows the bank to get up and be running by May 19, 1993.

This is a year after the President established the tissue bank by Executive order. At that time, researchers may apply for tissue from spontaneous or ectopic pregnancies from the bank.

So we have given the President what he wants. The compromise was, after 14 days, in this bill, and after this year of experimentation, to see if there is enough tissue, which we do not believe there is, and no doctor believes there is. If after 14 days there is no usable tissue available, researchers would be permitted to carry out the research with fetal tissue from other sources. That is a fair compromise.

This allows time for the President's bank to work; even though we do not believe it will, it gives that chance.

Senator HATCH has so well argued that it ought to have a chance. In the months before he died, Ted Weiss, our House colleague's staff uncovered NIH internal documents that revealed that the NIH officials themselves had serious reservations about using tissue from spontaneous abortions or ectopic pregnancies for transplantation into human beings.

But we have given the opportunity for this to happen even though people are dying and people will lose their lives every day we delay. I just hope that we can get on with this research and save lives. It is time to put ideology and politics aside so that critically important research can go forward and people can have some hope.

The compromise we are taking up today allows for the President's view to prevail. But if it is not scientifically feasible—what I am interested in here—after 1 year, if researchers cannot obtain tissue from the bank, after 14 days they can go to any other source for tissue. This heeds the recommendation of over 40 national medical, disease, scientific research organizations that say "lift the ban."

I point out that the authors of this bill—and I am proud to be part of it—did not pick an arbitrary timeframe, as some suggested. In fact, we followed the recommendation of the President's own chief health policy officer. It was Assistant Secretary Mason who said:

NIH will move swiftly to establish the tissue bank and we anticipate that it will be in full operation in a matter of months.

The bill provides more than a few months for this tissue bank to become operational. It allows for a full year. I do not think we should have any problems with the President or his supporters. I just would like to hold him to his word and that of his own blue ribbon panel. His own panel said, "Lift this ban so that we can conduct research and we can move ahead and guard against any abuse this bill does."

I close by saying I urge my colleagues to vote again for cloture and for this bill. We voted 87 to 10. We should do it again. I hope this time it is 100 to nothing and we have cloture on this bill to proceed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I inquire how much time is available.

The PRESIDING OFFICER. 7 minutes and 11 seconds.

Mr. WELLSTONE addressed the Chair.

Mr. ADAMS. The Senator from Utah, who, I assume, is in opposition to this, has not had an opportunity to use any of his time so the Senator will wait a moment.

Mr. WELLSTONE. Mr. President, if the Senator will yield, I talked to the Senator from Utah. He said it will be all right for me to proceed.

Mr. ADAMS. I yield 4 minutes to Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 4 minutes.

Mr. WELLSTONE. Mr. President, I believe it is more critical than ever that we pass this NIH reauthorization bill, with its very important promise for millions of Americans who can benefit from its research programs.

There is so much here for people suffering from disease. The bill supports major initiatives in women's health. For the first time, there is a requirement that women be included in research projects supported or conducted by NIH. Previous investigations into AIDS, heart disease, and other life-threatening conditions have all but ignored how those diseases may develop differently in women, and the different responses women may have to potential therapies. We know, for example, that women who are HIV positive have a much shorter life span than men with HIV. We must use our resources to find out how we can intervene for these women, and, until we find a cure, at least understand the barriers to treating them, and how to overcome those barriers. Including women in NIH clinical trials will give us important new information that we can use to save lives.

The bill also expands funding for research into diseases that strike women exclusively. It would fund research efforts on breast cancer at $575 million, an increase of $325 million over last year, to expand, intensify, and coordinate research efforts on breast cancer, and to develop a comprehensive plan for the prevention, early detection and treatment of breast cancer. It authorizes $40 million for research into osteoporosis, and $75 million for ovarian cancer research. It gives permanent statutory authority for the Office of Research on Women's Health, a vital step in assuring that women's concerns will receive attention and funding.

There is also a program to recruit women into the fields of biomedical and behavioral research.

There are new programs for prostate cancer and for comprehensive AIDS research, and a formal process for ethical review and approval of research proposals. Many of our constituents around the country have made us aware over the last year of the rise in traumatic brain injury, and I have joined Senator KENNEDY and others in cosponsoring legislation that would develop prevention and assistance programs for people with TBI. The NIH bill would fund the Interagency Program for Trauma Research, which can make an important contribution to combating this new epidemic.

And the bill reauthorizes the critical ongoing research programs of the NIH, that have contributed to making the United States the world leader in biomedical research. All of these are programs every one of us can be proud of: the National Cancer Institute; the National Heart, Lung and Blood Institute; the National Library of Medicine; the National Heart Institute; the National Institute on Aging.

But all of these programs are threatened because the bill also includes approval for research on the benefits of fetal tissue transplants. This research holds so much promise for people suffering from diabetes, Parkinson's disease, Alzheimer's disease, and other rare and otherwise incurable diseases.

We have argued and debated the merits of fetal tissue research for months now, and it is clear that this Senate understands very well that this is a health issue, a research issue, and not an abortion issue. We have made modification after modification, to address every imagined concern that has been raised.

Our effort today is an attempt to compromise with an administration that is so blinded by ideology it cannot see its way to helping seriously ill Americans who are in desperate need of help.

Since the Senate first passed this bill, with an overwhelming majority, and strong bipartisan support, the administration has tried several times to throw a roadblock in the way of progress. President Bush's proposal to establish a fetal tissue bank using only tissue from ectopic pregnancies was discredited by the very scientists he claimed supported it. A researcher from the University of Minnesota joined many other practicing scientists who let the New York Times know, last July, that their opinions had been publicly misrepresented, and that tissue from ectopic pregnancies is absolutely unreliable to sustain research. Ectopic pregnancies are discovered unpredictably, at a time of medical crisis. No regular lab can count on finding and collecting this tissue in a way that can sustain research.

However, the President has insisted on this approach, and the bill before us today recognizes his desired approach. NIH researchers have made it clear they want to explore the potential therapeutic value of fetal tissue transplants for people suffering from Parkinson's, Alzheimers, diabetes, and other crippling and life-threatening diseases. For 1 year from the date, the President established his tissue bank for tissue from ectopic pregnancies and spontaneous abortions, those researchers will be limited to using that tissue only.

After a year, if this tissue bank cannot fulfill a request for tissue within 14 days, scientists may then turn to using tissue from induced abortions.

This proposal is vitally important to the people with Parkinson's, Alz-

heimers, diabetes, and other chronic and crippling conditions, who have held out so much hope for the fetal tissue research program this Senate voted for in April, and sustained in conference. These people are not pro-choice or antichoice. They do not see this issue as anything but what it is: an opportunity for this Government to use its vast research capabilities to make a real difference in the lives of suffering human beings.

This is a serious effort, Mr. President, by Senators with a range of opinions on many other issues, to come together for the good of Americans who depend on us to open the door to hope and a healthy life.

How ironic it is, and how tragic, that this legislation that holds out so much hope, especially for women, by recognizing their special health concerns, by elevating them to the status men have always enjoyed as research subjects with particular needs, has been obstructed and misconstrued by a President who is committed to denying women reproductive choice.

Let me be clear about this. I speak for some people who have been working very hard in the House and the Senate: Joan Samuelson with Parkinson's; Ann Udall whose father Mo Udall suffered from Parkinson's, and I speak for myself as well.

Both my parents had Parkinson's disease; both of them.

I remember very well that at the very end of my father's life, when he was about 80 years old, we went out to lunch. We went out to lunch at McDonald's. My father liked McDonald's because there were lots of bright colors and lots of children to look at. A close friend of mine, who taught at Carleton College, Michel Minot, came to McDonald's at the same time. Michel, at about the age of 38, had Parkinson's disease. It was a bad day for my father.

I have mentioned this before.

I decided that we would take my father out not through the front door, where he would have to go past Michel Minot, but out the back door. The reason for that was I did not want Michel to see his future.

I just want to make it crystal clear that those of us who speak in favor of the NIH reauthorization do so because we are vitally serious about the potential of this research for Parkinson's, Alzheimer's, diabetes, and many other diseases.

I want to say as clearly as I can, with as much eloquence as I can, with as much conviction as I can, and with as much emotion as I can, I cannot think of a more important vote than this. I hope that Senators will remain true to the votes most of us have cast in the past, so that the many citizens in this country who suffer from these diseases may have a chance to benefit from cures that could come for research involving fetal tissue transplants. I very much hope that we will vote to stand behind our reauthorization of this program, and for cloture on proceeding to this bill.

Mr. President, women who are HIV positive have a much shorter lifespan than men with HIV, and we do not know why. But with the funds built into this budget we would do the research. As a matter of fact, we have not paid very much attention in our health care research priorities to the health care needs and circumstances of women in our country. But in this authorization bill, finally we focus more on breast cancer research, finally we focus more on effective early breast cancer detection programs, finally we focus more on research in ovarian cancer, finally we are taking a step toward research priorities that are responsive to women in our country.

I want every Senator who votes on this cloture motion to remember that. I want every Senator to remember that.

And then there is the other issue that we have been discussing on this floor, fetal tissue transplant research. Mr. President, the debate has already been covered so let me not go through the specifics. Let me make one simple compelling point. Those men and women with Alzheimer's and Parkinson's disease and diabetes are not pro-life and they are not pro-choice. They suffer from these diseases, and they have hoped that this research could make a difference in their lives, and they look for good public policy that will make a difference in their lives. And they do not want to see their hopes dashed or this research not take place because of overzealous ideological objections.

We compromised with the President of the United States on this issue. We have a different kind of tissue bank now set up. We do not think that ectopic pregnancies will really provide enough tissue to do the job, but we are willing to compromise and we are willing to give it a year to see.

Mr. President, I just say to every single Senator that this is probably one of the most important votes you are going to cast. Before you vote—and I hope you will vote for cloture—please remember women in this country. Please remember it is time to move forward. Please remember the people who suffer from these diseases. Please do not vote on the basis of some kind of ideological objection. Please be willing to compromise.

Mr. President, just to conclude my remarks, and one more time dedicating my remarks to Joan Samuelson, dedicating my remarks to Ann Udall, daughter of Mo Udall, and dedicating my remarks to my mother and father, who both had Parkinson's disease. I say to my colleagues I feel so strongly about this issue. Please vote for cloture. Please let us move forward with some research that will give people who suffer from these diseases some hope. Please do not pour cold water on their hopes and their dreams. Please cast the vote for cloture.

I yield the remainder of my time.

Mr. HATCH. If the Senator needs additional time, I will be happy to yield additional time.

Mr. WELLSTONE. I thank the Senator from Utah. I am fine.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this bill has gone all the way through the Senate before. It passed overwhelmingly, went to the House. Everybody knew it was going to be vetoed. It passed in the House. The President then vetoed it, which he had to do. The veto was sustained by the House exactly the way I said it would be.

One of the strongest proponents of fetal tissue is standing right before you. His name is ORRIN HATCH, the Senator from Utah. But I predicted exactly what would happen, and that is what happened. I suggested that we have fetal tissue banks set up so we could use ectopic pregnancies and miscarriage tissue. The authorities tell me that there can be as much as 2,000 nondiseased tissue samples. That would be more than enough to take care of all of the fetal tissue research and transplantation that we could do each year without getting into this awful issue of abortion. I predicted all of that. And I happen to want the NIH bill to pass to boot.

But the people did not listen, and they did not listen on the basis that, well, fetal tissue research is so important that we have to fight this through. It is important. But we all know that the exercise here is exactly the same as the last. Yes, it would probably pass the Senate; it would certainly pass with more than 50 votes. Yes, it might go to the House. There it would probably pass. And, yes, I have to tell you the President would veto it again, and it would probably be a pocket veto. So why in the world are we doing this in these last few hours of the 102d Congress when I predicted that all of this was going to happen before? Why are we doing this, Mr. President? There has to be some logical reason. It cannot be because nobody on the proponents' side think they are going to get a bill. It cannot be as long as they keep the right to use aborted tissue in there. And that is what they have elected to do.

If they want a bill, they can get a bill. It will do much good for NIH and for this country as a whole, and I would like them to have that. If they want fetal tissue research, they can have it, and it would be authorized by none else than the full Congress of the United States, and it could give an imprimatur to fetal tissue research that it has never had before.

But, no, there is a desire to make abortion the issue by some on both sides. I am not going to name names, but there are some on both sides who want abortion to be the issue. I do not want it to be the issue. I would like to avoid those ethical and moral dilemmas. I would like to have fetal research go forward. I would like to have this body and the other body give its imprimatur and the full weight of the U.S. Congress in favor of fetal tissue research. I like that. I have been fighting for that.

But, no, the only reason for this exercise is so they can cause the President to veto this again and, I guess, get some political advantage out of that when they all know that he has to veto it, because he has taken that position. He does not believe that you need to use abortion tissue, that is, induced abortion tissue, for fetal tissue research, and science backs him up on that.

So what are we doing. We are here in another political exercise. Here we go again. We have the same situation here that we had this morning on the education bill. A debate and a bill with one fundamental purpose: A cynical attempt to provoke a veto by the President. And why? Because I guess they think on the other side that if you can provoke a veto and the President has to veto it, then it shows that he is insensitive to fetal tissue research.

That is pure and simple bunk. It is baloney. Because he has already, by Executive order, set up five fetal tissue banks. There are five of them being set up throughout America. And I have been informed by scientists that those five will produce at least half of all the fetal tissue necessary to do the scientific research in fetal tissue research.

Why only five? My gosh, it would be easy to set up 50 of them. That is the same thought by those who want to use induced aborted tissue, who I guess do not want the banks to work so they can have this issue. And they blame the President, they blame somebody like me who wants this research to go forward. That is a joke of all jokes.

I am dispirited by the fact that election year posturing has reached into an area that ought to be immune from the political thicket—the National Institutes of Health. This agency, a national pride, a national treasure, sometimes called the crown jewels of the U.S. Public Health Service should not be caught in the crossfire between forces on either side of one of the most explosive social issues of our time.

I am saddened that this body must once again consider reauthorizing legislation for the National Institutes of Health. It seems like only yesterday we were debating H.R. 2507—the predecessor to S. 2899. I would not be surprised if some of my colleagues have memorized many provisions in this bill by now—then, again, I guess I would be surprised—given the numerous occasions on which we have had to revisit them. And, this needless waste of time is all because of the controversial ethical provisions that have persisted in the bills.

Let me review the many occasions we have considered NIH reauthorizing legislation during the 102d Congress. On November 12, 1991, during the Labor and Human Resources Committee hearing chaired by my colleague from Washington, I first raised the concern that the administration and many others had with fetal tissue transplantation research using tissue from induced abortion. Again, in committee, on February 4, 1992, I offered an amendment to resolve this particular problem precisely because of the veto threat. And again, on March 31 in this Chamber I rose to warn the Senate that the National Institutes of Health Reauthorization Act was on an unavoidable collision course with the President. On June 4, I discussed several objections that I believe the President would find with H.R. 2507 legislation were it to arrive on his desk in its current form. Finally, a couple of weeks ago on September 14—at a time when I had hope we could resolve the problems in this legislation—we started the predictably tragic process over again in the Labor Committee with S. 2899.

How many times must we vote on these contentious provisions in the reauthorization of the NIH?

What has our Nation gained from this deliberate and calculated confrontation? Congress, regrettably, has not passed legislation reauthorizing the National Institutes of Health since 1988. The reason we have not is because we allowed the ethical and moral issues to cloud the real issues. And I have to say both sides are responsible for that. It is absolutely tragic that today we are no closer to the goal of adopting reauthorizing legislation. As a result, the American citizens are the losers.

Unfortunately, for those of us who are genuinely concerned about advancing the agenda of women's health—and I am working very hard on a mammography bill right now; we have it written, now we have to get it through—we must now wait for yet another opportunity to advance this noble objective. Consequently, important research into the causes and prevention of breast and cervical cancer will be held hostage. There will now be further delays before we can ensure that there will be no discrimination in including women and minorities in clinical trials conducted or supported by the National Institutes of Health.

Moreover, I believe it is necessary that women and children be included in HIV vaccine therapy trials. It is my amendment that is in this bill. Women and children are clearly one of the fastest growing groups affected by HIV disease as evidenced by growing numbers of both reported AIDS cases and HIV prevalence data. This effort, too, has been stalled by an unwillingness of some in Congress to make reasonable compromises.

Applied research into terrible diseases afflicting American children are also held hostage. During the past few years, there have been unprecedented advances in the scientific investigation of inherited and acquired diseases affecting children. Application of this research to infant mortality and genetic disorders such as cystic fibrosis, sickle cell anemia, mental retardation can result in improved treatment and care for the Nation's children. This applied research could be advanced by authorizing the expansion of children research centers.

The same could be said for juvenile arthritis. I am aware that of the 14 centers currently funded by the National Institute on Arthritis and Musculoskeletal and Skin Diseases—something I helped to put through here—three support research into this disease. But, establishing centers with a specific focus on juvenile arthritis would accelerate our efforts in this field.

Furthermore, vital research affecting men has been held hostage unnecessarily. I am speaking about prostate cancer. Prostate cancer is now the second most common cancer nationally and the leading cancer killer among men. In Utah, it is the most common cancer among men. Research into this terrible cancer needs to go forward.

Families, too, were affected by the politicization of the reauthorization bill. Each year about 10 to 15 percent of pregnancies result in miscarriages. These are tragic situations for parents who hope and plan for the rearing of their developing child. I had hoped to encourage Federal leadership into this area. I trust that the administration will utilize the research opportunities created by the President's Executive order to establish fetal tissue banks from exclusively spontaneous abortions and ectopic pregnancies to further investigate the causes infertility leading to birth loss.

Let me reiterate once again that the most serious problems that plagued previous legislation still persist in S. 2899 as well.

The change in the provision regarding the ethics advisory boards is only cosmetic. The Department of Justice has stated that the provision in this bill clearly violates the appointments clause and is recommending a senior advisors veto on this provision alone.

So just do not blame the President on fetal tissue research, because he made a commitment to not allow induced abortion tissue. Do not blame him for that.

There is another very good reason, and that is because of the unconstitutionality of some very important provisions in this bill.

The new measures regarding fetal tissue banks only give a superficial appearance of change. This legislation would nullify the moratorium regardless of the success of the fetal tissue banks established by the President's Executive order.

Since the President's Executive order on fetal tissue banks, abortion advocates—those who want abortion—some researchers, and some Members of Congress have wasted needless energy trying to say that the banks will not work before they ever begin. Mr. President, the banks should be given a fair chance to work. The NIH has just this week funded the first five tissue banks.

We are told by abortion advocates that the legislation we are considering today is a compromise. It is nothing of the sort. It did not involve even one discussion with the other side—not even one discussion.

It is an understatement, in light of the serious health concerns faced by our citizens, to note that this is an instance were political maneuvering by some in an election year has clearly taken precedence over the health needs of our Nation.

Within minutes on the day that the House failed to override the President's veto on the first NIH bill, the Congressman from California, Congressman WAXMAN, rushed to his press conference to announce his new NIH bill. HENRY WAXMAN is a friend of mine. But within minutes, he went to a press conference to announce his new bill. Let me read one of his highly revealing quotes: "Well, Mr. President, this bill is not going to go away. We plan to mark up the bill on a very fast schedule. We're going to get it to your desk before the Republican National Convention." He goes on to say: "We hope that we don't have to override the veto. But if we must, that is exactly what we'll do."

I have to say that Congressman WAXMAN called me and said he did not mean that to be used politically and he apologized and he pulled off before the convention. And I respect him for it. I care a great deal for him, and I care a great deal for his leadership and his ability in the health area.

But nevertheless how can you call it anything but political when we have already been through this whole routine. I have described everything that was going to happen, and it did. I will describe it again, and it will, except it will never get that far unless we keep people in the Senate well into next week and maybe the week after that.

Mr. Clinton, too, hurriedly jumped into the political fray, harshly criticized President's veto action even before he collected all the facts. Which I have been informed by even some of his friends that he often does.

His statement indicated that he thought that fetal tissue transplantation was used for breast cancer and osteoporosis.

That is indeed a tragedy that our election process would elevate the NIH bill to the politics of an election year. Anyone who thinks this bill is not politically motivated is not operating on all cylinders, or to put it another way, their elevator does not go to the top floor. This bill is not about abortion, freedom of research, or women's health; it is about high stakes presidential politics.

A sincere compromise? I should say not. This is a bill hastily thrown together to meet a 6-week political deadline. And, its flaws as we have seen are most evident. When, between Mr. WAXMAN's press conference and the introduction of the new bill, was there time allotted for cool reflection to correct the flaws of H.R. 2507? What hearings have been held? What meetings and negotiations have taken place?

I wonder when the day will come when we can finally lay aside the political and ethical encumbrances that have plagued this NIH reauthorizing legislation and get down to the work in serving the American people.

In my view, we should strip away the controversial and divisive ethical provisions relating ethics advisory boards and human fetal tissue transplantation and authorize the research programs benefiting women and men, children and families at the NIH. There is no reason to hold captive these individuals to the political gamesmanship over abortion.

Let this body be under no illusion: we face a choice today of what comes first: writing a bill to advance the medical research for our Nation, or political maneuvering that prevents the biomedical research needs of our country from being addressed in an appropriate fashion. As always, I continue to hope that we can move beyond ideologies and to reaffirm what the NIH stands for—the finest science in the world.

Despite my anguish, I take comfort in the fact that the NIH possesses the discretion to address most of my research concerns raised today through its existing research authorities. Similarly, Americans who suffer from tragic diseases should continue to place their hope in the NIH; it is the world's finest biomedical research institution in spite of this futile exercise. We can all be proud of this institution and its biomedical investigators for their noble research efforts.

Mr. President, I can only offer this on behalf of myself. I do not know if I can pull those off, if cloture is invoked. I do not know if I can pull those off who would have postcloture remarks and amendments. I do not know if I can. And I have worked very hard to come up with some simple solution that might get everybody off this kick and allow the President to sign the bill.

There are those who would like me to demand no less than 5 years to allow the fetal tissue banks to work. There are those on the other side of this issue who disagree with me, who would go a year.

Some would go to 18 months. I believe, if the distinguished Senator from Massachusetts had his way he would probably go 18 months to allow the fetal tissue banks a chance to work. If they work you avoid the issue of abortion, the issue of ethics, the issue of a constant political battle. Then everybody can be happy and nobody has to get into this kind of a controversy again.

I have taken as much effort as I can to come up with a way to resolve this. I will say this. If the other side would agree to no less than 2 years from January 1, 1993 with appropriate language to give the fetal tissue research a real chance to work through these fetal tissue research banks already set up by NIH and an additional number that would have to be set up to make it work, that I would do everything in my power to add that as an amendment. That would get rid of this problem and get fetal tissue research the imprimatur it really needs—that is the support of both Houses of Congress—to make this thing work. But I guarantee I will not drop 1 minute below 2 years from January 1, 1993, on this issue. If that is so, we will just have to go to war and go to battle and let things fall the way they have to. And again who loses? The American people.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 2 minutes and 50 seconds.

Mr. KENNEDY. How much on the other side?

The PRESIDING OFFICER. Senator HATCH has 9 minutes, 50 seconds.

Mr. KENNEDY. Mr. President, I yield myself all of 2 minutes.

Mr. President, just so the Senate understands where we are, there were basically three items in the veto message by the President, One on the fact that he believes the fetal tissue bank would provide sufficient material so we would not need to move ahead with this program. The head of NIH, Bernadine Healy, estimated it would be 1 year to develop that bank. Assistant Secretary Mason said it would be 1 year to develop that bank. They have issued the executive orders as of last May to develop that bank.

We are prepared to take those that know the most, allegedly, about the time to prepare that bank—1 year the administration has basically said—and we were prepared to say all right, we will try it your way. We will try it your way. You heard Senator HATCH this afternoon say he believes there

will be sufficient material that will be developed.

However the principal source for that statement, which was referred to by Senator HATCH during the debate last spring, Dr. Berne, her work has been analyzed and reviewed and submitted in Science magazine of August of this year. It indicates there would not be sufficient material.

The opposition says there will be. We say all right, we will take you at your word. We will give you an opportunity to set up that system and if it does not work we want the research to go ahead in these areas of disease that can make a life-and-death difference to individuals. We have compromised on that.

Second, the administration has complained about our increasing various authorization levels. It is true we did increase over the President's budget from $2 billion for the National Cancer Research Institute to $2.2 billion. We did increase research for the National Heart Institute from $1.2 billion to $1.4 billion. We did increase research on the National Institute on Aging from $407 million to $500 million, and we did provide funding for the infertility research centers that were talked about here to $20 million.

But we did something else. The President said we believe those increases in authorization are too much. In this budget of $1.5 trillion you cannot find $200 million for cancer, cannot find another $200 million for heart, you cannot find another $75 million for research on the—too much, they say.

We say all right, if you do not want to do that we retreat on that. We withdraw those. We say, "such sums as necessary," Mr. President. "Such sums as necessary." But we will not retreat on the women's health initiatives.

The President's budget has zero for breast cancer, we have $325 million—I yield myself the remaining 56 seconds—zero for ovarian, we put $75 million; zero for osteoporosis, we put $40 million. We are not retreating on that. We have taken 13 authorizations out but we will not retreat on those.

I believe it is a pretty fair compromise. The final one is on the power of the Secretary on the recommendations of various ethical issues. We say the Secretary's authority will move ahead and be persuasive and controlling unless it is going to be capricious and arbitrary; capricious and arbitrary. It has been in the past with regards to this kind of research. And we do not believe there should be the power in any Secretary, ratified and approved by the Senate or not, that is going to put a political spin on medical and scientific research but can make a difference to the lives of children, elderly people, and women in this society.

We have compromised and I hope we will get the votes for cloture so we can pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired. Z

The Senator from Utah has 9½ minutes remaining.

Mr. HATCH. Mr. President, I suspect the Senator from Massachusetts really has not heard what I had to say. All that aside, I am willing to take this bill, the extra costs, the language that they have, including the unconstitutional language; I am willing to do everything in my power to see that this administration takes it. And I believe that some of us might be able to get that done.

I am willing to ask those right-to-life Senators, who feel very deeply about that particular issue, to allow this to go. I feel very deeply about the right to life. I suspect that all of us are prochoice when it comes to the life of the mother. There might be a few fringe people who would not be, but I cannot imagine anybody with brains not willing to have abortion for the life of the mother. I think all of us would be prochoice with regard to rape and incest.

The polls show a majority in this country would probably be prochoice with regard to fetal deformity. It is when you get beyond that that you get into all kinds of troubles and that is why we are in this ethical and moral dilemma.

As deeply as I feel about the right of that unborn child to live, I am willing right here and now to work out language to allow these fetal tissue banks to work for 2 years starting January 1. If they do, this debate is over, and we will never have to debate the moral and ethical issues again. We will all be pleased because we will have given imprimatur for fetal tissue research from both Houses of Congress from this day on. What a thing that would be, just for 2 years. If it does not work, we will have come a long way making it work and then they can use aborted tissue.

That is a tough thing for me to say today, but I will do that in the interest of compromise, in the interest of resolving this problem. Do not tell me that top authorities in this country say that these fetal tissue banks will not work. Bernadine Healy and her scientists out at NIH, which the distinguished Senator from Massachusetts has been saying is such a wonderful organization, and I am, too, she and her scientists out there have set up the tissue banks and the grant process over a 2-year period beginning shortly.

These are the experts at NIH and this is what they are doing: Dr. Jim Mason, who is no small person, who has had tremendous experience in health and public health at that, having headed CDC before becoming the No. 1 man in health at HHS, said there will be sufficient tissue from the bank to meet current research needs:

From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

The figures by the National Institutes of Health back that up. The HHS legislative alert on the fetal tissue bank backs that up. A letter from C. Everett Koop, the former Surgeon General of the United States backs that up. A letter from Dr. Bernadine Healy, one of the leading women doctors in this country, now Director of NIH, backs that up. A letter from Timothy Jackson, Ph.D., from Stanford University backs that up; a letter from Christopher DeGiorgio, M.D., Thomas Murphy Goodwin, M.D., D. Alan Shawmon, M.D., UCLA School of Medicine backs that up; and others, which I ask unanimous consent to print in the RECORD.

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

WASHINGTON, DC, *May 28, 1992.*

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I strongly endorse your recent Executive Order creating a Fetal Tissue Bank using tissue from ectopic pregnancies and spontaneous abortions. As the former Surgeon General, I share your commitment to find cures and treatments for such debilitating diseases as Parkinsons, diabetes and certain inherited disorders. When the ban on fetal tissue research was first instituted, I frequently told scientific colleagues that if I were engaged in that type of research, I could still pursue it because I would seek and find tissue from ectopic pregnancies and spontaneous abortions. That is essentially what the fetal tissue bank which you propose would do. Using tissue from induced abortions would be easier and more convenient, but a bank of tissue from spontaneous abortions and ectopic pregnancies will still permit orderly research.

The argument that spontaneous abortions may be genetically imperfect is not one which holds up with ectopic pregnancies. Nor would they be infected.

Until new indications for fetal transplant are found, or the number of fetal specimens needed is vastly increased, the tissue bank will prevent the stagnation of research for the serious scientist in this very embryonic field.

Sincerely yours,
C. EVERETT KOOP, M.D., Sc.D.

NATIONAL INSTITUTES OF HEALTH,
Bethesda, MD.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I know the Senate will be considering the Conference Report on H.R. 2507. I would concur with the recommendation to the President to veto the Bill. I have several concerns. For example, the highly intrusive language of the bill micromanages some of NIH's important research programs. In the area on women's health, while I fully support the spirit and the goals listed in this section, the NIH is currently moving forward with aggressive programs on the health of women and minorities and their career development and on the inclusion of women and minorities in clinical trials. The Bill also imposes activi-

ties and a number of advisory committees, including an Ethics Board, on NIH that are costly, unnecessary and duplicative, and in some cases intrude on the existing authorities of the Secretary.

With regard to the fetal tissue transplantation moratorium, my own personal views are well known. However, in terms of the fetal tissue bank, I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy in terms of furthering one of the many needed research options for treatment of diseases such as diabetes, Parkinsons and certain inherited disorders.

I believe that such a bank with an established and NIH funded tissue procurement effort will provide a means to continue the transplantation research effort. In particular, harvesting tissue from ectopic pregnancies, which are life threatening to women, should be vigorously pursued. Such tissue is apt to be uninfected and more likely to be genetically normal. Furthermore, with existing echocardiographic diagnostic technology, ectopic pregnancies are being detected resulting in the opportunity for surgical removal of viable and intact fetal tissue in some of these cases. Indeed, in the case of the widely reported success story of fetal tissue transplantation into a young child from Texas for a devastating disease called Hurlers syndrome, the source of the successful transplant was an ectopic pregnancy.

NIH is committed to establishing the bank and determining its efficacy within one year of its initiation. We will report to the Secretary on the progress with the bank. Using this tissue we hope also to accelerate research to establish human fetal cell lines in laboratory cultures where they can be properly characterized, assured of being pathogen free, and in some cases genetically engineered to be of more therapeutic value.

NIH exists to find the best ways to enhance the health and quality of life of the American people. A simple extension of appropriation authorization would be the most effective way to continue our work.

Sincerely yours,

BERNADINE HEALY, M.D.,
Director.

STANFORD UNIVERSITY,
Stanford, CA, May 4, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my support for your issuance of an executive order requiring the Secretary of Health and Human Services to establish a nonprofit registry, a tissue bank and cell lines, using tissue obtained from spontaneous abortions and ectopic pregnancies. Such a registry would represent a collaborative network between transplantation researchers and hospitals and might obviate the need to use tissue from elective abortions.

Elective abortions are, at best, morally problematic, and it is reasonable to suppose that the medical use of tissue from such abortions will tend to increase their numbers. No one ought to encourage or profit from the voluntary taking of a human life, however, and a wise social policy will take the necessary steps to protect the sanctity of human life at all of its stages.

I write not as a scientist but as an ethicist who is sensitive to both the medical needs of patients who might benefit from human fetal tissue transplantation research and the larger society who believe that this research may further legitimize the practice of elective abortion in the United States. This debate involves complex questions that are not easily resolved. I myself have been involved in early phases of this debate here at Stanford University.

On April 20, 1989 the Stanford University Medical Center Committee on Ethics (on which I served along with nearly 50 other experts representing a multidisciplinary group) published its report on "The Ethical Use of Human Fetal Tissue in Medicine." Although the Majority of our committee approved the use of tissue from elective abortions—an opinion from which I dissented—we did recognize that tissue from this source differs from that taken from adult cadavers. For fetal tissue from elective abortion becomes available as the result of a mother's decision, implemented by a physician's actions, to end her pregnancy. This element of volition introduces a new ethical problem. Hence we agreed that "if tissue taken from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using the tissue from induced abortion" (New England Journal of Medicine, Vol. 320, No. 16, 1989).

Medically screened fetal tissue from spontaneous abortions, as well as from ectopic pregnancies, would be analogous to organ and tissue donations from adult cadavers. Therefore, such fetal tissue could serve as a noncontroversial source of possible highly beneficial transplants—assuming, again, that the tissue meets relevant criteria of quality and quantity. This general approach in conjunction with vital feasibility studies on the recovery, reservation, and transportation of tissue from spontaneous abortion and ectopic pregnancies was proposed by Orrin Hatch in the Senate recently. It is unfortunate that the Senate did not choose to pass his amendment.

Mr. President, an executive order to establish a network between hospitals and researchers to recover human fetal tissue from noncontroversial sources would, I believe, be consistent with the normative preference of the 1989 Stanford University Medical Center on Ethics. It should also meet the humanitarian concerns of biomedical researchers. (Virtually no one, regardless of whether he or she is "pro-life" or "pro-choice," wants people to suffer from tragic diseases.) In short, such an order should help satisfy all parties who hope for a constructive resolution to this very divisive situation. It is on this basis, and as an individual rather than as a representative of Sanford, that I make my appeal.

Sincerely,

TIMOTHY P. JACKSON, Ph.D.,
Assistant Professor.

MAY 5, 1992.

The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as a multidisciplinary group of physician-scientists who express our support of an executive order requiring the Secretary of Health and Human Services to develop programs to procure, maintain and transplant fetal tissue from spontaneous rather than elective abortions.

Your executive order would allow fetal tissue transplantation research to proceed without engaging in the abortion debate. There is consensus that the use of tissue from spontaneous abortions is ethically acceptable to virtually all. According to the landmark paper by the Stanford Bioethics Committee in the New England Journal of Medicine, "if tissue from spontaneous abortions can satisfy the medical demands for both quantity and quality of tissue, it would be preferable to avoid the ethical problems of using induced abortions."

Substantial evidence exists that spontaneous abortions are an acceptable source of fetal tissue for transplantation. Although tissue from many spontaneous abortions is unsuitable for transplantation due to genetic abnormalities or infection, Byrne indicates that at least 5-7 percent of spontaneous abortions would yield tissue acceptable for transplantation. This compares favorably with the yield from elective abortions, which is 6-9%. Because the tissue will be cryopreserved and banked, safeguards can be established to screen for infection, which is necessary regardless of the source of the tissue (elective or spontaneous).

Mr. President, only a handful (less than 100) of transplants have been performed, and the long term efficacy and safety of fetal tissue transplantation have yet to be established. Is it not wise to use tissue from a source which is ethically acceptable to virtually all. A careful and thoughtful research based program using tissue from spontaneous abortions or ectopic pregnancy would be sufficient to establish efficacy and safety without alienating millions of Americans.

Sincerely,

CHRISTOPHER M. DEGIORGIO M.D.,
Assistant Professor of Neurology and Neurosurgery, USC School of Medicine.

THOMAS MURPHY GOODWIN M.D.,
Assistant Professor of Obstetrics and Gynecology, USC School of Medicine.

D. ALAN SHAWMON M.D.
Associate Professor of Pediatric Neurology, UCLA School of Medicine.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
Chapel Hill, NC, May 13, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing in regard to the National Institutes of Health Reauthorization Act of 1992. It is our understanding that you are likely to veto this legislation. We also are aware that the reason for your veto is because of the inclusion of the provision to use human fetal tissue from induced abortions in transplantation research and therapy, a matter which is highly controversial.

It is our opinion that the creation of a human fetal tissue registry, fetal tissue bank and fetal cell lines using tissue obtained from spontaneous abortions and ectopic pregnancies, which was defeated, had great merit. There is evidence that a proportion (5-7%) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research. There is a need to confirm this data and to determine if sufficient tissue can be collected from spontaneous pregnancy losses to recover the needed cells. a collaborative network of transplantation researchers and hospitals working under a properly funded research initiative could accomplish this.

One major advantage of such a project is that it will be free from the controversy that currently surrounds the use of tissue from induced abortions, a matter which seriously offends the ethical sensitivities of many people in our society.

We urge you to consider issuing an executive order requiring the Secretary of Health

and Human Services to establish a registry and tissue bank to provide cell lines from spontaneous abortions and ectopic pregnancies. This will be an important positive step that will facilitate much needed research and therapy for conditions that may benefit from transplantation of fetal cells.

The views expressed in this letter are our personal opinion and do not constitute an official position taken by this Medical School or this University.

Respectfully,

R.C. CEFALO.
WATSON A. BOWAS, Jr.

THE UNIVERSITY OF TENNESSEE
MEDICAL CENTER AT KNOXVILLE,
May 13, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as physicians who provide health care in an academic setting at our institution in Knoxville. This does not reflect the opinions necessarily of the University of Tennessee. We ask by your executive order that you direct the Secretary of Health and Human Services to develop and maintain tissue for fetal transplantation from spontaneous abortion and ectopic pregnancies rather than elective abortion.

We think that substantial scientific evidence exists that tissue obtained from spontaneous miscarriages would satisfy the needs of those studying fetal tissue transplantation. After screening for problems such as genetic abnormalities and viability, there is evidence to indicate that five to seven percent of such tissues have been found suitable. It is true that tissues from some spontaneous abortions are unsuitable for transplantation because of chromosomal disorders or infections. However, these problems should not detract from the fact that a reasonably high proportion of spontaneous abortion fetuses have normal undiseased tissue suitable for transplantation. There is therefore an untapped source of normal viable tissue from spontaneous abortions and ectopics. Only by attempts to culture organs and tissues from noncontroversial sources should this issue be resolved.

Although a relatively small number of transplants with fetal tissue have been tried to date, we can see the need for further research in this area. The long term efficacy and safety of this fetal transplantation has not been established, however. We therefore urge you to direct our government's efforts toward promoting fetal transplantation research in an ethically acceptable manner, avoiding the serious ethical problems of using elective abortion tissue.

Sincerely,

MICHAEL R. CAUDLE, M.D.,
Professor and Chairman, Department of Obstetrics and Gynecology.
WILLIAM M. HOLLS, M.D.,
Assistant Professor, Perinatologist, Department of Obstetrics and Gynecology.

(These are our personal opinions and not necessarily reflect those of the University of Tennessee.)

GEORGETOWN UNIVERSITY MEDICAL CENTER,
Washington, DC, May 21, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We were pleased to learn of your recent executive order directing the Department of Health and Human Services to establish a fetal tissue bank of spontaneously aborted tissue for research purposes. This is an area which we have been exploring and advocating for the past several years and we fully support the use of such fetal tissue for research. Somehow, in the heat of debate and controversy over abortion, this valuable source of human tissue has been overlooked. Thus, we support and applaud your decision, and the wisdom and the courage with which it was made.

Various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies. These abortions most frequently occur in a hospital setting. Although it is true that tissues from some spontaneous abortions may be unsuitable for research because of genetic defects, viral or bacterial infection, or other problems, a reasonably high proportion of spontaneously aborted fetuses have normal, non diseased tissues, which are suitable for research.

Reliable data clearly indicate that 7–10% of all spontaneous abortions provide suitable sources of viable tissues. This translates into several thousands viable specimens for research needs each year. This volume may meet the current requirements for fetal tissue in research. Moreover, this percentage of fetal tissue compares favorably with the percentage available from the controversial source of induced abortions. What has been consistently overlooked in the fetal research debate is the fact that current techniques for induced abortions result in extensive damage to the fetal tissue, with the result that only 6–9% are suitable for research needs. Moreover, future development of birth control technologies are likely to further limit the amount of suitable fetal tissues.

Thus, the use of tissues derived from spontaneous abortions and ectopic pregnancies is a reasonable way to obviate the moral problems involving the use of tissues from elective abortions. It allows biomedical research to proceed, without offending the ethical sensitivities of society at large. Although a similar approach has been promoted by Senator ORRIN HATCH, it is indeed unfortunate that the collective wisdom underyling this legislation was not recognized. Your Executive Order, like Senator HATCH's proposed legislation, are founded on sound scientific grounds. We thank you, Mr. President, for your innovative leadership.

Yours sincerely,

MARIA MICHEJDA, M.D.,
Senior Staff Associate.
JOSEPH A. BELLANTI, M.D.,
Director.

[From the Washington Post, June 16, 1992]

ADVANCING RESEARCH, AVOIDING ETHICAL PROBLEMS

Although a May 31 Post editorial claimed that tissue from elective or induced abortions is necessary for fetal issue transplant research, Ignacio Madrazo and his group of researchers in Mexico City in 1990 reported obtaining and using tissue from spontaneous abortions in their pioneering Parkinson's research.

The Post editorial also said that tissue from tubal or ectopic pregnancies is generally infected or has other problems and that "that's why it aborts." Actually, a tubal or ectopic pregnancy is one in which the fetus grows outside the womb, cannot live long and must be removed in an operation to save the life of the mother. National Institutes of Health Director Bernadine Healy has written that "such tissue is apt to be uninfected and more likely to be genetically normal."

Experts at NIH and in other parts of the U.S. Public Health Service have worked out a plan for a series of centers connected to major birthing centers in big cities to obtain, screen, preserve and distribute to researchers this tissue—about which there are no ethical questions and which will in no way encourage or justify elective abortions. This is being carried out under a directive from President Bush for a fetal tissue bank. As of June 12 we are beginning to advertise for proposals to operate these centers under contract.

While the bank should permit us to move ahead on research, we should be wary of claims that Parkinson's, Alzheimer's, diabetes and several inherited diseases are about to be cured by this work. I wish that were true. But even in terms of Parkinson's, where the work seems most advanced, what the preeminent Swedish researcher Olle Lindvall wrote last year is still true: "Although animal experimental data are very promising and clinical trials have given encouraging results * * * there exists at present no treatment for Parkinson's disease based on intracerebral transplantation."

There is even less progress with fetal tissue in diabetes. Nothing has been done in Alzheimer's disease in humans. (The disease remains such a mystery we would have to ask ourselves which tissue would we transplant and to where.)

We await the results of the attempt to arrest Hurler's syndrome in a child.

The federal government supports many varied studies of these diseases. With the fetal tissue bank eliminating an ethical question, it also will be supporting this further avenue of research, fetal tissue transplantation.

JAMES MASON,
U.S. Public Health Service,
WASHINGTON.

[From the Washington Post, May 30, 1992]

IN SUPPORT OF THE FETAL TISSUE BANK

As biomedical researchers who have closely followed the controversy about the Bush administration's ban on funding for transplanting tissues taken from induced abortions, we've been struck by the one-sided manner in which the press has reported on the issue. With few exceptions, the arguments of those who support the administration's policy have been given short shrift or have been distorted [op-ed, May 22].

About 750,000 spontaneous miscarriages occur annually in the United States, of which about 100,000 occur in hospitals, according to the Public Health Service. In addition, about 100,000 fetuses are removed surgically each year because of life-endangering ectopic pregnancies. The bulk of these tissues is unsuitable or not practically retrievable for transplant purposes, but that also is true for induced abortions—less than 10 percent of those produce usable tissue. The point is that those miscarriages and ectopic pregnancies that do result in viable, healthy and accessible tissue can more than meet research needs.

Fewer then 100 fetal tissue transplants have been performed in the United States. The U.S. Public Health Service estimates that the tissue bank could gather at least 2,000 usable fetal cadavers annually.

The feasibility of the tissue bank has been defended by some prominent advocates of fetal tissue research. Among them are two scientists on the 1988 NIH human fetal tissue transplantation research advisory panel. The

majority of that panel recommended lifting the moratorium on abortion-dependent research.

In a May 13 letter to President Bush, Prof. Robert C. Cefalo of the University of North Carolina, who voted with the majority, said that a federally operated bank for nonabortion fetal tissue had "great merit," adding, "There is evidence that a proportion (5 percent to 7 percent) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research." The letter was co-signed by a renowned pioneer in fetal surgery, Watson Bowes.

Likewise, NIH Director Bernadine Healy—who also voted with the majority—wrote, "I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy."

Former surgeon general C. Everett Koop wrote to the president to "strongly endorse" the feasibility of the tissue bank. Dr. Joseph A. Bellanti and Dr. Marcia Michejda of Georgetown University Medical Center wrote, "various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies * * * a reasonably high proportion of spontaneously aborted fetuses have normal, nondiseased tissues, which are suitable for research."

It is perfectly rational for the president and other Americans—scientists included—who recognize the fetus as a member of the human family, to oppose government promotion of research that would create a societal dependence on induced abortions as a tissue source. There is a respectable medical opinion in support of the feasibility of the president's alternative approach. It should be given a chance to work.

KEITH A. CRUTCHER.
ROBERT WHITE.

(The writers are, respectively, a professor of neurosurgery at the University of Cincinnati Medical Center and a professor of neurosurgery at Case Western University Medical Center in Cleveland.)

[From Nature, Aug. 13, 1992]

FETAL TISSUE BANKS

SIR: Your News story "Researchers reject tissue banks" (Nature 357, 267; 1992) quotes Yale researchers who extrapolated data I supplied to Senator Orrin Hatch and that he and Senator Edward Kennedy used in a Senate debate on fetal tissues research on 31 March 1992. Unfortunately, the researchers erred in their computation.

The data Congress received come from a study of miscarriages conducted at three Manhattan hospitals between 1977 and 1981: I examined more than 3,500 normal, well-preserved specimens up to 28 weeks gestational age, and concluded that about 7 per cent of them would have been potentially suitable for transplant research.

Readers should be aware that the Yale research refers only Parkinson's disease, in which interest focuses mainly on fetal brains of a developmental age of 7-12 weeks—a small fraction of the potentially useful fetal material. Journalists who omit this detail mislead the reader, but the researchers themselves compound the difficulty by understating by half even the amount of material available for Parkinson's related transplant research. The Yale calculation, which you report, that "usable abortions occur, on the average, only 1.4 times a year at each hospital" is an error; in fact, about twice that number would be available for the limited purpose of Parkinson's research.

Our study remains the largest and most systematic inquiry so far into the pathology of miscarriages. The results indicate that enough tissue could be obtained to make the proposed tissue banks worthwhile (J. Byrne et al. Teratology 32, 297-315; 1985). Just how much, and under what conditions, would be determined by the new tissue bank programme.

Not everyone regards the tissue bank issue from a political perspective and, if it were taken out of politics, many researchers would support such a programme. Research using fetal tissue holds enormous promise, not only for transplantation, but also in cancer research, in developmental biology and in AIDS research.

Moreover, we are still far from understanding the causes of miscarriages, despite their common occurrence: there were an estimated 750,000 in the United States last year. Ectopic pregnancies are on the rise, yet their causes are still obscure. Much good will come from the wider availability of fetal tissue for research. The opportunity to use the tissue bank networks for new studies of fetal loss should not be lost.

JUILANNE BYRNE,
Boyne Research Foundation.
WASHINGTON, DC.

[From Science, July 17, 1992]

MISCARRIAGE STUDY

Joseph Palca's article "Banking for transplantation research" (News & Comment, 29 May, p. 1274) conveys a misleading impression regarding data on miscarriages for fetal tissue transplant research that I supplied to Congress. Palca states that I "made no attempt to determine whether vital or bacterial infection might make tissue that [I] classified as acceptable unsuitable for transplantation."

The study referred to [J. Byrne et al., Teratology 32, 297 (1985)] is the largest and most comprehensive to date on the pathology of miscarriages. From January 1977 to August 1981 I was the leader of a team that evaluated more than 3500 miscarriage specimens for evidence of gross disorganization and dysmorphology. The overall study goals concerned the genetic and environmental causes of miscarriage. Detecting infection was not an objective. I suspected then (and still do) that infection might be a casual factor in miscarriages, but attempts to obtain funding for a study were unsuccessful. Transplantation research was also not part of our study. We supplied different kinds of tissue to local investigators. They found this tissue suitable for their purposes which, 10 years ago, probably did not include transplantation.

The information given to Congress referred only to well-preserved specimens and did not include data on fetuses that had died some time before delivery. The data indicate that enough miscarriage tissue could be obtained for tissue banks (Byrna et al.). How much, and under what conditions, would be a probable subject to study by the new tissue bank program.

JULIANNE BYRNE,
Executive Director, Boyne Research Foundation, Washington, DC.

PUBLIC HEALTH SERVICE, OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH,
Washington, DC, July 28, 1992.

To: The Secretary.
From: Assistant Secretary for Health.
Subject: New York Times Article on Fetal Tissue Bank—Information.

ISSUE

I would like to respond to the article by Philip Hilts in the Monday, July 27, New York Times which severely distorts and misrepresents the good faith efforts by the Administration to establish a fetal tissue bank.

DISCUSSION

The primary criticism of the article (copy attached) focuses on the estimates of the quantity of tissue from spontaneous abortions and ectopic pregnancies that the Department has estimated will be usable for transplantation and which will be the target of the fetal tissue bank's collection efforts.

First, I would like to state unequivocally that at no time was any attempt made to misrepresent or distort information about the feasibility and utility of the fetal tissue bank proposal. In fact, an extensive effort was made to collect the most recent and accurate scientific data.

The following are the allegations put forth in the article and our responses.

Allegation 1

The New York Times claims the Department misrepresented estimates of the quantity and quality of tissue from ectopic pregnancies and miscarriages.

Response

Memoranda from NIH, which were quoted extensively and out of context in the New York Times article, were neither ignored nor misrepresented by us. In fact, it was precisely this information which was the basis for our determination that only a small fraction of the total tissue from all spontaneous abortions and miscarriages will be usable for transplantation purposes. From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources of tissue for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

Allegation 2

An anonymous NIH source quoted in the article claims that in order to retrieve all of the 1,500-2,000 fetal tissue specimens included in our estimate, it would be necessary to have a "SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

Response

We intend to have a highly trained professional team at major medical centers where the majority of obstetrics cases are seen. This system, when fully operational, will allow us to access and collect a sufficient number of usable specimens from these sources.

Allegation 3

The article claims the fetal tissue bank will cost $330 million per year.

Response

This estimate is based on the erroneous assumption that we will go to unreasonable extremes to retrieve every single usable fetus. Future costs will be largely determined by the level of effort needed to support scientifically meritorious research and therefore, I am unable to make specific cost projections at this time. Given that NIH has not received nor evaluated such proposals, it is not possible to determine the likely number of research projects nor can we predict the

course of scientific discovery. If we find that fetal cell transplantation does dramatically improve the condition of patients, who would argue with increased efforts to provide this relief? Both NIH and I remain unconvinced that in time, a fetal tissue bank will become obsolete as new and cost-effective cell and gene therapies are developed.

Allegation 4

The New York Times quotes unidentified sources as saying that 60–75 percent of fetal specimens will be contaminated and claims that half of the usable tissue will be expended for testing.

Response

The infection rate for fetal samples has been estimated by us at 50 percent. There have been on large scale studies to determine precisely the rate of infection but the first year of the bank will certainly provide valuable data on this point as well as contribute to studies about the causes of pregnancy loss. Further, modern technologies allow testing for infection on a very small number of cells.

Allegation 5

The article cites a Congressional Committee estimate that the number of fetuses that could be collected from the entire nation in a year would be 24. A Yale University researcher and critic of the fetal tissue bank has estimated that if the bank starts at six hospitals, 8 usable specimens could be retrieved.

Response

I would like to refute these pessimistic estimated by providing a simple illustrative example. One major medical center sees more than 1,000 cases of spontaneous pregnancy loss at greater than 9 weeks gestational age and over 350 ectopic pregnancies annually. This institution alone could provide about 50 usable specimens annually. Thus, with the participation of large institutions or networks of institutions, we expect significant numbers of specimens in the early stages of the bank.

Allegation 6

The New York Times article cites a source who claims that there will be at least a half a dozen scientific teams who will each want to carry out 20 fetal tissue transplants and that 2,000 samples will be needed in the first year.

Response

These projections are clearly exaggerated as only 60 transplants have been conducted in the last 30 years in the U.S. Given that transplantation research is in the early experimental stages, we are unable to predict what the actual level of future experimentation will be. A request for applications for the fetal tissue bank has already been published and 14 letters of intent have been received. We will fund approximately six centers in the first year.

CONCLUSION

The allegations made in the New York Times article are without merit. We remain confident that the bank will supply more than sufficient fetal tissue than is required for research needs. Without encouraging or justifying elective abortions, the bank will permit us to move ahead on responsible research attempts to help people with debilitating and deadly diseases.

JAMES O. MASON, M.D., Dr. P.H.

Mr. HATCH. Mr. President, we can resolve this problem, and why be tough about it? I would fight my guts out to get this bill passed with the fetal tissue banks, given a reasonable chance of 2 years which is what NIH has set them up to do. We certainly will have fetal tissue that will be used in research from those banks in that period of time.

I will do that today, and I will go to the White House and tell them they have to do it. I will talk to my colleagues who feel otherwise about this particular offer. I cannot guarantee it, all I can say is I will do my very best. In the past, I think that has been pretty good on a lot of health legislation that has passed around here. But if they will not even take that, knowing that this is going to be filibustered if cloture is invoked, knowing that the President will veto it if they can go to a process all next week to get it there and knowing that that veto would be sustained, then who is being unreasonable in this matter?

I have to say, it is not I, and I would like to have the distinguished Senator from Massachusetts and I go arm in arm down the center to get this done as we have on so many other important health bills in the past. I would like to call on my friend HENRY WAXMAN over in the House, JOHN DINGELL and others, who are linesmen in health matters in the House, tremendous people. I would like to call on them to go arm in arm and do a bipartisan effort and do what has to be done. If we can and pull that through, it will be a wonderful victory for fetal tissue research and the country as a whole. I cannot do anything less than that. I cannot argue for anything less than that. I do not think I have a chance with just anything less than that.

Frankly, it all comes down to, really what do we want, a political issue or do what is best for peoples health and lives? Do we really want this research to go forward? Do we really want to give our best to it? Do we really want to go down in defeat with NIH in the 102d Congress?

I do not blame the President. He is right to stand by his word. He is right to do what he said he would do. He is not going to have to do that unless we are willing to be in here another 1 or 2 weeks. It is a bona fide offer. I do not know if we can pull it off, but I would do my very best to get it done, and if we could, then it would be up to the House. If they do not want to take it, then that is the way life is. I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. Two minutes, 45 seconds.

Mr. HATCH. I yield a minute to my friend.

Mr. KENNEDY. I would like to ask that we have 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH Mr. President, I have to object to that.

Mr. KENNEDY. I will suggest the absence of a quorum.

Mr. HATCH. I will give him my time, how much time does the Senator need?

I yield all that time to Senator KENNEDY.

Mr. KENNEDY. Mr. President, so we have an understanding, effectively this legislation was passed 87 to 10 in the spring; in April, 85 to 12, bipartisan Republican and Democrat. The Senator from Utah has said a 2-year extension. The language which we had included in the legislation had a 1 year trial which was the language which Secretary Healy and Secretary Mason suggested. He has mentioned 2 years. I would be prepared to split the difference with what the Senator from Utah has suggested and what is in the bill and offer that as a joint amendment and let us pass that legislation right here this afternoon.

That will give 10 more months than the administration said would be necessary for the bank. We will split the difference. He made a proposal. I would make a recommendation to our colleagues who believe very deeply that everyday we delay action is a day that avoids careful important research.

Mr. HATCH. Mr. President, if the Senator will yield, I said what I would do. It would be a big undertaking on my part. I do not know if I could get it done, but 2 years from January 1 is the absolute best—a lot of people want more than that, but that is the best I can do.

Frankly, I know it will be a crime, I know the other side is willing to go to 18 months. It is a crime if we do not do 2 years. All I can do is offer the best I can do in good faith, do everything I possibly can to get it done and I cannot guarantee I can even at that, but I will do everything in my power and good faith to get it done. That is the best I can do. It would be a shame not to do it for 6 months.

Mr. KENNEDY. I ask for 20 seconds.

Mr. President, talk about compromise. It is a difficult compromise to say to those families of Alzheimer's and Parkinson's disease, we are going to delay it further. We took a halfway mark between what came out of the committee and what the Senator is offering. If he is not prepared to do that when we have 86 Members of this body who supported that position, I think the record will reflect who is prepared to move the process forward.

Mr. HATCH. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. The Senator has 25 seconds remaining.

Mr. HATCH. Mr. President, the money for the grants that have already been made, and they clearly are not enough, has not even been given. This is not a calendar year situation, and it probably will not even get going until

next May. We are talking about the necessary time to give these banks the chance to work.

I am willing to do everything in my power for 2 years, with the right kind of legislative language—that is the two aspects of this offer—from January 1, 1993.

I thank the Chair.

Mr. SEYMOUR. Mr. President, I rise today to help end the needless suffering of millions of Americans from debilitating diseases such as Parkinson's, Alzheimer's, and Huntington's diseases. Striking the central nervous system, these diseases lead to severe brain damage, paralysis and eventually, death. Today, we have an opportunity to help save these lives, an opportunity to turn the tide of severe disability and give these individuals a chance to actively participate in the prime years of life. This opportunity is research.

In 1988, the administration placed a ban on Federal funding for fetal tissue transplantation research. Despite this ban, several medical institutions sought private donations to continue research in hopes of finding a cure to diseases such as Parkinson's and Alzheimer's. The results of their research have proved to be promising. At the University of Colorado, seven individuals suffering from Parkinson's participated in fetal cell implantation to reverse the damaging effects of their disease. Four of these patients experienced substantial improvement over time. Although this treatment has not proved to provide permanent relief researchers, including Dr. Moskowitz of the National Institutes of Health, believe that and expansion of this research may lead to a cure.

Mr. President, these diseases are both physically and emotionally excruciating—for the victim, for the family, and for their friends. Although the onset of Alzheimer's and Parkinson's is gradual, it is a slow and painful process, involving severe memory lapse, the inability to feed or dress oneself, the inability to walk, to move or to speak. Perhaps one of the most frightening affects of these diseases, is loneliness. Alzhemier's is so severe that the victims no longer know or recognize their families or friends. They cannot remember events, emotions, or thoughts that happened the day before, or even minutes before. They live in constant fear of the unknown.

Beyond lifting the ban on fetal tissue research and creating a tissue bank, this legislation reauthorizes all of the valuable programs under the National Institutes of Health. It is imperative that this legislation be passed before we recess this year. We can not allow these programs to go unfunded. This is perhaps one of the most important and intelligent health care investments we can make this year. We can help stop the onset of damaging diseases in our future if we invest in research today.

The time has come to stand and offer our support to allow this vital research opportunity to continue. Not only will it improve the lives of millions of Americans, but will save our health care dollars in the future. I ask my colleagues to join me in support of S. 2899.

Mr. REID. Mr. President, I rise today in support of the NIH reauthorization bill, specifically as it addresses an underrepresented group here in the U.S. Congress: women.

Two hundred years of a male-dominated legislature has left its mark on women in many areas, particularly in that of medical research. Traditionally, men have decided, and still do decide, what types of medical research get funded, and at what levels.

Men are in the majority in the Congress, men are in the majority in medical research. This means the needs of women are overlooked. I am here to speak for those women currently suffering from female-specific diseases, and for those who may have died from those diseases.

If men suffered from illnesses such as interstitial cystitis, multiple sclerosis, lupus, and osteoporosis at the same rate women do, I would wager that much more research would be done on these illnesses. Perhaps there would even be cures. I see this inequity as nothing less than medical sexism.

Last year, as a member of the Senate Appropriations Committee, I worked to secure $50 million for breast cancer screening programs, more than $200 million for research on breast, cervical, and ovarian cancer at the National Institutes of Health, and $3 million for research on interstitial cystitis—a painful, debilitating disease affecting 500,000 Americans, of whom 90 percent are women. These appropriations, and they have been increased under this year's appropriations, were a significant step toward placing women's health on par with men's. Today, we are fortunate to have the opportunity to go a step further.

This bill provides permanent authority for an Office of Research on Women's Health within the Office of the NIH Director. This office will ensure that NIH complies with the congressional mandate of inclusion of women in clinical research and will coordinate among the institutes the various research projects involving women.

For too long, women have been excluded from research projects due to arbitrary considerations. Researchers believed that because women have a more complicated hormonal system, results of studies on women would be difficult to interpret and more costly to gather. Therefore, women have been considered a special case, and men have been considered the norm.

How can we consider a majority of the population as a special case? How can we refuse to test more than half our population because we say they are not the norm? This makes no sense. It is blatant medical sexism. The bill requires clinical research equity in every institute to ensure that women and minorities are included as subjects in each project.

Millions of women have read the study suggesting an aspirin a day may prevent heart disease. Do they know the sample group was entirely male? In fact, we do not know whether an aspirin a day is harmful or beneficial to women with heart disease. It is patently unfair to assume that men and women do not differ in their response to aspirin or to ignore any difference as not technically significant. Heart disease claims the greatest number of women's lives in this country. Yet all major studies of causes and prevention has involved exclusively men.

Once again, women are left in the dark because of medical sexism.

Unfortunately, physicians have a poor understanding of the effects of aging on the development of disease in older women. One-third of women in America are post-menopausal and doctors are without the tools to treat the accompanying aging problems. This bill requires research on the aging process in women, especially on the effects of menopause and loss of ovarian hormones. Further, $40 million is authorized for research of osteoporosis, a disease affecting one-third to one-half of postmenopausal women, and resulting in 50,000 deaths annually. In addition to research on osteoporosis, the effort shall include a study of Paget's disease and related bone disorders.

Information is the greatest necessity in women's health today. This bill establishes a clearinghouse and data bank to provide information on research and prevention activities in women's health. A registry is established to provide the sample pool and data for continuing research projects.

Despite our advances in technology, the number of women diagnosed with breast cancer each year has increased from 1 in 14 women, to 1 in 8, as reported yesterday. In my home State of Nevada alone, it is estimated that 200 women this year will die from breast cancer. This is unacceptable. This bill authorizes $325 million for breast cancer research, prevention, education, and establishment of research centers; $75 million is further provided for research in gynecological cancers. We must continue to provide the assistance needed to investigate and combat these pervasive, deadly diseases.

As I have said before, women have been underrepresented in positions that affect this Nation's health policy. Health problems unique to women have received inadequate attention. I intend to change that trend. I urge your support for this important legislation, for the health of our wives, daughters, mothers, and all American women.

I would like to address another section of this bill which provides for loan

repayment for those professionals researching within the NIH. After being in Washington for almost 9 years, I made my first visit to the National Institutes of Health. These Institutes are the world's foremost biomedical research facilities. I had developed over the years a respect and appreciation for the work done by the Institutes, but my personal tour closely showed how impressive and even exciting are these Institutes.

While visiting the National Institute of Neurological Disorders and Stroke [NINDS], the Director, Dr. Murray Goldstein, acquainted me with the evolution of a great discovery. Researchers came to him for permission to follow a course of study involving the use of corticosteroids to prevent paralysis resulting from trauma to the spine, as in the case of a car accident.

Initially, results showed no reduction in paralysis when corticosteroids were administered. The steroids were administered again in larger doses. Still no improvement. But, because the experiment had worked in cats, researchers at NINDS were not ready to give up hope. They administered the substance in mass quantities and found that if given to a trauma victim within an hour of injury, degeneration of the spine could be halted. Even more exciting, this treatment costs less than $100. Less than $100 to save someone from paralysis.

I could continue for hours about the seemingly miraculous medical discoveries made at NIH. While all the Institutes work on vastly different projects, I did encounter a recurring theme in every one I visited. Because NIH does not pay salaries comparable to those offered by private sector biomedical research facilities, the various Institutes frequently have difficulty recruiting scientists. When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center.

Currently, NIH employs a very successful approach to attracting scientists to the facility to research in an area where shortages of researchers exist—specifically the area of AIDS investigation and research.

The AIDS Loan Repayment Program permits NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of the researchers' educational loans. This bill extends this excellent program to allow NIH to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimer's disease, cancer and heart disease.

Extension of the AIDS Loan Repayment Program to other specialties takes on an even greater significance when one considers that in 1990, 79 percent of all medical students borrowed to finance their education. The average debt in 1990 for medical students was $46,224, and 30 percent had debt over $50,000. Not surprisingly, debt levels for minority students were significantly higher than average.

As the National Institutes of Health is reauthorized this Congress, I sincerely urge my colleagues to support the finest biomedical research facility in the world, and in particular by ensuring that the Institutes remain capable of attracting research personnel. I also strongly recommend that each of my colleagues find time in their busy schedules to visit this impressive institution.

Mr. GORTON. Mr. President, I would like to express my support for the compromise provisions contained within S. 2899, the National Institutes of Health Revitalization Amendments of 1992.

Fetal tissue transplant research holds the promise of finding cures for crippling diseases such as Alzheimer's, Parkinson's disease, spinal cord injury, diabetes, and many other life threatening conditions. S. 2899 offers a sound approach to helping the thousands of people who suffer from these afflictions. Our continued delay on this necessary research is turning the hope and optimism of millions of ill Americans and their families into despair and resignation.

This legislation contains important safeguards and guidelines that prevent abuse of this research. It adopts the protections as recommended by the National Institutes of Health Task Force that ensure separation between research and the decision to perform an abortion.

It is critical that we do not ignore ethical guidelines or exploit this research in our haste to save lives. This bill will set forth necessary and ethical guidelines and regulations, as well as strict penalties for violations of those guidelines.

S. 2899 requires that consent to the abortion precede the consent to donate the fetal tissue. The mother may not be informed as to the identity of the individuals who will receive the tissue transplant, nor can she identify to whom the tissue will be donated. The recipient of the tissue must be informed by researchers that the tissue is human fetal tissue and the tissue may have been donated as a result of an induced abortion.

S. 2899 would require that the physician make known any interest that he may have in the research to be conducted with the donated tissue. Researchers and physicians may not contribute to any costs associated with the abortion. The bill prohibits the physician or researcher from altering the timing, method, or procedure used to terminate the pregnancy in order to obtain a better fetal tissue sample. Procedural changes which may cause greater than minimal risk to the fetus or the pregnant woman are prohibited. Additionally, the bill will outlaw the purchase, sale or solicitation of fetal tissue. This legislation would assess fines, or mandate imprisonment for violations relating to this act.

In addition to these safeguards contained in the original version of this bill, H. R. 2507, this legislation will require researchers to first request tissue from the bank established under President Bush's executive order. If the bank is unable to supply tissue within 14 days, the researcher would be permitted to use tissue from other sources.

I believe that the safeguards contained within this legislation effectively prevent, and ultimately prohibit, potential abuse of fetal tissue research. S. 2899 will give Federal support to essential research that may help millions of suffering Americans.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2899, the NIH reauthorization, shall be brought to a close? The yeas and nays are required. The clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 85, nays 12, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—85

Adams	Garn	Mitchell
Akaka	Glenn	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Graham	Nunn
Biden	Grassley	Packwood
Bingaman	Harkin	Pell
Bond	Hatfield	Pryor
Boren	Heflin	Reid
Bradley	Hollings	Robb
Breaux	Inouye	Rockefeller
Brown	Jeffords	Roth
Bryan	Johnston	Rudman
Bumpers	Kassebaum	Sanford
Burdick, Jocelyn	Kasten	Sarbanes
Byrd	Kennedy	Sasser
Chafee	Kerrey	Seymour
Cochran	Kerry	Shelby
Cohen	Kohl	Simon
Conrad	Lautenberg	Simpson
Cranston	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Thurmond
DeConcini	Lott	Wallop
Dixon	Lugar	Warner
Dodd	Mack	Wellstone
Dole	McCain	Wirth
Domenici	McConnell	Wofford
Exon	Metzenbaum	
Fowler	Mikulski	

NAYS—12

Burns	Ford	Nickles
Coats	Gramm	Pressler
Craig	Hatch	Smith
D'Amato	Helms	Symms

NOT VOTING—3

Durenberger	Gore	Riegle

The PRESIDING OFFICER (Mr. FORD). Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. SYMMS. Mr. President, I suggest the absence of a qourum.

Mr. KENNEDY. Mr. President, regular order. There has been no intervening business between the call of the roll on the cloture motion.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I rise to take the floor, and I had a little bit of housekeeping I wanted to do before I commence my remarks to my colleagues. So I suggest the absence of a quorum.

Mr. KENNEDY. Regular order. I make the same point of order that was made before.

The PRESIDING OFFICER. There has been no intervening business, and the Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as in morning business for 30 seconds to insert a speech into the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

WILLIAM J. AGEE ON RAIL TRANSPORTATION

Mr. SYMMS. Mr. President, on September 23, William J. Agee, the chairman and chief executive officer of Morrison Knudsen Corp., delivered the keynote address at the sixth annual American Railroad Conference in Chicago. That speech has garnered very wide acclaim in national print media and trade journals, and I take this opportunity to call it to the attention of my Senate colleagues.

My long time friend, Bill Agee, has turned the Morrison Knudsen Corp. into the Nation's leading rail transportation construction company, and in the process, Bill has himself become one of the Nation's leading authorities on the multimodal future of transportation in the United States. His remarks should be read carefully by Members of Congress, policymakers in the administration, and business men and women across the country planning the future of their business investments and growth opportunities.

Bill notes correctly that congestion is a fact of life today for passengers on many of our Nation's highways and at airports across the country. Rail transportation, particularly high-speed passenger rail service, can help solve those congestion problems in an economically and environmentally sound fashion.

I ask unanimous consent that Mr. Agee's speech be printed in the RECORD following my remarks, and I urge my colleagues and their staffs to use the few minutes it will take to read his important remarks.

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

A LOOK AT AMERICA'S RAIL INDUSTRY

(Remarks by William J. Agee)

It's great to be in Chicago, to see so many friends and to spend some time together talking about America's rail industry.

As many of you know, railroads are a subject very dear to me and very dear to the entire Morrison-Knudsen family. Our company's heritage is steeped in America's rich railroad tradition. And we've made a commitment to carry that tradition forward into the next century.

So I'm very excited to be here and to have the chance to share with you my thoughts about where we've been, where we are and where we're going as an industry.

Chicago is an appropriate place to discuss these issues because it's been—perhaps more than any other city—the hub of America's transportation system. It's the center of our railway supply industry. And it's home to the country's premiere commuter rail system.

Early in our history, Chicago was a great staging ground for the builders of a new nation. Chicago witnessed the legendary struggles and triumphs of the men and women who built America's Railroads. And it was in large part as a result of their efforts that Chicago became one of the world's great commercial centers.

It was not far from here—during the last century—that a young aspiring politician was first captivated by rail's promise.

Abraham Lincoln was just beginning his political career when he was called to serve in the Blackhawk wars. It was there in the north woods of Illinois—as he watched armies of men and wagons mired in mud—that Lincoln was first inspired by a vision of railroads revolutionizing travel in Illinois and across the country.

Returning home, he made rail a campaign issue, speaking of railroads as a "never-failing source of communication" which "no other improvement can equal in utility."

We've come far since Lincoln's day. When travelers in America slogged along muddy roads. When commerce was slow and uncertain. When information moved at a wagon's pace.

Led by many of the people and companies represented in this room. We built the world's greatest system of railroads, highways and airports. And they helped revolutionize American travel, business, communications—and ultimately—our way of life.

Did we achieve some of the promise that Lincoln dreamed of? You bet. But have we been able to live up to his ideal of transportation as a "never-failing source of communication?" or even an almost-never-failing source of communication?

Clearly, the answer is no. Far frcm it.

Consider this:

At the turn of the century, America's standard form of travel was the horse-drawn carriage. Average speed—about 11 miles per hour. Right now in New York City automobiles are averaging 6 miles per hour.

Now you have to ask yourself, is that progress?

What would Lincoln think if he hopped in a car and tried to get out to O'Hare today during rush hour? Sooner or later, he'd be missing the horse and wagon.

The average commuter in Los Angeles spends 4 hours and 20 minutes—each day—going back and forth to work. Some say people from southern California are laid-back. I think they're just constantly exhausted by the commute.

Each year, Americans are forced to waste 2 billion hours and 3 billion gallons of fuel sitting in traffic. By the end of the decade, that's going to cost us $50 billion in lost wages and fuel.

It's no secret that America's transportation system is in crisis. Across the country—in our cities, towns and in the countryside—we're seeing aging roads and bridges deteriorate. At the same time, we're using them more and more. And—surprise, surprise—conditions are getting worse.

And there's no end in sight.

Unless something changes, over the next 20 years, congestion on our freeways will more than quadruple. It will double on our non-freeway system. And it will increase tenfold in low population areas.

Things are so bad already in so many places, that it's hard to imagine what that kind of traffic would look like.

Let me give you an example.

Recently, a group of experts was asked to figure out how much Florida would have to expand highway I-95 between Miami and Fort Lauderdale to handle traffic 28 years from now—in the year 2020. They concluded—no joke—that 44 lanes would just about do it.

Ladies and gentlemen, there's a serious message here. We can't go on paving over America and calling it progress.

Make no mistake, the stakes are high. We're not just talking about wasted time and wasted fuel; 68 cities are failing Federal air pollution standards for ozone and almost as many can't meet carbon monoxide guidelines. Over 100 suburban areas exceed the limits.

All told, that means 150 million Americans live in areas where the air quality is below acceptable levels. The American Lung Association estimates that the national health care bill for air pollution is $40 billion per year.

So what's the alternative? How can we accommodate our growing transportation needs? The airlines? Well, I think we all know the answer to that one from hard experience.

Today, most airline passengers on trips of 1,000 miles or less spend more time on the ground than in the air. You know the routine. You sit on the runway at both ends. You have to commute to and from the airports. It adds up. A 2-hour flight from Denver to Chicago can consume half a work day, door to door.

The Federal Aviation Administration says that each year air travelers sit through 20,000 hours of flight delays, that costs us $5 billion in wasted time and fuel. It would take an awful lot of complimentary drinks and honey-roasted peanuts to make up for that.

Even if we could build more airports quickly enough—and we clearly can't—that's not the answer. The skies above our major airports already look like the San Diego freeway on a holiday weekend.

That brings us to rail. And as you know, the picture in our industry is quite different.

Unlike the highways and airports, railroads aren't overburdened. Without adding track, railroads are capable of carrying four times the traffic they do now. Rail is the only mode of transportation that offers us a way to immediately begin easing the pressure on our transportation system.

Rail also provides creative approaches to improving the way we use other modes of transportation. In fact, we've been doing it for years. We began piggy-backing trucks on trains a long time ago. Today it's become the rail industry's fastest-growing segment.

And as higher labor and insurance costs continue to change the economics of trucking, we're working with trucking industry leaders such as J.B. Hunt and Schneider National to offer even better door-to-door service.

But wait. If rail provides answers to many of our transportation problems. Why isn't it playing a big role in solving our transportation crisis today?

Everyone in this room knows the answer.

It's fact of life in our industry that, for far too long, rail has been a relatively national low priority. During the next 5 years, the United States plans to invest barely over 1 percent of our Federal transportation dollars in rail. That's one of what the European Community will invest in its rail network.

Rail has been the Cinderella of the transportation family—the neglected stepchild. Highway building has been heavily subsidized while rail has been left largely to its own devices. Airport builders benefit from tax incentives. Trucking is given preferential treatment. But by and large rail has to pull its own weight.

None of this is news to you. The people in this room have had front row seats as America's rail industry struggled over the years to overcome neglect and underfunding—the result of this country's bias toward highways and airports.

The good news is that despite this inequitable treatment, the industry came through the 1980's in fairly good shape. Since deregulation 12 years ago, railroads have improved services and cut operating expenses. Revenue per mile increased significantly at the same time that the number of locomotives decreased by 25 percent. That's a major accomplishment in any industry.

During the 1980's, railroads invested more than $30 billion in new and improved equipment and another $100 billion in maintenance. Unproductive assets were shed and, today, more than 200 new short line and regional railroads are operating profitably in facilities once slated for abandonment.

And the rail industry has been bringing new technologies to the market. As a result, various measures of output rose during the 1980's. Freight-car utilization up 13 percent. Operating efficiency up 51 percent. Fuel efficiency up 36 percent.

As individual businesses and as an industry we have a lot more to do if we are going to be competitive during the 1990's. We also have to continue improving operating ratios, cutting costs while increasing services and sustaining growth.

These are formidable challenges. But I believe that we are beginning to move in the right direction—as an industry and as a nation. I believe that in some very important respects we are in a position much like the one we were in during the 1950's.

Back then, America was emerging as a superpower in a world still recovering from War. We were just beginning to confront a host of dramatic changes that transformed life in the wake of the allied victory. It was a time of tremendous opportunity—and we were poised on the brink of unprecedented economic growth.

But President Eisenhower and congressional leaders from both parties recognized that this golden opportunity could be lost unless something was done about our roads, which had been badly neglected during the war years.

If you think about it, this scenario sounds familiar, doesn't it? America fresh from leading the forces of democracy to a historic victory. A new world order in the making. An uncertain promise of prosperity and growth in a transformed global economy. And the Nation confronting the urgent need to get its house in order to be able to realize the promise of this new era.

How did we respond in the 1950's.

We rolled up our sleeves and built a modern highway system that was the envy of the world. It wasn't easy and it didn't come cheap. But Government provided the vision and the financing through the Interstate Highway Act. And Americans across the country did the rest. And that great construction effort helped kick-start the most powerful economic engine the world has ever seen.

I'm optimistic about the future of the Nation and of our industry because I believe America will rise and seize this moment again. And I believe that—this time—our solution to the problem will focus on rail as the key transportation resource.

Last year, we took an important step in that direction by making a substantial national commitment to improving our transportation system. Congress passed, and the President signed into law, the Intermodal Surface Transportation Efficiency Act of 1991.

This legislation authorizes $151 billion for rebuilding transportation systems across the country. But just as important, it put in place a balanced, and much more promising, approach to transportation.

For the first time, cities and States will be able to use highway trust funds for intermodal transportation planning. That's important because, as you know, an intermodal system combines the various modes of transportation—road, air and rail—so that they work together efficiently.

I take this as a promising sign that American transportation and infrastructure policy is finally climbing out of its philosophical rut. For far too long, we've been stuck in a rut in which highways and airlines and railroads were forced to fight each other every step of the way.

Rail had its hand tied in that fight, so it was really no contest. The results were good for builders of highways and airports, but they weren't very good—as we've seen—for the traveling public, American businesses or the national economy.

Our new approach proposes using rail, road and air travel in combinations that are more the result of informed planning rather than special interest lobbying.

I'm convinced that's good for rail. Why? Because on a level playing field, our industry's comparative advantages will allow us—finally—to bring rail's full value to America's transportation marketplace.

A national transportation policy based on the principle of intermodalism is good for rail because—guess what?—in much of the country, rail is the missing piece of the transportation puzzle. And under any truly intermodal system you can imagine, rail plays a central role.

And it's already beginning to happen.

Cities and States are taking advantage of their new-found freedom to establish priorities for intermodal systems. And local initiatives featuring rail are in the works across the country. Voters in Wisconsin, for example, recently amended their State constitution to invest State gasoline tax revenues in rail-passenger projects.

As you can see, I'm an optimist when it comes to our industry. But I also understand that—as in the past—there are no guarantees and no shortcuts on the way to a world class transportation system.

It won't come easy. It won't come cheap. And there are some fundamental challenges that we must accept if we are going to succeed.

First, we need to make sure that we fully restore balance to America's transportation and infrastructure policy. We've taken a first crucial step on the legislative front. Now we need the tools to unleash rail's potential.

We need tax exempt financing. We need relief from onerous red tape and work rules. In short, we need equal treatment with other modes of transportation.

At every level of government, when public transportation policy is being made, rail has to be represented. As we plan the transportation systems of the future, we have to take a close look at the comparative costs and benefits of various modes of transportation.

These objective factors—no special interest agendas—should form the basis of our national, State and local transportation plans.

We know the facts about trucks, for example. A twin axle rig can cause as much as $1.80 in road damage, and yet the operator pays only 4 cents per mile in road-use taxes.

Compare that to rail. Unlike highways, railroad rights of way are privately built and maintained. Yet railroads recently got hit with tax increases while trucks continue to enjoy their sheltered status.

This inequitable treatment has got to stop. Our industry supports weight-distance user charges and I believe they should be seriously considered and in some cases adopted. In any case, the guiding principal should be fairness.

Let me say it loud and clear. All the American rail industry asks for is a fair shake. On an equal basis, on a level playing field, we'll compete with anyone, anywhere. Just don't expect us to stand by quietly when the game is rigged.

I believe that—ultimately—the greatest challenge facing the rail industry is commu-

nication. Now more than ever, we need to take the case for rail to the American public—to Washington, to the States and to the grassroots.

America needs to know about the many advantages that rail brings to the table. We have to tell people that the rail is a high tech industry that can provide productive jobs and serve as a catalyst for economic growth.

Gone are the days when railroads just meant heavy metal and brute power. They still have the muscle, but now they have the brains to match.

We have to tell America that today's advanced rail systems use some of the most sophisticated technologies around. That we are developing more and better applications—advanced light rail, very high speed rail, maglev technologies. And super-sophisticated parts such as computerized transit system components.

MK is working on one of the most exciting high tech projects in our history—Texas high speed rail. Anyone who's spent more that 10 minutes with me knows all about it.

It will be the Nation's first very high speed train. Running from Dallas to Houston and capable of carrying 12,000 passengers a day at 200 miles per hour of comfortable speed. And it will become a part of a system connecting every major city in Texas.

I believe that 20–30 years from now, we'll have very high speed rail trains operating in 6 to 10 markets. And we'll have high speed rail trains such as the Amtrak Metroliner doing 150 miles per hour in 8 to 10 markets. In addition, we have the prospect of maglev trains running at over 300 miles per hour.

We as an industry are serving notice—the day of America lagging the rest of the world in rail technology are over.

We need to tell American that the rail industry can provide high tech transit to help accommodate new development and to complement roads and airports. That the transit systems of the future will use high speed rail to link urban centers to out-of-the-way regional airports.

We need to tell America that these intermodal systems will create regional "super hubs"—such as an O'Hare superhub right here outside Chicago. And much like the rail hubs of early American history, these modern day crossroads will help spur economic growth.

Imagine San Antonio as a super hub. A gateway to Mexico much like Hong Kong serves as a gateway to China. Like Hong Kong, the San Antonio-Monterey corridor would be transformed into a hotbed of entrepreneurial activity.

We have to tell America that we are developing new strategic alliances in order to maximize asset utilization and bring diverse resources to bear on today's increasingly complex projects.

MK has been fortunate to have the opportunity to form such an alliance with one of Illinois' favorite sons, Caterpillar. Together, we are introducing three new locomotives.

They include the world's first single-engine, 5,000 horse power locomotive with 25 percent more power than the industry's current heavy haulers. It will allow railroads to significantly boost tonnage hauled per unit. We're talking about three-for-four and sometimes two-for-three unit replacement ratios.

We have to tell America that rail is good for the environment. That rail is the environmentally-friendly transportation alternative.

This is a critical advantage—on one of the biggest issues of the 1990's, we're squarely on the winning side. Environmental groups have been strong supports of Texas high speed rail and I believe they will support us in other projects.

Locomotives account for 1 percent of all emissions into the air. And we are working on ways to decrease that further. By comparison, motor vehicles such as cars and trucks—on the other hand—cause over 30 percent of carbon dioxide pollution. They cause 40 to 60 percent of the hydrocarbon pollution. They cause 70 to 80 percent of the carbon monoxide pollution. Trucks emit 10 times more diesel particles and hydrocarbons and 3 times more nitrous oxide and carbon monoxide.

MK is teaming with Caterpillar to offer the first locomotive powered solely by clean-burning natural gas. This 1,200 horse power switcher that will help key regions of the country to comply with the Clean Air Act.

Now, these locomotives may not be an industry-wide solution, but they demonstrate how quickly we are able to adapt new technologies to do our part for a cleaner environment.

Ladies and gentlemen, despite all the serious challenges we face as an industry, we have a good story to tell. And we must take every possible opportunity to tell it.

Perhaps most importantly, we have to tell the American people that the Nation has arrived at a crossroads. One road takes us further along the previous path of ad hoc transportation policies that favor roads and airports. Given our experience, that's ultimately a slow road to nowhere.

The other road leads in an entirely different direction. Toward a transportation system that takes full advantage of today's promising rail technologies. Toward an intermodal intelligent transportation system second to none. Toward a transportation system that provides a solid foundation for America's economic development during the 1990's and beyond.

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

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

THE CABLE TELEVISION BILL

Mr. PRESSLER. Mr. President, I wish to state very clearly, as I have stated, that I shall retain my position on the cable television bill.

I was an original sponsor of that bill. I serve on the committee. I have worked closely with Senator DANFORTH. I believe I voted for that bill four or five times. And in the event of a Presidential veto, I shall continue that position.

I wanted to say that to clear the air, because there has been a great struggle over this bill. I know that. I have urged the President to sign the bill into law or to let the bill become law.

In my State of South Dakota, there are enormous issues regarding cable television. They are perhaps unique, but we do need to get more public service programming. We do need to have more options for the pay-per-view people who are interested in sports. There is a whole host of issues, and I have spoken on those issues on this Senate floor many times. For me to change my vote at this point would run against my principles.

But I wanted to say that in a speech because there is a great struggle underway. There are a number of rumors about who is going to vote which way in the case of a veto override. I shall maintain my position.

I urge that the President sign the bill. I hope that he will do so in the next few hours.

I yield the floor.

Mr. WIRTH. Mr. President, I ask if I might speak for 10 minutes as if morning business.

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

Mr. WIRTH. Thank you Mr. President.

SETTING THE RECORD STRAIGHT ON IRAQ

Mr. WIRTH. Mr. President, Senator GORE apparently hit a raw nerve in his recent speech on our country's policy in Iraq and the Middle East overall.

In detailing the President's coziness toward Saddam, Senator GORE provided an accurate indictment of a foreign policy blunder.

The reaction last night on the Senate floor revealed how sensitive this matter is, and rightly so.

George Bush's attempt to befriend Saddam had many loyal supporters. Senator GORE'S critique hit home. It seems to me that, to paraphrase Shakespeare, some "doth protest too much."

The record of the Bush administration's failed policy toward Iraq is clear. There is no dispute about that record. The only real issue is what this sad record says about the President's judgment—and common sense tells us what a devastating failure of judgment his policy represented.

What is so disturbing is the moral blindness which allowed an American President to stroke and coddle this vicious despot. In foreign affairs, where is the clear moral compass to steer this administration?

This moral blindness was clearly evident in the administration's handling, for example, of the Voice of America scandal. As many Senators, I am sure, will remember, the VOA broadcast an editorial on February 15, 1990, entitled "No More Secret Police." This editorial properly and accurately reflected American values.

Let me quote a few passages from what the Voice of America said:

> A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a

force. That is the lesson the people of Eastern Europe have learned well in more than four decades of tyranny. * * * Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

And then the VOA announcer closed by stating "That was an editorial reflecting the views of the U.S. Government". He might also have added that the editorial reflected the values of the American people.

In any case, the announcer was soon proved wrong. Saddam took terrible offense that the VOA would broadcast such critical things about his police state and within 2 weeks Secretary of State Baker sent a cable to our Ambassador in Baghdad with instructions to apologize for this offensive language. Let me quote a few key passages from that cable, now declassified, dated February 27, 1990:

It is in no way U.S. Government policy to suggest that the government of Iraq is illegitimate or that the people of Iraq should or will revolt against the government of Iraq. We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

The cable, signed by James Baker, now George Bush's campaign manager, added that the "Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up."

And follow up they did, Mr. President. The next day, February 28, U.S. Ambassador April Glaspie sent a letter to Iraq's Foreign Minister, Tariq Aziz, stating:

I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Mr. President, not only did she apologize that the U.S. Government had the audacity to criticize tyrannical regimes, but our Ambassador apologized for not being able to apologize sooner.

As if this were not enough, a delegation then met with Saddam in Mosul, Iraq in April 1990 and according to available transcripts confirmed in later press interviews further apologized for this indiscreet VOA editorial. It is no small irony, Mr. President, that this meeting took place in the Kurdish part of Iraq—an area devastated by Saddam's attempted genocide of the Kurds. All around that meeting site was ample evidence of vicious, brutal, violent repression, evidence of attempted genocide against the Kurds, evidence of the use of chemical weapons to kill innocent men, women, and children whose only crime was their heritage.

It would have been inconvenient to focus on genocide. The Reagan-Bush administration had, after all, vehemently opposed congressional efforts to pass the Prevention of Genocide Act in response to Saddam's brutal slaughter of the Kurdish people. Instead, the U.S. delegation to Saddam reportedly engaged in mutual criticism of the spoiled and conceited Western press and informed Saddam that the VOA official responsible for that outrageous assault on the moral credentials of the Iraqi despot would be fired.

Mr. President, there was nothing to apologize for in that VOA broadcast. Nothing at all. It rightly reflected American values. It stood up for freedom from tyranny. It stood up for democracy. The fact that our Government felt it necessary or even appropriate to apologize for the VOA defense of freedom speaks volumes about the moral blindness which led the administration to coddle Saddam right up to the invasion of Kuwait. And we have paid a high price for that blindness.

Also, Mr. President, how about George Bush's opposition to sanctions against Iraq right up until the invasion of Kuwait.

As late as July 27, 1990—4 days before the invasion—the Senate considered a Gramm-Dole amendment to gut meaningful sanctions against Iraq. The amendment, which had the support of the Bush administration, failed. One of our Republican colleagues, the junior Senator from Kansas, also voted on the 6-D amendment, put it well in that debate on Iraqi sanctions:

There is no one who feels more strongly than myself that food should not be used as a weapon. But * * * there comes a time when I think we have to stand up and be counted.

Had the Bush administration demonstrated the moral compass of the junior Senator from Kansas, had Bush stood up to Saddam earlier, had Bush's foreign policy reflected American values, we may well have succeeded in containing Saddam's aggression at home and abroad.

I ask unanimous consent that the full text of the VOA editorial, the State Department cable from Secretary Baker to the U.S. Embassy in Baghdad and the letter from Ambassador Glaspie to Tariq Aziz be printed in the RECORD immediately following my remarks.

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

[Voice of America, Feb. 15, 1990]

NO MORE SECRET POLICE

Announcer: Next, an editorial reflecting the views of the U.S. Government.

Voice: A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a force.

That is a lesson the people of Eastern Europe have learned well in more than four decades of tyranny. As East Europeans have replaced Communist regimes with moderate interim leaders, and begun to prepare for democratic elections, they have moved to dismantle secret police forces. In Czechoslovakia, the secret policy headquarters building in Prague has been completely emptied. Secret police employees have been ordered to turn in their handguns and identity cards, and to stay at home until the new non-Communist Interior Minister decides what to do with them. They will no longer be kept busy spying on their fellow citizens—or engaging in even worse crimes.

The governments of Poland, Hungary, Bulgaria and East Germany are also looking for productive work for former members of the secret police. It is an especially large task in East Germany because the secret police, known as the Stasi, had about eighty-five thousand full-time employees, along with huge caches of weapons, scattered in buildings around the country. When the East German government suggested that it might replace the Stasi with another internal security agency, a crowd of demonstrators at the Stasi headquarters in East Berlin made it clear that no more secret police are wanted. Graffiti scrawled on the walls read: "Stasi, Gestapo, KGB, Securitate: all bloodsuckers."

In Romania, many people shed their blood to overthrow the Ceausescu tyranny. They had to fight against well-armed secret police, the dreaded Securitate, which fought to the bitter end to maintain its grasp on power. Romania's interim government has said it is committed to the complete disbanding of the Securitate, but many people are concerned that secret police are still active in the country. On a brief visit to Romania on Sunday [February 11] U.S. Secretary of State James Baker stressed the need to dismantle the secret police completely. Mr. Baker said the U.S. wants to help Romania, but such help will depend on the extent of internal reforms and on whether the elections planned for May are free and fair.

The Soviet Union has also made significant reforms in recent years, but the secret police apparatus, the KGB, remains a powerful and feared institution. Lasting change can come to the Soviet Union only when citizens no longer need to fear massive surveillance—and worse—from the KGB. Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by the consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

Announcer: That was an editorial reflecting the views of the U.S. Government.

O 270810Z FEB90.

Fm: SECSTATE WASHDC.

To: AMEMBASSY BAGHDAD IMMEDIATE.
Info: USIA WASHDC IMMEDIATE.
E.O. 12356: DECL: OADR.
Tags: PREL IZ.
Subject: Iraqi protest: VOA editorial.
Ref: BAGHDAD 1150.

1. Confidential—entire text.

2. Ambassador may respond to the Iraqi protest (REFTEL) over February 15 VOA editorial by making the following points:

It is in no way USG policy to suggest that the Government of Iraq is illegitimate or that the people of Iraq should or will revolt against the Government of Iraq.

We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

3. FYI: Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up.

BAKER.

Declassified under the Freedom of Information Act 7/26/90.

EMBASSY OF THE
UNITED STATES OF AMERICA,
Baghdad, Iraq, February 28, 1990.

His Excellency Deputy Prime Minister and Minister of Foreign Affairs TARIQ AZIZ,
Baghdad, Iraq.

DEAR MR. MINISTER: I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Respectfully,

APRIL GLASPIE,
American Ambassador.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, I do not know how long the Senator from Colorado will remain in the Chamber but I hope he might do so. I will be saying some things about his remarks, including my own remarks from last night.

I would just like to review—and I welcome other Members to come forward, because I would enjoy the debate—some of the events that occurred last night here on the floor.

I had not finished my remarks last evening when my longtime friend, Senator DAVE PRYOR, came to the Senate floor to challenge some of my comments. DAVID PRYOR is a remarkable man. He is probably one of the most respected men in this Chamber. He is fair, firm, kind—and the kind of person you would want on the Ethics Committee. That is where he served for so many years and did it with superb energy—so much energy that he placed his own health in jeopardy and he has recovered nicely and has indeed been in our prayers.

He was very concerned. There is no question about his concern. He was deeply moved, filled with angst, and I understand that so very clearly.

Before I could complete my address, we subsequently moved on to the transportation bill. So I would like to do that at this time.

Senator AL GORE made what was billed as a major foreign policy speech on Tuesday. It received tremendously wide media attention in both print and television. I want to reiterate this so that we have everything in order here as we review all of this: Not one Republican made any type of response on this floor to Senator GORE's speech until it was then entered into the CONGRESSIONAL RECORD by Senator WIRTH on September 29, 1992.

Last night it was alleged that I had violated Senate rule 19.2. We know what that rule is. We discussed that last night. The rule 19.2 states:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

What Senator GORE said about Senator DOLE and this Senator from Wyoming in his public speech Tuesday in the public record and domain is fair game. There is nothing wrong with that. You can say anything you want to about a colleague in public, and he did. And I will quote that in a minute.

But I would clearly point out that Senator GORE's statement, which later came into the official proceedings of the U.S. Senate, when it was placed in the CONGRESSIONAL RECORD, included a number of the most egregious and wholly erroneous characterizations of not just one U.S. Senator but five U.S. Senators, as a result of a visit to Iraq.

Not only did that traveling group include Senator DOLE and myself, as the Senator correctly indicated, but it also included Senator MURKOWSKI, Senator MCCLURE and Senator METZENBAUM.

Senator GORE accused us of delivering—I guess that meant all of us because 5 of us were there—at President Bush's personal request, so-called comforting news to Saddam Hussein. He characterized this as an official mission on behalf of the President. Accordingly, anyone who reads the RECORD could reasonably assume that we, according to Senator GORE, were part and parcel of the President's foreign policy. He characterized that as a policy of coddling tyrants, which Senator GORE said had been the hallmark of the administration's foreign policy.

Senator GORE said, and I quote from his speech which then became part of the CONGRESSIONAL RECORD—please hear this—he said, "Yet, on April 12, at the personal request of George Bush, Senators BOB DOLE and ALAN SIMPSON, the No. 1 and No. 2 Republican leaders in the Senate, traveled to Baghdad and told Saddam Hussein that President Bush was still ready to veto any sanctions bill that Congress might pass. Furthermore they delivered, "again at Bush's personal request" and this is still the quotation "the comforting news that the author of the offending Voice of America criticism had been fired that same day in an effort to please Saddam."

That is a direct quote from Senator GORE's speech which was placed in the CONGRESSIONAL RECORD by Senator WIRTH.

Based upon what we all know now about Saddam's deceit and tyranny, an unsuspecting reader of Senator GORE's speech might easily assume that we had given aid to an enemy. Surely there can be no more egregious violation of rule 19.2 than that. I deeply resent it, and I am offended by it.

Neither Senator WIRTH nor Senator GORE ever consulted with me prior to making such a statement concerning the motives of not one but five U.S. Senators. I have not the slightest difficulty accepting anything that the Senator from Tennessee wants to say about me in his recent speech at the Hyatt in Washington. But when it gets into the CONGRESSIONAL RECORD under the auspices of the Senator from Colorado, then it, too, is a violation of rule 19.2 without any question whatsoever, and a Parliamentarian has already determined that. That is where we are in this interesting little exercise.

At this point, I would like to note Senator BOB DOLE's response to Senator GORE's comments on this trip. I think it pretty well sets the record straight.

Senator DOLE said:

The delegation was bipartisan and included the senior Senate Democrat with that group, HOWARD METZENBAUM, Democrat of Ohio. The delegation did not go to the Middle East or Iraq at the "personal request of Bush" or the indirect request of Bush or with any reference to Bush at all. I made the decision to go based on the suggestion of other Middle East leaders, such as President Mubarak and King Hussein of Jordan and some of my colleagues and advisers. Senator METZENBAUM and others decided to accompany me entirely on their own. Having decided to go to Iraq, we did inform President Bush of our intention the night before we met with Saddam Hussein.

It would be well when making irresponsible statements to check with the sources, especially when those sources are your colleagues.

We went to the Middle East. We did not believe we would have any opportunity to see Saddam Hussein, and we went. I believe I can paraphrase what our fine Republican Leader said: With peace breaking out all over the world,

why not go to that part of the world and talk to the leaders there and talk about peace in that terribly historically, strife-torn region of the world? That excited us all. We went with excitement because the Berlin wall had come down, other things were happening, tyranny was being crushed all over Eastern Europe. It was a very exciting time.

The specific assertions in Senator GORE's speech about the delegation's trip are dead wrong. We delivered no message of any kind from President Bush about his intentions to veto any legislation. That is a fallacy. We delivered no message from President Bush about the Voice of America report, not one. Both topics were discussed, but not in the context of "delivering any message" from President Bush.

And remember, the only official transcript that came from our visit came from Iraqi radio. Iraqi radio sent the transcript of their version of our meeting to the national and international media which was hopped on pretty well with the case of the Senator from Wyoming because I referred to the media as "haughty, pampered, cynical," and many other interesting adjectives which I felt then, and still feel. And, indeed, in the context of those times when visiting with the press corps in that part of the world, it seemed almost disappointing to them, that perhaps there would not be a conflagration in that part of the world. They were almost saddened by that.

It was a strange reaction. They talked about, "Well, does this mean there will not be a great fireball against Israel?"—which is what Saddam Hussein had said. I said I think that is a stupid statement. We are here to discuss such issues and you can bet that we did. Certainly, Senator METZENBAUM did, I can assure you of that. He was powerful, persuasive, and excellent in his presentation.

Then we talked about conventional warfare in that part of the world and we hoped we could avoid that. We said it is all up to you, Saddam Hussein, as to whether we avoid conventional warfare in this part of the world. Then I shall never forget the words of Senator BOB DOLE. He said, "I have a daily reminder of the effects of war in my own body, and we are here to talk about peace."

That is what we talked about. Whatever transcript or information which came from that came from Iraqi radio or Iraqi television. You can only imagine what little twist they would have put on all that!

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts of a letter I submitted to the Casper Star-Tribune which further discusses our visit with Saddam Hussein.

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

DEAR EDITOR: [The] transcript, issued by this deceitful government who we are warring with—describes in 15 small pages approximately one hour of what was in reality a three hour and fifteen minute meeting. At that meeting we discussed the gassing of the Kurds, the 150 foot "tube" cannon of "oil field equipment," the triggering devices for nuclear weaponry and the hanging of the English journalist. We asked all the questions any thoughtful American would have asked on that date in time. We also carried with us a letter signed by the five of us, and cleared with the President, setting out the perils in his future life if he were to continue his course of action in the world. Obviously that released transcript, supplied (not "leaked") by Iraqi officials—carefully avoids any form of criticism which we leveled in the face of Saddam. Our own tape recorders were confiscated by Saddam's guards in order that there be no other record of the meeting. We were all well aware that the room was being bugged because there were microphones physically present on the conference tables.

Most of that transcript is propaganda and nicely tailored to fit Saddam's needs. In addition, a second transcript which was read on Baghdad radio differs from the other printed transcript. My critical comments of some members of the press in that part of the world were that some were "haughty, pampered, cynical and with many of them trying to win the Pulitzer Prize." That comment was correctly reported and my colleagues have said that also. Yet, none of my colleagues have ever expressed that the entire remaining portion of the transcript was correct as to our full meeting. It had many omissions. The media failed to point out any of the realities of this pure propaganda piece and in many cases they simply believed all of it themselves—"hook, line and sinker"—as they attempted to convince others of its total authenticity. Thus, my passionate scrap with Jack Anderson. In this same vein, I would suggest that the media might spend much more of its time "analyzing" the CNN reports out of Baghdad. After all, the media seems compelled to spend an hour or so analyzing every State of the Union address, and many other major speeches made by the President, delivered in plain English. One might think they would put the crafty ploys and feints used by our wartime enemy to just as tough a test!

Sincerely,

ALAN K. SIMPSON,
U.S. Senator, Wyoming.

Mr. SIMPSON. The delegation delivered a tough, a plenty tough, message to the Iraqi dictator as detailed in our letter to Saddam Hussein, signed by all five members of the delegation, including our colleague, HOWARD METZENBAUM.

I ask unanimous consent that it be printed in the RECORD.

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

Mr. President, we would like to present to you a letter signed by the five of us. We have provided the translator with a copy, and perhaps it would be easier for us to have a discussion with you after the letter has been read. It's very short.

UNITED STATES SENATE DELEGATION,
April 12, 1990.

His Excellency SADDAM HUSSEIN,
President of the Republic of Iraq, Baghdad.

DEAR MR. PRESIDENT: We appreciate your willingness to receive us during your holy month of Ramadan, particularly on such short notice.

We come to Baghdad, as a bipartisan delegation of the United States Senate, because of our belief that Iraq plays a key role in the Middle East. We would also like to see improved bilateral relations between our nations.

It is clear to us that we can never resolve the serious differences between our nations if we ignore them, or fail to take advantage of opportunities to communicate with each other clearly and candidly. For that reason, we believe it is important that you hear our very deep concerns about certain policies and activities of your Government, which stand as a major barrier to improved relations.

Your nation has just emerged from a long and costly war, which has generated concerns about your own security. But we cannot stress too firmly our conviction that your efforts to develop a nuclear, chemical and biological capability seriously jeopardize—rather than enhance—your security, potentially threaten other nations of the region, and provoke dangerous tensions throughout the Middle East. Your recent statements threatening to use chemical weapons against Israel have created anxiety among nations throughout the world. In your own interest and in the interest of peace in the Middle East, we urge you to reconsider pursuit of these dangerous programs and provocative assertions.

We must also express our profound distress at the alleged activities which led to the expulsion of an official of your diplomatic mission in the United States on charges that he was involved in a conspiracy to murder. We repeat: if our two nations are to have better relations, such activities as those alleged to have occurred must never happen again.

Finally, we urge you to become actively and constructively engaged in the peace process now underway involving Egypt, Israel, representatives of the Palestinian people, and the United States.

Mr. President, we thank you again for receiving us. We look forward to our exchange of views.

Sincerely yours,

JAMES A. MCCLURE.
HOWARD M. METZENBAUM.
BOB DOLE.
ALAN K. SIMPSON.
FRANK H. MURKOWSKI.

Mr. SIMPSON. Mr. President, by the way, there is one more bit of evidence that proves that the handlers of the Clinton-Gore ticket are not doing their homework. Our Senate delegation did not meet with Hussein in Baghdad, as the Senator claimed in his rather tall tale of woe, but in Mosul, some 200 miles from Baghdad.

That is what happened, and the only discussion we had with President George Bush came in a telephone call, which we made from Jordan the night before we went to Baghdad where we landed. Then we were taken by Saddam Hussein's security people to Mosul which as I have said was some 200 miles away.

The only reason we visited with Saddam Hussein was because President Mubarak of Egypt asked, "What are you going to do after you leave here?"

Our leader, BOB DOLE, said that we were going to go see the King of Jordan

and that we would have liked to have seen Saddam Hussein, just for our own information.

President Mubarak said "Let me pick up the phone and call him."

In our presence, he then picked up the phone in our morning meeting. He called Saddam Hussein and said, "I have these Senators here." He was speaking in Arabic and, of course, we had people with us who could translate. President Mubarak said in essence: "No, they are all right. You can see them. They are not bomb throwers. They are here on a mission of peace, and there are five of them."

We sat for another period of time. I do not remember how long it was. Suddenly we were told that on the next day we would fly to Baghdad, which we did. And so the night before we left from Jordan we called the President of the United States to tell him we were going to go to Baghdad and then to Mosul. We said, "Do you have anything to add?" He said, "No. I will be interested in whatever you tell me when you come back." And we read to the President of the United States the actual language of the letter that the five of us had composed, and signed, and which I just placed in the CONGRESSIONAL RECORD a few moments ago.

Now, that is what we did. Really not too sinister, not at all. And that is precisely the reason this Senator from Wyoming came to this floor last night and said exactly what he said. And you may note the RECORD and compare it, if you wish, with the electronic transcription and the reporters transcription. You will see that it does not differ a bit in substance. There was nothing to retract. I have nothing to retract. And so to think that should have to be presented with some semblance of a question of whether I had violated, rule 19.2, when, indeed, the insertion in the CONGRESSIONAL RECORD of what I have just read is obviously, without any question, in the framework of any Parliamentarian, clearly an abuse of that rule.

So it seems to me that these things needed to be said. We really did not go over to comfort Saddam Hussein. That is a disgusting assertion. And if that is not a violation of rule 19.2, which says, "No Senator in debate shall, directly or indirectly"—and I can tell you it may appear indirect, but it is quite direct in that it was placed in the CONGRESSIONAL RECORD by a fellow colleague.

We talked last night about comity and how we should notify each other about such speeches. I can tell you, I had no notification whatsoever that there was to be placed in the CONGRESSIONAL RECORD comments about me made in a speech by Senator GORE. No one gave me the courtesy of a call while they ripped that one through this Chamber in the form of these comments which are now in the CONGRESSIONAL RECORD. I was not given the benefit of a call. Can anyone come forward and tell me why that is or was?

So those are the things I wanted to share with my colleagues. I do not come in here in this Chamber and "run off the rail" and do things that are ugly and mean-spirited. But let me tell you, when somebody dings me in a political year, I will ding them back every time. I can tell you I learned politics in Wyoming, where it is a contact sport.

[Laughter from the gallery.]

Mr. President, I admonish the gallery to please be quiet.

The PRESIDING OFFICER. The Senator from Wyoming will please suspend. The gallery is admonished to make no notification of anything that takes place on the floor.

Mr. SIMPSON. I thank the Chair for that admonition. My father ran for the U.S. Senate in 1940, and in one community in Wyoming they cut the tires on his car and two goons came and beat him up. That was politics in 1940 in Wyoming. He was campaigning along the Union Pacific Railroad, which was not exactly Republican country in those days, although it is a little better now. I even get a few votes down there. When he ran for reelection in 1958 as Governor they did the same. They thought it was a fun thing, a high old time. He lost for Governor. The fellow who was the State Chairman who beat him is a wonderful friend today, a former Congressman. But they used to really whack each other around—and had great respect for each other.

That is what this is all about. I do not mind getting whacked around, but I do not like and I will not tolerate having it be presented to me that somehow I have violated rule 19.2 when it was really violated by a colleague without any notice, any indication, any comment, nothing whatsoever, in the way of notice to this Senator from Wyoming.

We did go to see the Iraqi dictator, and we laid it on him. Read the letter. The public, I guess, could take from Senator GORE'S speech that our delegation was somehow coddling Saddam Hussein. That is not true. We challenged him on his threats to the region. We challenged him on what he had said about Israel. We challenged him on the stability of the region. We urged him to cease the development of biological and chemical and nuclear weapons capabilities, in no uncertain terms. We outlined that his policies and conduct threatened relations between our countries. And we laid it out to him with clarity.

Just one other thing. I want to commend the comments last night that were made by my old friend, Senator PAUL SIMON from Illinois. He is a great conciliator and a great mediator. I have known him for 20 years. What he said was very true. And what he said in essence, as he wound down his comments, was that maybe we ought to stop in these next few hours and short days from placing little bombs in the RECORD and whack on each other from long distance—not here. I commend him.

And finally we have had so many lectures from some on the other side of the aisle in these last years, especially in 1988, during the Presidential campaign. Some of the majority Members practically chopped Senator DAN QUALYE to ribbons in this Chamber. They have also spent a great deal of time chopping to ribbons the President of the United States on every single issue. I could not even compile the list of adjectives that one could find in that vast array of material.

But thanks to Senator PAUL SIMON, maybe we will all listen a little more to each other. But I can tell you this Senator on this aisle has had his fill of Senators from the other side of the aisle coming to this floor with harsh, nasty, cute, clever, invective directed at President George Bush, my friend. I could see the pain of the Senator from Arkansas with his friend Senator AL GORE. It was palpable in the Chamber last night. Real pain, and he felt just like I did, to hear that kind of thing fall and ring around the ears of his friend.

As I have said, in my book of politics, an attack unanswered is an attack believed. If the Senator from Tennessee would like to have a forum where he would like to debate me, he can name the time and the place and the format. It will not be the floor of the Senate. I will be glad to participate on any subject from the Clean Air Act, to Rio, to Baghdad, or even on the road to Morocco without a supporting cast.

So I am ready for that. But I once again want to make it clear that we did not start this process. I did not start this process. It was put in the CONGRESSIONAL RECORD by a colleague, and it became a part of the official proceedings of this Chamber. I find it totally ironic, totally ironic, how several of the Members from the other side feel so defensive when they hear critical remarks about their Vice-Presidential candidate while we have heard an entire eternal flight of a trajectory of invective from that side of the aisle about our Vice Presidential candidate, Senator QUAYLE.

So for the remainder of the session I would offer to my Democrat colleagues this proposal. I would discourage any of the Members on our side of the aisle from placing campaign speeches of President Bush or Vice President QUAYLE in the RECORD. As a matter of reciprocity, I trust that the majority leadership would discourage their Members from placing Governor Clinton's or Senator GORE'S campaign speeches in the RECORD, especially if they refer to colleagues in a derogatory

manner, which in my mind is totally in violation of Senate Rule 19.2. And then maybe such responses as I was making last night—and which I am very pleased I was able to conclude today—will not be necessary. And particularly when they are responding, as I am, to a speech like Senator GORE's that impugned the character and motives of four current Members of this body.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, may I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in the process of postcloture debate on the motion to proceed.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 15 minutes.

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

THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KERREY. Mr. President, we have had two votes today, cloture votes, on motions to proceed to two very important pieces of legislation. One of them was the crime bill about which there has been much contention. Unfortunately there is a great deal of unity that did not appear during the debate, and regrettably that bill is not signed and moved on to the President. It is much needed.

There is a great, I think, sense of frustration in this body about not being able to accomplish the tasks of enacting that crime bill. I share that frustration.

Similarly we attempted to pass and move on to the President after conference the Neighborhood Schools Improvement Act. That motion to proceed also failed, and thus we will not enact legislation trying to help neighborhood schools.

I come to the floor to discuss part of the process, and I think part of the problem as well. I understand that I have, like lots of other folks, not had the opportunity to participate in these conferences. Very often we are being asked to trust the product coming back to us in the same shape as it went over. Regrettably that is not the case sometimes.

I have come to talk about the Neighborhood Schools Improvement Act, but even with the crime bill the alterations made in the bill in the conference is sometimes made in the moment that we have to get agreement with the trust and hope when they bring it back that we support it as it was when it went over, and that we will support those changes. I am not sure that is the case in this particular crime bill. Changes were made that I heard reference to that, if they were true, might have caused me to vote against the bill, which I would have regretted.

With the School Improvement Act we have a very worthwhile objective, very important objective. In light of the changes in world economy and all the rest of the changes we have observed, the importance to try to make our schools work in America has never been greater.

Yesterday the distinguished Senators from Georgia and New Mexico, Mr. NUNN and Mr. DOMENICI, were a part of a national commission that recommended action on the death penalty. They also hinted they are going to come back with recommendations on education.

We spend about $181 billion a year on public schools in America. We are converting about $181 billion from the personal income to fund about approximately 100,000 school buildings in 16,000 schools districts, about 41 million school children, with about 2.5 million teachers who are in business, in operation, for about 180 days a year on average for most school districts.

The business of those schools is to try to provide an education for those young people so that they, over the course of their lives, will be able to be productive as well as being good citizens.

Most of us have observed that a great deal of progress needs to be made. We are struggling. What S. 2, the Neighborhood School Improvement Act, attempted to do was provide an environment where the Federal Government could become a part of the local school as they struggled with the need to reform.

I believe there are many positive aspects of the bill, and for national standards to be in place is extremely important. Development of tough national education standards is an imperative for America if we are going to have some measure to evaluate at the local level how good of a job we are doing compared with other schools in the United States, as well as others in the world.

I do not like the idea of some kind of a Federal test, but that is just because I am a bit skeptical as well about the idea of any kind of a standardized test, such as SAT or some new Federal test that might get the job done. But it is critical for us to move forward with the standards, and I believe that the committee and the conference report reflected that need.

The committee also attempted to deal with the urgent requirement to provide regulatory flexibility at the local level. All of us have talked with local schools. They are faced with a pile of regulation.

We have come to the floor talking about the need to deregulate business. We just had a big argument about the cable industry, whether or not to regulate. There is no area of our life that is more regulated than our schools.

The legislation created a 10-State project to assist and to assess the impact of relaxing Federal regulations in 16 programs, serving disadvantaged students, to provide us with the road map on how we can lessen the regulatory burden we impose on our schools. In almost every single aspect we set out objectives of what we want our schools to accomplish, and then we set in motion laws followed by regulation and rules to try to carry out those objectives. I observe that we have put handcuffs on the schools at the local level in an attempt to reform.

The committee addressed that and provided, I think, an opportunity to evaluate those regulations and provide flexibility at the local level.

I have some concerns about the way this bill came back out of conference. I had hoped to be able to come to the floor and enthusiastically support it. I regret we did not have the opportunity to vote and debate on it. I am here to express those concerns not just for the purpose of filling up time, but for the purpose of informing the authorizing committee that next year when we come back to this matter, hopefully, in my judgment, with a new President, the authorizing committee needs to understand that there are people, other folks that are not on that committee that have a powerful concern about providing the opportunity for reform at the local level.

Regrettably, the bill as it came back had a formula program again that guaranteed every State a certain amount of money. I would say if we are going to take this approach it would be better to ask the States to equalize financing in return for receiving the Federal reform funds, but to merely provide in some form or fashion every single State with some money I think risks advancing the very reform that we seek to achieve.

Second, I observe, and comment on what was said on the other side of the aisle—and there was a great deal of truth to what they were saying—the legislation in the end reinforced the bureaucratic approach. Under this legislation as it came back from conference, States would develop a State committee. Unfortunately, for all practical purposes it would be run by State Departments of Education. In some cases that is fine. But in others it may not be.

Unfortunately, the bill did not give us a mechanism to allow us to give those State agencies, that were advocates of reform, even those that might produce, a structure in their own organization from those who are just talking about the reform, but want to make sure that they have the opportunity to define the reforms so as to protect the status quo.

Then local school districts would go through a similar process—a commit-

tee, developing a local plan, and then the schools within the district would submit proposals for school reforms to the local committee for approval.

This approach does not challenge the current structure that has acted as a tremendous drag on real reform. This legislation will allow the current structure, Mr. President, to define the reform and therefore I doubt that it will indeed spur real reform.

Mr. President, this approach reinforces the top-down effort to reform itself. Local entities, by this legislation, would be required to have a reform plan that is consistent with State plans, and while this seems reasonable, they would have to have something again consistent with the State plans. I am concerned that we will be telling local districts and schools that these are the true reforms of reform. In other words, the State education agency would be putting the word out. If you are going to reform, here is to how we would like you to reform. We approve of this kind of reform, but if you come up with some other kind of reform, some other desired way to get the job done, then you may find yourself being turned down.

Beyond that, this legislation, while outlining the worthy goals of helping disadvantaged Americans, ends up in my judgment micromanaging the reform process at the local level. Let me give you some examples.

The local committee may decide to involve a parent, God forbid. It is required by the legislation that the parent be a parent of a disabled child, low-income child, or a child with limited English proficiency. All of that is desirable, but what we are saying is that if you are a parent of a child who is not disabled, not a low-income child, who is a child that does not have limited English proficiency, then you may not have the opportunity to become involved.

It seems to me, again, that we are micromanaging from Washington, DC, the reform process. Certainly, we can establish standards that prevent the local schools from acts of discrimination, and we can make certain that the civil rights laws of the United States are going to be applied in our school boards, but with our own legislation, to write that kind of detail, Mr. President, I think again runs counter to the desire to encourage community-based reform in America.

The local plan developed by the local committee is required as well to meet a number of criteria including reflect cultural awareness and multicultural awareness; encourage alternative learning styles; promote gender equity in class.

These are worthy goals, Mr. President. I do not take away from the fact that the Member of the House, or whoever it was in the conference committee, established worthy goals, but unless we want to change in a radical fashion and have all of education in America being run out of Washington, we should establish instead broad, general, and tough standards for civil rights in this country, and then allow the people at the local level to develop their own curriculum and efforts of reform.

Some specific areas of concern, Mr. President. As written, the legislation does not seem to allow small rural school districts to form consortiums to apply jointly for school reform funds. Many rural school districts do not have the resources to apply for grants as the bill is currently written.

In addition, Mr. President, there is a very controversial issue that all of us get asked about when we are filling out questionnaires and are running for office which is: Do you support school vouchers or school choice? It has become a very important part of the political debate.

I, myself, think that vouchers mandated particularly out of Washington, DC, are dangerous. I have seen the school choice work and not work. But there is an idea today in America that has a considerable amount of merit, and I support it strongly and this bill, as it went over to the House, would have allowed it, and in conference that was taken out, and it gives those of us who want to see school reform occur, want to see competition, want to see flexibility, want to see innovation, but are concerned about the dangerous aspect of vouchers, and allows those of us who feel that way, to have that policy worked out in a charter school concept.

The Senate version specifically mentions charter schools as one of the models to be considered by States and localities, but unfortunately, that provision was removed. To me, Mr. President, that is a crucial error on the part of the conferees. For those of my colleagues who do not understand the charter school concept, they are public schools. The public school board charters with the direct contract with sometimes private sector operators, sometimes private schools, but other entities to carry out some function that the public school itself is struggling to get done, particularly in the area of dropouts and children who are struggling to learn in the school; these charter schools provide a smaller scale innovative opportunity for public schools to be able to get the job done.

I support them. I understand there are opponents of it. There is a hearing and thinking that this is somehow the proverbial nose under the tent regarding vouchers. I think they are quite the opposite. They reinforce the desire to have strong public schools, but I recognize that there are times those institutions need to contract outside to get the job done.

Perhaps a better example of the desire to provide State flexibility in our language—but when it becomes time to act, we do just the opposite—no better example can we find than in a little provision added at the end of this bill called a buy American provision. I am for buying American, Mr. President. Who in this Chamber is not for buying American? Who in this Chamber does not think we should not go out and buy American products and make sure Americans have the opportunity to have jobs here at home?

But, Mr. President, at the same time, we are taking a step forward in addressing the increasing paperwork and lack or regulatory flexibility. We attack this tiny provision, expressing the sense of the Congress that entities that receive assistance should be notified by the Secretary of Education, by the Federal Government, that it is the sense of the Congress that they buy American when using these funds.

Mr. President, we are adding regulation. We are not just achieving some popular notion that says we are all for buy American. We are insisting that 16,000 local school districts, local school entities, before they receive money to restructure their schools, that they have to certify in some unstated fashion at this point that they are going to buy American when they use these funds.

Mr. President, I believe when it comes to education, we are going to have an active debate next year. I believe we are going to have a President in Bill Clinton who has been involved in education in the State of Arkansas.

I believe we are going to have a President in Bill Clinton who is passionately concerned about education. He understands the need for local control. He understands the need for a Federal partner that will reinforce parents and community leaders and business leaders that are trying to improve the quality of education in America today.

I believe that the Congress of the United States will have the opportunity to hear in the first inaugural address from President Clinton a challenge to participate in providing local communities the opportunity to restructure and reform their schools so as to be able to produce graduates, Mr. President, that will have the skills, the enthusiasm, and the ability to earn a living over the course of their lives and to be good citizens of this country.

I hope that when the Congress responds to an action-oriented President in President Clinton, they will not fall into the trap of saying that we know best. If we want reform at the local level, then we have to let that reform happen. Unfortunately, Mr. President, I feel like the conference bill, as it came back, did not trust democracy from below.

I yield the floor.

Mr. BYRD addressed the Chair.

Mr. WIRTH. Will the Senator yield to the Senator from Colorado?

Mr. BYRD. Mr. President, may I ask the Senator how long he would like?

Mr. WIRTH. Five minutes maximum. I shall not use all of that time.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Colorado for 5 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RULES OF THE SENATE

Mr. WIRTH. Mr. President, I was pleased that I was here earlier to hear the remarks of the distinguished Senator from Wyoming. I have enormous respect for the distinguished Senator. He and I have worked together on so many, many issues, as we all have. And you cannot help but enjoy working with ALAN SIMPSON, whether one agrees or disagrees. We have worked on baseball, and population, and fishing, and on issues dear to our particular area of the West.

So I wanted to address in particular Senator SIMPSON'S citing of rule 19.2, which says:

> No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I want to tell my colleagues that it was not in any way, shape, or form my intention to do so related to the distinguished Senator from Wyoming or to any other Member of this institution.

I placed in the RECORD the speech that was given by Senator GORE, the speech of some discussion, in which there is a paragraph related to what happened in April in Iraq. It was a recitation of that history that Senator GORE had included here, a recitation of that history which as I read it and know of that section and have now reviewed all of the documents—and I think I can say very clearly on behalf of Senator GORE, it is not intended in any way, shape, or form to impugn the integrity or motive whatever of any Member of that Senate delegation.

Rather, I think we are talking about a difference in policy, a difference in what happened at this meeting. The meeting was reported by the Iraqi service. It was later confirmed in press reports, and later confirmed by our State Department, what had happened there.

And repeatedly in the transcript are references to the fact that the Senate delegation had recently talked to President Bush, and I think reading that, as I look back at this, valuing as I do the concerns of the Senator from Wyoming, looking at this one could read it very much in that fashion that in fact they are registering and were reflecting the President's concerns.

So I appreciate the Senator from West Virginia yielding me this time. I have reread these documents again and I know I can say on behalf of Senator GORE that he had no intention at all in what he included in here of suggesting anything related to impute the conduct or anything else related to the distinguished Senator from Wyoming or anyone else.

We have a policy difference and perhaps some difference in interpretation as to what happened, and rather than put all these documents in the RECORD, I am going to ask my staff to sit down with the staff of the distinguished Senator from Wyoming and look at the documents and make sure that we all understand, and Senator SIMPSON and I can understand where any difference of opinion might have come about reading those documents. Those documents were the basis of Senator GORE's speech. I have recently reviewed them. I think I understand how those conclusions were reached. Clearly, it may be up for other interpretation and I think we ought to look at that and make sure we understand it.

I want at this point to just publicly say to the distinguished Senator if he felt that I was in any way, shape, or form impugning any of his motives, or whatever it may be, that is the furthest from my mind. I deeply apologize for that. I would never do anything like that, as the Senator knows, and I would then leave it open from there and maybe we can have our two staffs take a look at this and we together can take a look at just the exact paragraph that is at issue in that speech and make sure we understand from the documents where that paragraph came from and I think we are talking about differences in interpretation of history and nothing more than that.

The PRESIDING OFFICER (Mr. DODD). The President pro tempore has the floor.

Mr. SIMPSON. May I inquire of the senior Senator from West Virginia if I may have 2 minutes to respond to my friend from Colorado?

Mr. BYRD. Mr. President, I gladly yield 2 minutes to the distinguished Senator from Wyoming with the understanding that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, the President pro tempore retains the floor.

The Senator from Wyoming is recognized for 2 minutes.

Mr. SIMPSON. Mr. President, I greatly appreciate the remarks of my friend the Senator from Colorado. He came over to communicate this to me during this debate. I know him well. We have enjoyed each other's company greatly. He and I and our spouses are friends.

He left out one other thing we worked on, and that was that we were trying to bring some Cossacks over here and trade them for a bunch of cowboys to go there—and all have a rodeo in Cheyenne. We did not get that done or one in the Caucasus. That will come at another time.

I do greatly appreciate his comments today. I was offended by the comments of Senator GORE made on September 29th when I read them in the CONGRESSIONAL RECORD. I was not offended at all that they were presented during the course of his recent speech at the Hyatt in Washington. That is fair game. I understand that one. But the word "comforting" to Hussein—as appeared in the CONGRESSIONAL RECORD was not at all comforting to me.

I deeply understand what the Senator is saying. I appreciate it. It takes a great and generous person to do what he has just done, and I accept it as a friend. Perhaps we can restrain ourselves on both sides in these next hours before we get out of town. Then we can really go whack on each other with gusto outside of this Chamber.

Thank you very much.

Mr. WIRTH. I thank the distinguished Senator and the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed out of order for 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized out of order for up to 15 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

RIDDICK'S SENATE PROCEDURE

Mr. BYRD. Mr. President, I call to the attention of Senators the publication titled "Riddick's Senate Procedure." This is a newly published book on Senate procedure. It contains 1,564 pages, including the appendix but not the index. And its predecessor contained 1,289 pages. In other words, this volume contains almost 300 pages more than its predecessor volume.

I call attention to this new book, because I think it warrants the attention of the public and particularly the attention of my colleagues.

I read now from my own book, volume 2 of the Senate, 1789–1989, page 45, chapter 3 titled "Rules."

> Mr. President, someone has said that the difference between a lynching and a fair trial is procedure.
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> In his Manual of Parliamentary Practice, Thomas Jefferson quoted "Mr. Onslow, the ablest among the Speakers of the House of Commons" as follows:
>
> It was a maxim he had often heard when he was a young man, from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Jefferson himself wrote that whether the rules of a legislative body

* * * be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

And then I go on to say as follows:

All legislative bodies need rules to follow if they are to transact business in an orderly fashion and if they are to operate fairly, efficiently, and expeditiously.

So the rules are exceedingly important. They are very basic, and the rules of the Senate have been developed over a period of more than two centuries, and in my volume on the Senate, 1789–1989, I trace the development of the rules from the very beginning of the Senate in 1789 to the date of the publication of my own volume in 1989.

I point out in my history of the Senate that the rules of the Senate by which we operate today, in many ways, are almost the same, if not the same, as the rules which were adopted in 1789, and that, in some respects, the rules of today even have their roots in the Continental Congress that first met in 1774 and, even beyond that, reaching across the great Atlantic Ocean to the House of Commons in England.

When I first came to the Senate, the Southern Senators, in particular, were very conversant with the rules of the Senate.

The late Senator Richard Russell, of Georgia, was at that time acclaimed to be the expert, insofar as Senators were concerned, on the Senate rules. At that time, the Parliamentarian was named Watkins when I first came here.

I was talking with Senator Russell one day, and I commented on his purported knowledge of the rules. I had not been here a long time, but I had heard it said that he was the master of the rules, if there can be such, if there can be a master of the rules.

He indicated to me that the rules were very important, but, he said, as much so or more important are the precedents of the Senate. The precedents are much like the old common law of England. The common law was built upon precedents.

Now the book on Senate procedure contains the precedents of the Senate.

The rules of the Senate are not—this little volume is not very voluminous, as those who are listening and watching can well see. I hold in hand a booklet titled "Standing Rules of the Senate".

Now, the copy of the Standing Rules of the Senate, which I hold in my hand, consists of 59 pages. There is a considerable amount of material in this pamphlet that really should be stricken from it because it is of no use in our daily work here. It has to do with appointments to committees and so on and so on.

For example, reading from page 35.

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

And it goes on for several paragraphs of that nature. I have thought about asking the leadership and others if we might find a way to delete those sections from this booklet so that Senators who really want to look at the rules of the Senate will not be intimidated by a grouping of paragraphs that, for all intents and purposes, serve no purpose.

Now, this is the book on procedure. This book contains the precedents as brought up to date by Dr. Riddick and our parliamentarian, Alan Frumin.

For more than one-third of a century, I have been privileged to call Dr. Floyd Riddick my teacher and friend. Dr. Riddick has participated in, and observed, the operations of the U.S. Senate for more than 50 years. No other staff member or independent scholar of the Senate's 200-year history has possessed his mastery of the institution's precedents and practices.

Among the many distinctions of Dr. Riddick's remarkable career, two major contributions are worthy of special note. He is the second person to have served as the Senate's official Parliamentarian, and he is the principal author, as I have already indicated, of this indispensable volume.

While conducting research for his Duke University doctoral dissertation in the late 1930's, he spent a year observing the workings of the U.S. House of Representatives. In 1941, he published that dissertation in a book entitled "Congressional Procedure."

In the decades to follow, Dr. Riddick would publish other works that have become classics in the field of legislative operations and procedure.

In 1947, he was invited to establish a new section for the CONGRESSIONAL RECORD to summarize floor activities and other events titled the "Daily Digest." It is a very useful compartment of the daily CONGRESSIONAL RECORD.

Dr. Riddick joined the Office of Senate Parliamentarian in 1951 and remained there for 24 richly productive years. From 1964 until 1974, he held the post of Senate Parliamentarian, and since that time he has faithfully served the Senate as its Parliamentarian Emeritus.

In speeches of tribute at the time of Dr. Riddick's 1974 retirement, Senators called him "the Senate's truly indispensable man," and noted that "without his daily wisdom and guidance and constant reassurance," the Senate would not have functioned as effectively as a legislative body. The Parliamentarian's office, they suggested, might have seemed quiet, but it was "the quiet at the center of the storm." Seated at the lower dais in the Senate Chamber, immediately before the Presiding Officer, Dr. Riddick was always at the center of every major Senate debate.

In the book on Senate Procedure, this unique scholar preserves and shares his many decades of experience with the parliamentary precedents and procedures of the U.S. Senate.

Without the talent and the dedication of Senate Parliamentarian Alan Frumin, this edition of Riddick's Senate procedure would not exist. Mr. Frumin received his undergraduate education at Colgate University and holds a juris doctor degree from Georgetown University. Before coming to the Senate in 1977 as Third Assistant Parliamentarian, he worked for the House of Representatives as an editor for "Deschler's Precedents."

By January 1981, Mr. Frumin had advanced to the rank of First Assistant Parliamentarian, and since January 1987 he has served as Parliamentarian of the Senate.

Although previous Parliamentarians had enjoyed long office apprenticeships before assuming floor duties, Mr. Frumin accepted these responsibilities within his first year at the Senate. He was often the Parliamentarian on duty during a most difficult and contentious filibuster in the fall of 1977, barely 9 months after he first came to the Senate.

I can remember that contentious filibuster, the most contentious filibuster that I have ever witnessed. And in that instance, I was at the center of the storm, not Dr. Riddick.

Senators who are still in the Senate who were here at that time will very well remember the filibuster on the natural gas legislation. That filibuster was very ably led by Senator METZENBAUM, and former Senator Abourezk, two very good-natured Senators. They tied this Senate in knots for days—days—as I remember, 13 days of it and 1 night. And they would have gone on and on—they probably would be filibustering yet—if a couple of things had not happened—the passage of time, of course, and events.

Having asked the Vice President of the United States, Mr. Walter Mondale, to take the Chair, I made certain points of order which were upheld by the Chair. This broke the back of the filibuster, and it was over within a couple of hours.

But, while the filibuster's back was broken, I came very near having my head, or neck, I thought, at least figuratively speaking, broken. That was truly an electrifying event here when I, as the leader of my own party in the

Senate, was in great contention with members of my own party on this side because I was trying to break the filibuster. Even though I, on the substance of the matter, sided with the filibusters, I felt it was my duty to break it.

Anyhow, Alan Frumin was here at that time. And he was getting his apprenticeship, if I might use that term, while I was taking quite a bit of flak from my own colleagues on this side of the aisle.

In 1981, in conjunction with personnel from the Senate Computer Center, Mr. Frumin designed the Senate's Rules and Precedents computer data base. In order to maintain that data base he was given full responsibility for compiling, analyzing and writing the current Precedents of the Senate. These precedents have now been incorporated by Mr. Frumin, with Dr. Riddick's assistance, into this edition of Senate Procedure. These new precedents, together with amendments to the Standing Rules of the Senate, pertinent statutory provisions and revised explanatory material, comprise "Riddick's Senate Procedure."

Together, the careers of Dr. Riddick and Mr. Frumin span more than four decades of service to the Senate. Their collaboration on this volume is a testimony to the continuity of the Senate's rules, precedents and practices and the dedication of the Senators and career staff to preserving the traditions of the United States Senate.

Mr. President, I will say just a few further words concerning the importance of this newly published volume.

Dr. Riddick and Mr. Frumin have not only put hours into the production of this volume; they have put in years of their lives, good years of their lives; years of toil, the searching of precedents methodically, systematically and meticulously. And they have compiled these precedents for the benefit of Senators and for the benefit of the Senate. And Senators ought to read this volume.

I would not say it would compete with the works of Herodotus or Thucydides or Xenophon or Polybius or Eutropius or Tacitus or Procopius or Zosimus or Cassius Dio Cocceianus, or Gibbon, or Plutarch, or Suetonius, or others of the ancient historians. But it is exceedingly important that Senators be at least somewhat conversant with the precedents of the Senate.

We owe it to the parliamentarians who spent much of their lives in compiling it. More than that, we owe it to the Senate of the United States.

Majorian, when he became Emperor of the West in the year 457 AD, referred to himself as, "a prince who still glories in the name of Senator."

Augustus reigned from 27 BC to 14 AD, as the first emperor. His name originally was Gaius Octavius and he took the name of Gaius Julius Caesar Octavianus when he was adopted by his uncle Julius Caesar. He was given the title Augustus—meaning "exalted," "sacred"—in 27 B.C. by the Roman Senate. He always maintained that the title of which he was most proud was that of Princeps Senatus, the Prince of the Senate.

I do not expect every Senator, or any Senator, for that matter, to adopt my views with respect to things. But I think that most Members would have given an arm to become a United States Senator. And many of them have given a great deal to become a United States Senator. And, as did Majorian; they ought to glory in the name of Senator.

There have only been 1800 United States Senators since the Senate first met in 1789. It is quite an august institution. And Senators ought, with humility to, take pride in having been selected by their constituents to be a Member of "the Senate."

One hundred Members, like the first Roman Senate, which legend tells us that Romulus created when he established Rome, in 753 B.C. That date may be somewhat in question. But generally speaking, I think it is accepted.

There were 100 Senators in that Roman Senate. The greatest Senate, in my judgment, of all the Senates of the world, from the very beginning of legislative bodies, is the American Senate. There were 96 Senators here when I first came to this body; today there are 100, as we all know.

I sometimes wonder if all Senators really understand the meaning of "Senator," and have an understanding of this institution.

There is not much by way of headlines in the reading of this book. But a Senator who knows the rules of the Senate fairly well, and the precedents, and is pretty sure-footed, can at critical times hold the Senate in this hand—in his hand, so to speak. And procedure determines whether or not the substance of legislation becomes law.

The rules govern debate. The debate governs the legislation. The legislation then, in being enacted into law, impacts upon the country.

Mr. President, I know there are those in the fourth estate, and some in the Senate itself, perhaps, and otherwise, who do not think much of Senate procedure. Who would want to tie himself down and waste his time on that dull reading?

Well, if one likes mathematics, he will probably like Senate procedure. Because it will tax one's thinking processes. But one owes it to himself, if he is going to carry the title of Senator, to develop an institutional memory, and his pride in this institution will then grow.

Without procedure, there would not be laws enacted by a Representative body.

Our colleagues should always keep in mind, that they are being watched by the people inside and on the outside. The Senator who sits in that chair should never sign letters or read newspapers or books while presiding. He should do that in his office or somewhere else other than in that chair. The camera is on that chair much of the time. Watching that chair are students, professors, lawyers, judges, Parliamentarians, members of State legislatures, city councils—people from all over the world see that chair, and they ought to see the best. When the public observes the United States Senate, they ought to see the best.

I have been a member of State legislative bodies in the House and Senate of West Virginia, so I can talk somewhat freely and knowledgeably about State legislatures. That is where I started. Many State legislators start there and some never get beyond there, and they render a great service to the people of their respective States in those legislative bodies. But they do watch the United States Senate. I have seen some very capable members of the State legislature of West Virginia. I served in the State legislature of West Virginia with two former United States Senators when I was in the House of Delegates there, the late Rush D. Holt and another Senator by the name of Rosier.

But that chair is being watched and Senators are being watched as they speak on this floor, and other Senators watch Senators. A Senator who comes here and is newly sworn can be forgiven. It can be expected that he would perhaps not comport himself as Senators are required to do by the rules. But Senators who have been here any considerable length of time should learn a number of simple things. One is, a Senator should not address another Senator in the second person. I hear that so much of the time here, and I am troubled by it. There is a purpose and a reason back of that rule that requires addressing other Senators through the Chair and in the third person. It lowers the acridity of debate. It makes it impersonal. And it keeps the decibel a little less than sharp or shrill. It contributes to decorousness in debate. Senators ought to strive to comport with that rule. To say "you" in addressing another Senator is like pointing one's finger at another person. It becomes personal.

A few other small items I will mention, but they are important. Senators should learn that there is no such motion as, "Mr. President, I move the adoption of the resolution;" "Mr. President, I move the adoption of the amendment." When one moves, he makes a motion, and formal Senate procedure, Senate rules do not recognize such a motion.

The Senator does not have to say, "Mr. President, I move the adoption of the amendment;" "I move the adoption of the resolution;" "I move the adop-

tion of the bill." Any Senator who knows the rules knows that that Senator does not know the rules. There is no such motion. And yet practically all Senators fall into this habit. I suppose it gets to be a habit like the inane senseless expression "you know;" "you know."

Now why is it not necessary to say, "Mr. President, I move the adoption?" In the U.S. Senate, when all debate ceases and no Senator seeks recognition, the Chair will automatically put the question. And if Senators will note that when they say, "I move the adoption of the amendment," the Chair never says, "You have heard the motion by the Senator from West Virginia." The Chair always says, "Is there further debate?" Which is to say, the Chair pays no attention to that pseudo motion. The Chair carries out the rules. If Senators will just sit down, if there is a question pending before the Senate, the Chair will state it when nobody seeks recognition.

Another small item I have noticed is, when Senators send amendments to the desk, they most always say, "I send an amendment to the desk, and I ask for its immediate consideration." Senators do not need to do that. All they need do is say, "I send an amendment to the desk," and the Chair will take over from there. That amendment goes to the desk, if no other amendment is pending, and the Chair will say, "The clerk will state the amendment."

Many times staffs will hand me a piece of paper, when I am going to send an amendment to the desk. They will write on the piece of paper for me, "Mr. President, I send an amendment to the desk and I ask for its immediate consideration." And I say to the staff, you do not need all that verbiage. The Chair will take over from there and will forthwith tell the clerk to state the amendment.

Now if there is a pending amendment, and it needs to be set aside, that is a different matter. One would send his amendment to the desk and ask unanimous consent that the pending amendment be set aside temporarily, but so much for that.

Those are just little things. But the "little foxes spoil the vine," we are told in the Book of Proverbs. These are little foxes I am addressing.

So, Mr. President, I thought that, on this Friday afternoon when the Senate seems not to be in a great rush to transact business, I would call attention to the new book, "Riddick's Senate Procedure," and reference its importance to the body and urge my colleagues to read it. If it is the good Lord's will to let me live, I plan to read this book, along with some additional volumes on the history of England and Roman history and perhaps something by Epictetus and Heraclitus and other philosophers. Just a few readings I have in mind during the break. I intend to be the first Senator to read this book from beginning to end.

Let me close these random remarks by calling attention, again, to the Senate, 1789 to 1989, page 57, where I write as follows:

> Mr. President, during my twenty-two years of service in various leadership posts in the Senate—secretary of the Democratic conference, majority whip, majority leader, minority leader, again majority leader, and now president pro tempore—I have had the opportunity to become familiar with this body's rules and many of its precedents. As I have noted on other occasions, to know the rules and precedents is to know the Senate and its infinite capacity for flexibility in serving as a forum for reasoned deliberation and constructive action. To study the development of the Senate's rules over the past two hundred years is, indeed, to study the very history and institutional fiber of the Senate. The Senate's rules are milestones by which we can measure its struggle to meet the needs of a growing nation. With the passage of time, outmoded rules have fallen by the wayside, while those that have effectively promoted the Senate's business have survived in their original or modified form.
>
> My experience with the Senate's rules compels me to appreciate the wisdom that Vice President Adlai Stevenson expressed in his farewell address to the Senate on March 3, 1897. I believe his observation is as fitting today as it was at the end of the nineteenth century.

Before reading his observation, let me also hasten to mention a word of thanks to the Secretary of the Senate, Mr. Joe Stewart, for his having worked with the Parliamentarians, at my request—I was the majority leader at that time—to press forward on this magisterial work on Senate procedure.

I also would be remiss if I did not express a word of gratitude to Mrs. Riddick and to Mrs. Frumin, because, while their husbands were detained many hours into the evenings over the years in the development of this volume of precedents, they, the wives of these two gentlemen had to be very patient, understanding, and supportive. Too often we forget the sacrifices that our spouses make while we labor in the vineyard of the peoples' business.

So I thank them, too. And I thank our two leaders for their strong support of the effort by the two authors of this volume.

Now, Vice President Adlai Stevenson spoke as follows:

> It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort in legislative hall, to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict. By its rules the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate, and its methods of procedure, it may be truly said: "They know not what they do." In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate.

Parenthetically, let me state that therein for the most part, not entirely but for the most part, lies the uniqueness of this legislative body, the greatest Senate in the history of the world, the American Senate: The ability to amend and, more particularly, to debate at length.

> Great evils often result from hasty legislation; rarely from the delay which follows full discussion and deliberation. In my humble judgment, the historic Senate—preserving the unrestricted right of amendment and of debate, maintaining intact the time-honored parliamentary methods and amenities which unfailingly secure action after deliberation—possesses in our scheme of government a value which can not be measured by words.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I first say to my very good friend, the distinguished senior Senator from West Virginia, I always greatly appreciate his efforts to educate people like the Senator from New Mexico. I thank him for that.

I remember 20 years ago, when I came here, one of the ideas was to have Dr. Riddick teach us, and we had then organized some classes so we would learn the rules. I must say the Senator's assessment of what most did is right. Most said this is not very important. But it took a while, and I must admit, at least for this Senator, I found out, although not the hard way, it was imperative that the rules, basic rules be understood.

I might suggest—just to put my little bit in this record—this Senator came here direct from a mayorship of the city of Albuquerque, so I was never a legislator in the sense of State legislatures and obviously had never been in the House of Representatives.

Legislating in a city is much different, especially when you are mayor presiding over the ordinance drafting, which is legislative. But essentially I would like to say that until this Senator felt comfortable with the rules, I really never did a good job in this Chamber with the things I wanted to do for my State or for the country because you never quite feel relaxed. You always have to inquire of someone, and you are constantly—if you are normal, your nature makes you kind of timid and apprehensive, and when you see somebody come to the floor that you know knows the rules and you are in the middle of some kind of very difficult discussion and debate, you know they can do something. It is a lot better to know what they can do than to be on the floor arguing and wondering. You can anticipate, if you are as good as Senator BYRD, what they can do under all circumstances.

But, clearly, what the Senator has said here is not a lesson only for those Senators who think they know the rules but for everybody in this body. Clearly, we are at that time when a number of new Senators are going to

come in, and maybe it would serve them well just to take this very simple little lesson today and just a few basics and get started down that path.

While the new volume on "Precedents of the Senate" was talked about today, I just want to lend my statement of real admiration for Dr. Riddick. When I first came, he was already beginning to be less than fully active. That is how experienced he is. But everyone knew that if we had a tough one, we would clearly, in either a partisan or bipartisan way, get him in the cloakroom or somewhere and talk to him about the issues, as I remember, about what could and could not be done.

We have a lot of such help now, but I am sure there is no one around quite like him. And while I do not want to make the commitment that I will read that entire volume—I am one who has a great deal of difficulty reading that kind of history, so to speak—the Senator's suggestions did not fall on totally unfertile ground, and I will try my best to see what I can make of it.

THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. DOMENICI Mr. President, I cannot state strongly enough my objections to the education bill we have before us today. I truly wish I could have stood before you today to say otherwise.

I think it is fair to say that all of us in the Senate are in favor of education. Further, I think all of us are in favor of educational reform. Frankly, it is because I am in favor of education and meaningful education reform that I will express my opposition to this bill by voting against invoking cloture.

The language we have before us is not the kind of reform we are looking for. The heavily partisan report shows a complete and utter disregard for the reforms proposed by the President's America 2000 initiative—many of which were contained in the Senate version of the bill. The report is not innovative, it is simply more of the same old thing. A lot more of the same old thing: More Federal spending, more Federal interference, and more bureaucracy.

When we passed S. 2 back in January, I was one of the 92 Senators who voted in favor of the bill. S. 2 was not a perfect bill—far from it. Yet, it was a good compromise, and a good start at implementing reform. I was pleased with many provisions in the bill, and was hoping that the House would take the initiative to improve upon the foundation we had put into place.

I do not need to tell you what happened. The House of Representatives presented us with a partisan bill that did nothing to implement meaningful reforms. It was basically just another block grant program with lots of strings tied to the Federal bureaucrats. I strongly disagreed with the language in the House bill, and on September 15 the Senate overwhelmingly approved the motion to disagree with the House version of the legislation and send the bill to conference.

Frankly, Mr. President, I was shocked by the language of the bill we got back from the conference. Not only did we lose many important provisions of the Senate version of the bill, but the conference basically shut out Republicans—who did not even sign the conference report—in order to craft a bill which would force a Presidential veto just before the election. I cannot tell you how disgusted and disappointed I am that the provisions of the President's America 2000 educational initiative—which were included in the Senate version of the bill—have been removed.

First of all, the report makes no mention of New American Schools provision. New American schools are meant to be the first wave of a new generation of break the mold schools. These schools reflect the best of what is known about teaching, learning, and educational technologies to enable all students to meet world class standards of achievement. The New American Schools Development Corp.—which is not a Republican commission, but a private, nonprofit organization—announced in July the 11 design teams whose ideas will serve as blueprints for reinventing schools.

More than 680 organizations, including seven from New Mexico, submitted plans to the NASDC. Educators are obviously enthusiastic about this program. But now we are telling the President—and the educational community as well—that this idea is not worth considering. Frankly, I find that insulting, as I'm sure do the 11 design teams from all across the country.

The report also rejects the President's proposal regarding school choice. While the bill that passed in the Senate contained provisions allowing for only public school choice—language, in my view, that was not broad enough—the conference report contains no school choice provision at all. Even the minimal change contained in S. 2 was considered too much of a reform. We are once again left holding the bag reading "status quo."

Mr. President, why are we so determined to stand still? Last year, the Appropriations Committee allocated $100 million for fiscal year 1992 for America 2000 initiatives, pending enactment of authorizing legislation. Obviously, we will never approach that authorization. Meanwhile, as the conference report telegraphs the message that America 2000 is not sound educational policy, hundreds of communities across our country are already carrying out America 2000 activities—including Las Cruces, NM, which became an America 2000 community in October 1991. Thousands of people—Governors, businessmen, educators, students, parents, and concerned citizens—are working to carry out this reform strategy. And we are telling them in this report that these efforts aren't worth their time. Again, I find that insulting.

Further, the provisons that have been left in place have been altered so as to be virtually unrecognizable. The President has asked us to help ease the regulatory burden we too often have placed upon our local school districts. In the Senate version of S. 2, we approved an amendment proposed by Senator HATFIELD allowing the Secretary of Education to waive statutory or regulatory requirements that may stand in the way of achieving educational gains. In return, grantees would be held absolutely accountable for achieving these gains.

Mr. President, this amendment—a perfectly logical, reasonable provision—was unanimously accepted by the Senate. Look over the conference report now and you will find that this provision exists in name only. In its place is a program to allow the waiver of specific Federal requirements for schools that wish to explore better ways of educating disadvantaged students—but only to those schools with chapter 1 programs. This automatically cuts a number of schools out of the equation, including most high schools. This is an extremely limited scope, and it is obviously inconsistent with the intent of the Senate language and the President's request. This so-called flexibility is nothing but smoke and mirrors.

Even more outrageous is the wrench that has been thrown into the gears of the school improvement block grant. The block grant approved in the Senate bill sent money to State and local neighborhood schools with a few Federal conditions.

What do we find in the conference report, but that this provision has been gutted, and restuffed with new regulations and needless bureaucracy. The conference report, like the House bill, prescribes an enormous bureaucracy. The number of bureaucratic advisory councils and agencies this bill puts into place to bounce and direct the grant money looks like it was designed to be a pinball machine.

Let me make this clear: This bill is a bureaucratic boondoggle. Funding goes directly to bureaucrats long before our children will ever see it. Under the direction of the conference report, in the first year, all $800 million allocated by the bill goes to State educational agencies solely for planning purposes. None of it will go to schools, principals, or teachers.

What happens the second year? Will our teachers and students begin to reap the benefits of this planning phase? Not yet. We've put another level of planning into place at the local level, and 30 percent of the funds are still set aside for administrative costs. By the

time State and local educational agencies finish with planning, the bureaucratic filter ensures that only 68 percent of the State grant will ever reach the schools.

Mr. President, I support improving our educational system, I regularly hear from the teachers, principals, and administrators in New Mexico who tell me they are being strangled by regulation and intimidated by a government that too often wants to peek over their shoulders. I honestly want to give our educators the opportunities they need to do their jobs right, which means doing their jobs effectively, creatively, and efficiently. Bureaucratic chains of command do not allow educators this opportunity, nor does the Federal Government sticking it's nose deep into the affairs of local decisions.

Frankly, I cannot in good conscience vote for a measure that assumes the Government knows better than our teachers, principals, and local school boards about what works in local schools. There is too much evidence to the contrary.

Again, I regret that our attempts at getting a good bill and initiating some positive reforms in our schools has deteriorated to this kind of partisan folly. This bill is not pro-education; it is pro-big government, pro-redtape, pro-regulation, and pro-nonsense. We put a foot forward with the Senate version of the bill, only to find we have stepped into a hole with the conference report.

I did not have a chance because of time limitations and other things that I had to do to talk about why I did not vote in support of Senate bill 2, the so-called Neighborhood Schools Improvement Act. I want to tell the Senate that no one would jump to his feet faster in support of a bill, the Neighborhood Schools Improvement Act, if I thought it was really going to improve the neighborhood schools. I would not vote against it. I would try to vote for it twice.

The truth of the matter is the name is a sham as compared to the content of this bill. This bill is literally—I do not think only Republicans are saying this; I think I heard the distinguished Senator from Nebraska, former Governor, awhile ago talk a little bit about this bill in tones that are somewhat like part of my argument.

This bill is filled with a new level and layer of direct strings and management from Washington over the school systems in our counties, cities, and States in ways that just cannot produce better neighborhood schools. There is hardly anyone talking about rigidity of regulation and bureaucracy over our school systems as a cure for the faltering and shortcomings of our public schools in America. Yet, this bill is rampant. I mean if we had bureaucracy for the last 30 years in the aid to public education and in the attempt at telling schools what they should do if they want some of our money, if that was what was here, this bill doubles it all. In fact, there is one new set of funding that, if I read it right, the whole first $900 million that goes out there to the communities and school systems goes to planning and administration before we ever spend anything that gets down to principals and teachers and kids. It is just loaded with that.

Frankly, I do not believe at this time in American history that only members of the Democratic Party in the U.S. House and U.S. Senate have a lock on what is good for American schools. And I do not think that, as partisan as Democrats want to be here, the President of the United States, having met in summits with the Governors who have themselves said some of the things he was talking about are good, I do not believe that Republicans and the President should be shut out of the so-called Neighborhood School Improvement Act that some took the floor and said was a historic new movement in the direction of improving our schools.

Essentially that is what happened to this bill. I would not be here saying that in as much confidence as I am if I did not hear the distinguished Senator from Kansas [Mrs. KASSEBAUM] say that nobody cared what the Senate Republicans thought should be in the bill. Nobody even asked them to sign the conference report. And that included Senators like Senator KASSEBAUM. I do not see her do that very often. And when she says that, it seems to me that I can conclude that there was no interest in what this side of the aisle had to say about public education. That just cannot be right.

Second, the President of the United States, perhaps to the political chagrin of some on that side of the aisle, started down the path of moving ahead with education shortly after Secretary Alexander joined him as a Cabinet Member. He joined with a bipartisan Governor leadership in the United States to prescribe some very exciting things—the break-the-mold schools, the notion of America 2000.

We find the other side of the aisle, especially those on the Education Committee, saying, "The President wanted to be the education President; he did not do anything."

Well, let me just make sure the American people understand. He did not do anything because in a partisan way those who wrote the law decided they would not let him do anything. And that is a neat trick today, especially as you get close to the elections. Let a President get a whole series of good ideas, let Governors support him, let hundreds of communities support them—and they are. There are literally 1,500 communities and cities which have public school districts in them that are moving toward the President's goals of a break-the-mold school, including one city and county in New Mexico.

So what do we do? What did the Democratic leadership of the committee do? They gave him nothing, and then they tell the American people he was not an education President. Well, I hope everyone knows that is a pretty good way for the majority party in these two Houses to make sure that he is not, under any circumstance, going to be an education President. You urge him to get on with it. He does. He prescribes it. Then you have this historic bill, and you say to him, nothing that you suggested—nothing that you suggested—is going to be adopted by us, and we want you to sign the bill anyway.

There is chagrin here that the Republicans will say this bill is not going anywhere. There are people on the other side saying we are doing all these horrendous things to education. But what they really wanted to do was say to a President who tried, who got a lot of Governors to support him, hundreds and hundreds of communities to support his ideas, "We have better ideas. We are not going to include any of yours, and we want the bill passed, and we expect you to sign it."

Now, nobody really can believe that that is much more than the absolute epitome of playing partisan politics with education. It is. You know even on the break-the-mold school concept, we said in an appropriations bill late last year, for this fiscal year that we just finished, well, Republicans and the President are making so much noise about it, let us put $100 million in the appropriations.

Mr. President, it is very interesting. The $100 million is in there, and then there is a little parentheses, and it says "if authorized." So, everybody could say the President is getting some of his $100 million. But it is not authorized. It is not even authorized in this. So the $100 million does not even get spent. We are talking about billions, so people should not think that $100 million was any great acceptance of much of what the President wanted, but just kind of a token so nobody could say the appropriators did not want to help him with his American education program, excepting they said you got to pass this bill, and this bill has to say it is OK and we are going to do neither.

Surely you are not going to pass this. It is already here being filibustered. There is just no way that, in these closing days, anything is going to happen to it that is close to getting to the President for signature.

THE ENERGY BILL

Mr. DOMENICI. Mr. President, it is said that a journey of 1,000 miles starts with the first step. Believe it or not, after about 15 to 18 years with almost

no energy policy for the United States and two very severe situations when the source of oil to America was held back by foreigners and we had a situation where we almost had to go to rationing—remember the lines. Remember people in New York shooting each other waiting around in gas lines.

Now there is plenty of oil, but it is all foreign oil, and our own production is going down and our consumption is going up. We are more dependent. Oil is still the prime, prime energizer of the American transportation marketplace and a sustantial player in our industrial marketplace.

So, after all this time, with the help of the President, his Secretary of Energy, and, yes, bipartisan work in both bodies, historically, a start with that first step when the comprehensive energy strategy was introduced. Now with many, many committees of the House and three or four committees of the Senate, for the last 5 or 6 weeks, working in an atmosphere which I would have thought would yield nothing, has surprisingly yielded a bill.

It is not all great, but it has some real positive energy policy. But, that energy policy encapsulated in those hundreds of pages are just about rendered useless unless we crown it with the oil production tax provisions that passed both bodies.

This parade of horrors in our country includes the shutdown of stripper wells, oil rigs rusting away in inventory, instead of pumping away in the field. There are somewhere between 350,000 to 450,000 American workers no longer employed, because we let our independent oil industry just fall apart, piece by piece, because it could not compete and because it could not get enough cash to take the risks.

All of those things are happening, and we finally pass in both bodies an energy strategy, except—except—to get American independent production back up, the American independent producers of oil, the risktakers, the finders, have to get money invested in their business. Cash has to flow from investors to the independents so they can risk drilling holes, so they can risk hiring people again.

Lo and behold, we are constantly bent on doing exactly what is the worst for a situation that we must improve. We let an alternative minimum tax, be enacted. It was part of the Tax Reform Act. It was enacted under some very exciting rhetoric from some: "Tax the extra profits being made by those who invest in oil." We created a rather beautiful sounding tax phrase, the "alternative minimum tax"—AMT, we call it today.

Well, Mr. President, with the passage of time, the alternative minimum tax, became a confiscatory tax on those who invest in risktaking, in drilling oil and gas wells. The AMT can result in effective rates for those independent oil and gas producers, believe it or not, that is anywhere from 50 to 60, to even as high as 70 or 80 percent.

So who in the world is going to take money out of the bank, or cash in some stock, or convert their CD and say, here, I want to invest in drilling an oil well, when if you do not find anything, you lose it all; if you find it, you get taxed at a confiscatory rate?

That piece of tax policy has to be changed. The substantial modification of the alternative minimum tax must occur if we are going to have any positive movement in oil patch or gas patch in America. We desperately need investment of money, new rigs in the field, new employment, and new oil found that is domestic in nature. Oil development activity is taking place in Saudi Arabia, and in other foreign countries, where our investment is going. This is terrible energy policy.

So, now, Mr. President, the issue is very, very simple but profound. Attached to the national energy strategy bill, when it left the Senate and when it left the House, is a tax component, and in both bodies that tax component includes the alternative minimum tax changes that are absolutely necessary for the energy policy encapsulated in the hundreds of pages of nontax law. If we want to increase domestic supply and to an extent lessen our foreign dependence, the tax title must be attached, or the energy policy will fall totally short of the mark.

Both bills had the alternative minimum tax changes on them. At this moment, there are two tax bills around. There is House bill 11, which is the bill that is supposed to put together assistance for the inner city problems, but is loaded with provisions that are controversial. Some provisions increase taxes under the rhetoric of Pease and PEP. They diminish the value of deductions, and the personal exemption raising the tax level for many Americans and making. The Senate version of H.R. 11 would make Pease and PEP permanent. All of that is packaged up in H.R. 11.

Both of those bills are waiting to be conferenced; that is, to get into a final form so they can pass the House and Senate and go to the President.

Now the trick of it all: Neither of those bills are in the control of any Republicans. Senator PACKWOOD, Senator DOLE, Senator DANFORTH on our side do not have anything to say about what we do in those two bills. It is totally within the control of a few Democratic Senators and a few Democratic House Members, who are the majority and control the Finance and Ways and Means Committees. I know Senator BENTSEN is committed as anyone to enacting AMT relief for the oil and gas industry. But this is a very political season.

Mr. President, I hear and now want to say that if they do not get together and pass the alternative minimum tax relief, which both bodies have already agreed to, and put it on the energy bill so it can become law, then the independent oil and gas producers, the thousands of people in this country who are going to lose their jobs, and the thousands who would have gone to work because the alternative minimum tax would bring investment back into oil patch, there is no one to blame but the leadership of the Ways and Means Committee—no one.

The President is for the alternative minimum and the tax package that passed on the energy bill. He supported it. He supported it in the House, and it is just there waiting for a half-day of meeting, and it can be put on the bill, and we will have done the most significant, positive thing for the independent oil producers and risktakers in oil and gas in the last 10 or 15, maybe 20 years.

So I come to the floor today saying to those Democratic leaders who are the ones to blame. The Republican Senators anxiously await an opportunity to put the alternative minimum tax relief on the energy bill and send it to the President for signature.

They are not interested—we are not interested in playing games between the two bills. The bill for the inner cities of America, as I said, has many other things in it which are very controversial. It is not a good legislative vehicle for the energy tax provisions. But I believe that, for some reason, one is being held hostage to the other, one is being held to leverage the other. And I just came to the floor today because unbeknownst to many, New Mexico, my home State, is the fourth largest producer of natural gas in the United States and either the sixth or seventh largest oil-producing State.

We have gone through the unemployment and the shriveling of our small communities, as oil patch went from vibrancy some 8 to 10 years ago to absolute dehydration, with businesses closed and main streets turned into almost nonexistence roads.

We have gone through that much. But we do not want it to all disappear, and we feel confident that with the alternative minimum tax relief that ought to be on the energy bill and on the way to the President. The current price of oil could cause money to flow to meet the investment needs of oil's independent operators, and we would have a ray of hope. Equally as important, America would produce much more of its own oil, which means we would buy less from others, send our hard-earned dollars to oil patch and oil workers instead of Saudi Arabia or some foreign country.

So I close by urging the leadership in this body, in particular the Ways and Means Committee in the House that they do what is right, that all facts indicate is just, do what facts indicate is

good for America, and go ahead and put the alternative minimum tax relief on the energy bill which is otherwise completed and put in place some real national energy strategy.

DO NOT PLAY POLITICS WITH THE AMT RELIEF FOR INDEPENDENT OIL AND GAS PRODUCERS

Mr. DOMENICI. Mr. President, it has been said that a journey of a thousand miles begins with a single step. The national energy strategy is the legislative equivalent of a journey of a thousand miles.

We have come a long way and we are down to the final steps of our legislative journey. We are within sight of our destination—a comprehensive, and monumental energy strategy. Yet we may stumble. No, let me change my choice of words. We aren't going to stumble, but we may be tripped up because of political maneuvering over the very important alternative minimum tax relief needed and contained in the tax title of the energy strategy.

This is an unusual situation. In these final days of this Congress, the tax writing committees are working out the differences on two important tax bills—the tax title to the energy strategy and H.R. 11, the urban aid bill.

The tax title to the energy strategy when incorporated into the energy strategy would get signed by the President. The fate of H.R. 11 is not as clear.

But AMT relief for the independent oil and gas producers is urgent and its passage should be clear. The industry is in serious peril and they desperately need the changes in the AMT that were incorporated in the tax title to energy strategy that passed both Houses of Congress.

The oil and gas industry is one of the most capital intensive industries in the United States, and capital intensive industries bear the heaviest burden under the alternative minimum tax due to the many adjustments required of capital outlays. Some critics have gone so far as to state emphatically that AMT is a tax on capital.

I am not here to argue the merits of AMT relief for the independent oil and gas producers. I have argued the fairness, equity and good tax policy of AMT relief on many occasions. Almost every Member of this Chamber recognizes the urgency of scaling back this punitive tax.

The fate of AMT relief for independent oil and gas producers is in the hands of the Democrat leadership of the House Ways and Means Committee and the Senate Finance Committee. The members of that small group of leaders from the other side of the aisle of both Houses of Congress literally control whether many independent domestic producers will be able to continue in business.

If the oil and gas AMT provisions do not become law because the Democrats decide to play politics, the message should not be mistaken: The Democrats are willing to jeopardize an indispensable sector of our economy. We can't have growth, jobs and prosperity without the energy to run our factories, to power our utilities and to run our automobiles.

Killing the AMT provisions is tantamount to economic sabotage, energy policy treason and gross irresponsibility toward our independent producers of crude oil and natural gas.

I implore these leaders who control the destiny of AMT relief provisions approved by majority votes in both Houses of Congress to resist the temptation to play politics with the lives and businesses of our independents. It must be obvious to them, as it is to the entire Congress, that our new energy policy is incomplete with AMT tax relief.

With regard to energy policy, the basic economic facts of life are these: We need an oil industry. Oil and gas are indispensable in our economy. The independent industry needs tax relief now. There isn't much of that industry left. Delay seriously not only jeopardizes the domestic oil and gas industry in the short run but would threaten our sovereignty in the long run as we become more and more vulnerable because we can not meet our own energy needs.

One of the first acts, and most serious issues that came before this the 102d Congress was the January 12, 1991, vote to authorize force in the Persian Gulf. Let me not mince words. It was a vote to go to war.

There were many reasons why we had to go into the gulf, but the reason most related to our national self-interest was to make sure we had a source of energy—oil and gas.

We sent our sons and daughters into the gulf, some died because we needed to have a secure source of oil and gas.

Now, the domestic industry is in even greater peril and the Democrats' strategy to either kill the AMT relief or force the President into signing a big tax increase is as belligerent an act as Saddam Hussein's invasion of Kuwait.

I urge the conferees to conference quickly the tax title of the energy strategy and leave the politicking to the campaigns. We were elected to govern the country, not run the Presidential campaigns from the Senate and House Chambers.

Mr. President, perhaps later I will speak to another subject but I note that some of my colleagues have been waiting, and in particular Senator BIDEN, and I do not want to have him wait any longer. He was kind enough to let me go first, and I thank him for that, and I yield at this point.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, my friend from Idaho asked if I would yield to him for a minute or so, and I yield to him without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for yielding.

IN CELEBRATION OF THE 81ST ANNIVERSARY OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. CRAIG. Mr. President, I would like to take a moment to pass on my best wishes to President Lee Teng-hui, Foreign Minister Fredrick Chien and Ambassador Mou-shih Ding in honor of the celebration of the national day of the Republic of China.

On the 10th of October this year, the Republic of China will be celebrating its 81st anniversary. The relationship between the ROC and the United States has been very beneficial for both parties. Not only do I look forward to the continued relations between the United States and the ROC, but the friendly and mutually beneficial ties that have developed between the ROC and my home State of Idaho.

Mr. President, I ask unanimous consent to print a congratulatory letter in the RECORD to President Lee that is signed by myself and 38 of my Republican colleagues.

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

U.S. SENATE,
Washington, DC, September 29, 1992.

President LEE TENG-HUI,
Foreign Minister Fredrick Chien, Ministry of Foreign Affairs, Taipei, Taiwan, ROC.

DEAR MR. PRESIDENT: We send our greetings and congratulations to you, Premier Hau Pei-tsun and Foreign Minister Fredrick Chien in honor of the 81st Anniversary of the founding of the Republic of China.

The Republic of China has a long and proud history. Dr. Sun Yat-sen's dream of building a modern nation based on the principles of nationhood, freedom and equality is being realized on the island of Taiwan. The Republic of China is universally recognized as a major economic power and a democracy whose citizens enjoy one of the highest standards of living in Asia.

We applaud your achievements and hope you and your people will continue to prosper.

Through the good offices of your representatives here in Washington, most notably through the tireless efforts of Ambassador Ding-shih, we have been kept informed of the developments in your country. First, let us congratulate you on the ruling RMT party's overwhelming success at last December's National Assembly elections. We were also pleased to hear the news of your country's having launched a 6-year National Development Plan with a budget of U.S. $303 billion. Finally, your country's recent success in establishing representative offices with the states of the former Soviet Union is to be commended.

Undoubtedly, there will be challenges ahead for you and your people, but we have confidence in your leadership and the resolve of your people to rise to the occasion and

continue to be a fine example of democracy and prosperity to the rest of the world.

We are pleased that President Bush has decided to sell F-16 jet fighters to the ROC and that he has strongly endorsed your country's bid to join the GATT. These and other actions taken by the administration strongly suggest that the partnership between the ROC and the United States continues to strengthen.

Congratulations, Mr. President. Please be assured that we are solidly behind you, your people and your democratic ideals.

Sincerely,

Larry E. Craig, Thad Cochran, Phil Gramm, Mitch McConnell, Bob Packwood, Bob Dole, Steve Symms, Pete V. Domenici, John Seymour, Malcolm Wallop, Richard G. Lugar, Orrin G. Hatch, Jesse Helms, Jake Garn, Trent Lott, Slade Gorton, Bill Roth, Connie Mack, Jim Jeffords, Hank Brown.

Don Nickles, Conrad Burns, Nancy Landon Kassebaum, Ted Stevens, Strom Thurmond, Bill Cohen, Dan Coats, Bob Kasten, Alfonse D'Amato, Mark O. Hatfield, Dave Durenberger, Chuck Grassley, Warren B. Rudman, Frank H. Murkowski, Larry Pressler, Arlen Specter, John McCain, Alan Simpson, John C. Danforth.

PRESIDENT BUSH'S POLICY TOWARD IRAQ

Mr. BIDEN. Mr. President, 3 days ago the junior Senator from Tennessee [Mr. GORE], developed a comprehensive critique of President Bush's policy toward Iraq, and there has been much discussion about that statement since then.

The criticism that Senator GORE directed at administration policy apparently stung last evening. Some of my colleagues on the other side of the aisle engaged in fairly lively attack on Senator GORE while others challenged his critique of the Bush policy. In supporting Senator GORE today I intend to stick to the substance and I hope if there is any further discussion on that my colleagues will do the same.

This subject was not raised by Democrats. It is President Bush who repeatedly emphasized his role in reversing Iraq's invasion of Kuwait. It is President Bush and his campaign aides who continue to attack Governor Clinton for supposedly waffling in his support of the gulf war. In truth, I can think of no Democrat who has criticized the President's response to Saddam Hussein's invasion of Kuwait. Senator GORE was right, and I might say eminently fair, to say, and I quote:

> When it came time to confront Saddam Hussein's invasion of Kuwait with an international coalition united in its resolve and purpose, George Bush all the way up until the moment the combat ended displayed fortitude and skill.

But Senator GORE also was right when he said, and I again quote.

> If George Bush's prosecution of the war is part of his record, so too is his involvement in the diplomacy which led to it.

So let us examine what the President's supporters have said on this floor in defense of the Bush administration's diplomatic record. One of my Republican colleagues challenged Senator GORE's critique with two arguments.

First, my friend argued that it was not President Bush whose policies helped build Saddam's war machine but rather China, the Soviet Union, and other countries. The distinguished Republican Senator's second argument was that President Bush's efforts to moderate Iraqi behavior prior to August 1990 were supported by Republicans and Democrats alike.

I would like to speak to both those points, if I may. On the first point, no argument: the United States was not Iraq's biggest military supplier. The Bush administration was not guilty as Moscow's Communists, or Beijing, or even Paris in arming Saddam Hussein. President Bush is not as guilty. But "not as guilty" does not mean "innocent", particularly when it is United States policy that Saddam Hussein probably viewed as the ultimate guide to what he could, and could not, get away with—in his tyranny, his genocide, and his aggression.

It simply cannot be denied that it was President Bush, in his October 1989 national security directive, who ordered his administration to establish closer ties with Saddam Hussein's bloodthirsty dictatorship. And just as day follows night that fateful decision had consequences.

The Bush administration enthusiastically supported billions of dollars in grain credits for Baghdad. And the President's men bent over backward to justify questionable high technology exports to Iraq, exports that had a powerful military potential. To deny that these credits freed up money for Saddam to spend on weapons, to deny that U.S. dual use exports played absolutely no role in Saddam's war machine, to deny that Saddam Hussein drew conclusions from this weak policy, is to deny reality.

Think about it, Mr. President: Saddam Hussein has already engaged in the most heinous crime known to man, genocide, and the Bush administration was still treating him with kid gloves. The administration did help build Saddam's weapons of war. It did lead Saddam to believe that the Bush administration would ignore any crime he might commit in its enthusiasm to win his friendship.

When it comes to appeasement, one is either guilty or innocent, Mr. President. And the sad truth is that, in his prewar diplomacy, President Bush was guilty of a sustained act of appeasement constituting a colossal foreign policy blunder.

Turning to the second point made by my distinguished Republican friend yesterday, I do not concede even partial agreement with his premise. Were the President's policies really supported by Republicans and Democrats alike up until August of 1990? I think not, Mr. President. It is true that from 1980 to 1988 when Iraq was at war with Iran, American officials were concerned, and rightly, about dangerous Islamic fundamentalism.

For emotional reasons, because Iran had taken Americans hostage, and for strategic reasons, because no one wanted Iran to dominate the Persian gulf, many of us accepted the Reagan administration's mild tilt toward Iraq as a practical measure. That was a pragmatic measure not unlike American support for the Soviet Union during the war against Hitler.

But what happened after the Iran-Iraq war was over? President Bush likes to compare himself to Harry Truman. Well, in 1945 when the Second World War had ended, President Truman recognized the changed reality; indeed he ordered the lend-lease ships that were in the mid-Atlantic to turn around and come home.

Why? Because there was no longer any need to perpetuate our pragmatic alliance with Stalin.

When George Bush took office in January of 1989, did he conduct a similar reappraisal of policy under changed circumstances? The answer is clearly no. He put the accelerator to the floor, to race full speed ahead with a policy of appeasement.

Later, after the invasion of Kuwait, President Bush attempted to cast himself in the role of Winston Churchill standing against the aggression of Adolf Hitler. The fact is that, in the years before Saddam's invasion of Kuwait, our President did a rather bitter imitation of Neville Chamberlain. If anyone was in the role of Churchill, it was those in Congress, including Senators PELL and HELMS, trying to shake the Bush administration from its determined policy of appeasement.

My friend said yesterday, and I quote:

> No one seriously challenged our policy in the months between August of 1988 and the August 1990 invasion of Kuwait.

I would beg to differ and beg to differ most profoundly. Has the Senator forgotten that the Reagan-Bush administration's adamant position to Senate efforts to impose sanctions on Iraq in 1988 in response to genocide, its determined and, unfortunately, successful opposition to congressional efforts to enact the "Prevention of Genocide Act"?

Has the Senator also forgotten President Bush's rejection of the congressional sanctions again in July 1990, just 1 week before the invasion?

I ask my friends on the other side who spoke in a similar vein, do they remember why the Congress sought to impose sanctions on Iraq? Have the President's supporters forgotten about the gassing of innocent Kurdish civilians, the thousands of horrible, excruciating deaths ordered by Saddam Hus-

sein against the citizens of his own country?

That is, indeed, what struck me most about yesterday's debate. Not once, in all their assertions made and all their attacks, not once did President Bush's supporters mention Saddam's barbaric use of chemical weapons against the Kurds. They totally ignored genocide while rising up in righteous indignation to claim that Senator GORE was out of bounds in referring to President Bush's moral blindness. Well, what else is it? I would say that moral blindness was in fact a rather kinder and gentler way of putting it. Just where was President Bush's policy lens focused when the Kurds were suffering relentless poison gas attacks?

Nor, I might add, was this a simple oversight—a policy decision that "fell between the cracks," so to speak. But it was not even that. Rather it was part of a larger pattern, characteristic of the administration, of ignoring fundamental principles of human rights in the pursuit of friendly relations with tyrants.

Look at the administration's policy toward China. Does not the coddling of the butcher of Beijing, along with the butcher of Baghdad, demonstrate for all to see that moral blindness has become virtually a hallmark of our present foreign policy?

Since the 1989 massacre on Tiananmen Square, the Communist elders in Beijing have had precious little to fear from Washington. Why? Because the administration has vetoed every congressional effort to sanction China's brutal human rights policies and its dangerously irresponsible sales of weapons to rogue nations around the world.

I want the record to show we have disagreed 2, 3, 4, 10, 12 times. We have passed legislation here and the President has vetoed it. We did the same thing, Mr. President, with regard to Saddam Hussein. I just want to remind my friends, that on this floor a year ago, 2 years ago—

We did that, Mr. President. So, for whatever mysterious reason, opposition to sanctions against tyrants—the coddling of tyrants, to be extremely critical about it—is the one objective that has energized the Bush administration as much as its obsession with a cut in the tax on capital gains.

Let me conclude with a prediction of basic cause and effect. Every time President Bush or his campaign aids claim credit for the President's role in the gulf war, I will join with others in reminding the American people of the origins of that war. For it was: only after propping up Saddam Hussein with loans; only after disregarding a mountain of incriminating evidence that Saddam was using American aid to buy arms; only after ignoring Saddam Hussein's genocidal slaughter of his own Kurdish citizens; only after fostering high technology exports to Iraq even as Saddam Hussein provided safe haven for the world's most infamous terrorists; only after overlooking his manifest quest for nuclear and chemical weapons; only after supplying Saddam Hussein with military intelligence almost until the eve of the invasion; only after first responding that the United States contemplated no military action; and only after being wakened from his moral slumber by Prime Minister Thatcher—only then did the President finally act.

Mr. President, in past weeks I have examined President Bush's policy vis-a-vis the former Soviet Union, in China, in the Middle East, in arms control, in nonproliferation—the Bush foreign policy around the world. And my conclusion is this: It is not just President Bush's Iraq policy that fails short of the grandiose claims made for it. It is the entire foreign policy of this administration that falls short.

I am anxiously looking forward to the debate between the two Presidential candidates on foreign policy. Everyone seems to acknowledge there is no economic policy. I am anxious for the debate on the foreign policy to prove that there is not a foreign policy.

Mr. President, the President of the United States did show immense skill once he decided, after all the diplomatic failures, that he should have acted. And I stand here and say, had he acted properly diplomatically would we have been able to avoid the ultimate 500,000 troop commitment or thereabouts that was made by us, and the billions of dollars spent? The honest answer to that question is I do not know whether we could have. I do not know for certain that, had we acted in concurrence with congressional requests to sanction Saddam Hussein, that that would have stopped Saddam Hussein.

But one thing I do know. The diplomatic policy was an abject failure.

Mr. President, if you want to take credit for correcting a disaster, you must be willing to be looked at in terms of whether or not your actions brought about the disaster in the first place.

The only people who were completely unsullied in this effort were the brave women and men in uniform, sent to that region to do the job. And they did it so admirably, we almost forgot that it is very important to correct our foreign policy myopia. The result of which was clear: A costly way to make up for a serious foreign policy blunder.

I yield the floor.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. SYMMS. Mr. President, I have been on the floor here since 3 p.m., and I found it most enlightening, the comments of many of my colleagues from both sides of the aisle. We have talked about everything except the pending business. But it has been most enlightening and most interesting. I think it is worth saying that the distinguished President pro tempore talked about a new book of procedures that has been recently written, and Alan Frumin, the Parliamentarian of the Senate.

I want to just say to my colleagues that I think there is no Senator who is opposed to most of the projects that happen at the National Institutes of Health. But I think it is worthy to note that there are enough Senators who have some objection to certain parts of this authorization bill that under the time constraints, the bill is not going anywhere.

I expect that every Senator is aware of the important scientific research involving the use of fetal tissue that has been done and is continuing unabated today. That fetal tissue research is important. And I expect that every Senator supports the Federal contribution to that research.

So the question comes then, why are we here today debating this bill at such length, and going through these cloture votes? We are not here because Senators oppose the work of the National Institutes of Health. We are not here because of their concern about induced abortions associated with the language in this bill on certain types of fetal research. The President has previously vetoed very similar legislation in part because of the abortion issue, and Congress has sustained that veto.

So that is not why we are here. The question of course is why are we here? And let me say it as plainly as I can. We are here because of politics. We are simply here because the leadership of the Congress, the Democratic leadership, has decided it would be politically harmful to the President if he pocket-vetoes this bill just a few days before the election.

There is no possibility this bill will become law this year. The only reason in the world to have us here—for the second time this year this is on the agenda—is the perception of the majority of the political ramifications for the President when he vetoes this bill.

Mr. President, the majority party is the majority and, after all, they do have the votes and they can push something they want. They can shove it hard, push it hard and they can finally get their way, but after having talked with a number of my colleagues on this side of the aisle, it will not be easy. I think there is no better master of the rules of the Senate than the distinguished President pro tempore. He made it very clear that one of the great things about this Senate is that a few Senators, if they use their ability and

the rules and the procedures, can slow something down at least for a while.

I think it is very clear, if one looks at the rules, we simply are not going anywhere with this authorization bill. My hope would be that when the leadership recognizes this, they will pull this bill down and we will get on with what needs to get done: The DOD authorization and appropriations bill, the energy bill that Senator DOMENICI so eloquently spoke to earlier this afternoon. We need to get some of these things done that could be very helpful to the people of this country. We can pull this bill down and they can have another look at this next year.

Mr. President, I have been a Member of this body for 12 years. I kept at my desk a treatise by the late Frederic Bastiat. I want to share this treatise by Bastiat with my colleagues as it pertains to this legislation, but also other pieces of legislation that come before this body.

I want to read this, first, about this treatise:

When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." "The Law", first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.

Frederic Bastiat (1801–1850) was a French economist, statesman, and author. He did most of his writing during the years just before—and immediately following—the Revolution of February 1848. This was the period when France was rapidly turning to complete socialism. As a Deputy to the Legislative Assembly, Mr. Bastiat was studying and explaining each socialist fallacy as it appeared. And he explained how socialism must inevitably degenerate into communism. But most of his countrymen chose to ignore his logic.

"The Law" is here presented again because the same situation exists in America today as in the France of 1848. The same socialist-communist ideas and plans that were then adopted in France are now sweeping America. The explanations and arguments then advanced against socialism by Mr. Bastiat are—word for word—equally valid today. His ideas deserve a serious hearing.

Mr. President, this book was published by the Foundation for Economic Education at Irvington-on-Hudson in New York. It is in its 12th printing. It was translated by Dean Russell of the foundation staff and "his objective was to make an accurate rendering of Bastiat's words and ideas into 20th century English. * * *"

Mr. President, I ask unanimous consent that this treatise be printed in the RECORD. I shall read some excerpts from it.

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

THE LAW

THE BOOK AND AUTHOR

When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." The Law, first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.

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THE TRANSLATION

This translation of The Law was done by Dean Russell of The Foundation staff. His objective was an accurate rendering of Mr. Bastiat's words and ideas into twentieth century, idiomatic English.

A nineteenth century translation of The Law, made in 1853 in England by an unidentified contemporary of Mr. Bastiat, was of much value as a check against this translation. In addition, Dean Russell had his work reviewed by Bertrand de Jouvenel, the noted French economist, historian, and author who is also thoroughly familiar with the English language.

While Mr. de Jouvenel offered many valuable corrections and suggestions, it should be clearly understood that Dr. Russell bears full responsibility for the translation.

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law become the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a notion were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread.

We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes: stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—it follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protect property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destroy in varying degrees among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participation in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

THE RESULTS OF LEGAL PLUNDER

It is impossible to introduce into society a greater change and a greater evil than this: the conversion of the law into an instrument of plunder.

What are the consequences of such a perversion? It would require volumes to describe them all. Thus we must content ourselves with pointing out the most striking.

In the first place, it erases from everyone's conscience the distinction between justice and injustice.

No society can exist unless the laws are respected to a certain degree. The safest way to make laws respected is to make them respectable. When law and morality contradict each other, the citizen has the cruel alternative of either losing his moral sense or losing his respect for the law. These two evils are of equal consequence, and it would be difficult for a person to choose between them.

The nature of law is to maintain justice. This is so much the case that, in the minds of the people, law and justice are one and the same thing. There is in all of us a strong disposition to believe that anything lawful is also legitimate. This belief is so widespread that many persons have erroneously held that things are "just" because law makes them so. Thus, in order to make plunder appear just and sacred to many consciences, it is only necessary for the law to decree and sanction it. Slavery, restrictions, and monopoly find defenders not only among those who profit from them but also among those who suffer from them.

THE FATE OF NON-CONFORMISTS

If you suggest a doubt as to the morality of these institutions, it is boldly said that "You are a dangerous innovator, a utopian, a theorist, a subvervise; you would shatter the foundation upon which society rests."

If you lecture upon morality or upon political science, there will be found official organizations petitioning the government in this vein of though; "That science no longer be taught exclusively from the point of view of free trade (of liberty, of property, and of justice) as has been the case until now, but also, in the future, science is to be especially taught from the viewpoint of the facts and laws that regulate French industry (facts and laws which are contrary to liberty, to property, and to justice). That, in government-endowed teaching positions, the professor rigorously refrain from endangering in the slightest degree the respect due to the laws now in force."[1]

Thus, if there exists a law which sanctions slavery or monopoly, oppression or robbery, in any form whatever, it must not even be mentioned. For how can it be mentioned without damaging the respect which it inspires? Still further, morality and political economy must be taught from the point of view of this law, from the supposition that it must be a just law merely because it is a law.

Another effect of this tragic perversion of the law is that it gives an exaggerated importance to political passions and conflicts, and to politics in general.

I could prove this assertion in a thousand ways. But, by way of illustration, I shall limit myself to a subject that has lately occupied the minds of everyone: universal suffrage.

WHO SHALL JUDGE?

The followers of Rosseau's school of thought—who consider themselves far advanced, but whom I consider twenty centuries behind the times—will not agree with me on this. But universal suffrage—using the world in its strictest sense—is not one of those sacred dogmas which it is a crime to examine or doubt. In fact serious objections may be made to universal suffrage.

In the first place, the word *universal* conceals a gross fallacy. For example, there are 36 million people in France. Thus, to make the right of suffrage universal, there should be 36 million voters. But the most extended system permits only 9 million people to vote. Three persons out of four are excluded. And more than this, they are excluded by the fourth. This fourth person advances the principle of *incapacty* as his reason for excluding the others.

Universal suffrage means, then, universal suffrage for those who are capable. But there remains this question of fact: Who is capable? Are minors, females, insane persons, and persons who have committed certain major crimes the only ones to be determined incapable?

[1] General Council of Manufacturers, Agriculture, and Commerce, May 6, 1850.

THE REASON WHY VOTING IS RESTRICTED

A closer examination of the subject shows us the motive which causes the right of suffrage to be based upon the supposition of incapacity. The motive is that the elector or voter does not exercise this right for himself alone, but for everybody.

The most extended elective system and the most restricted elective system are alike in this respect. They differ only in respect to what constitutes incapacity. It is not a difference of principle, but merely a difference of degree.

If, as the republicans of our present-day Greek and Roman schools of thought pretend, the right of suffrage arrives with one's birth, it would be an injustice for adults to prevent women and children from voting. Why are they prevented? Because they are presumed to be incapable. And why is incapacity a motive for exclusion? Because it is not the voter alone who suffers the consequences of his vote; because each vote touches and affects everyone in the entire community; because the people in the community have a right to demand some safeguards concerning the acts upon which their welfare and existence depend.

THE ANSWER IS TO RESTRICT THE LAW

I know what might be said in answer to this; what the objections might be. But this is not the place to exhaust a controversy of this nature. I wish merely to observe here that this controversy over universal suffrage (as well as most other political questions) which agitates, excites, and overthrows nations, would lose nearly all of its importance if the law had always been what it ought to be.

In fact, if law were restricted to protecting all persons, all liberties, and all properties; if law were nothing more than the organized combination of the individual's right to self defense; if law were the obstacle, the check, the punisher of all oppression and plunder—is it likely that we citizens would then argue much about the extent of the franchise?

Under these circumstances, is it likely that the extent of the right to vote would endanger that supreme good, the public peace? Is it likely that the excluded classes would refuse to peaceably await the coming of their right to vote? Is it likely that those who had the right to vote would jealously defend their privilege?

If the law were confined to its proper functions, everyone's interest in the law would be the same. Is it not clear that, under these circumstances, those who voted could not inconvenience those who did not vote?

THE FATAL IDEA OF LEGAL PLUNDER

But on the other hand, imagine that this fatal principle has been introduced: Under the pretense of organization, regulation, protection, or encouragement, the law takes property from one person and gives it to another; the law takes the wealth of all and gives it to a few—whether farmers, manufacturers, shipowners, artists, or comedians. Under these circumstances, then certainly every class will aspire to grasp the law, and logically so.

The excluded classes will furiously demand their right to vote—and will overthrow society rather than not to obtain it. Even beggars and vagabonds will then prove to you that they also have an incontestable title to vote. They will say to you:

"We cannot buy wine, tobacco, or salt without paying the tax. And a part of the tax that we pay is given by law—in privileges and subsidies—to men who are richer than we are. Others use the law to raise the prices of bread, meat, iron, or cloth. Thus, since everyone else uses the law for his own profit, we also would like to use the law for our own profit. We demand from the law the right to relief, which is the poor man's plunder. To obtain this right, we also should be voters and legislators in order that we may organize Beggary on a grand scale for our own class, as you have organized Protection on a grand scale for your class. Now don't tell us beggars that you will act for us, and then toss us, as Mr. Mimerel proposes, 600,000 francs to keep us quiet, like throwing us a bone to gnaw. We have other claims. And anyway, we wish to bargain for ourselves as other classes have bargained for themselves!"

And what can you say to answer that argument!

PERVERTED LAW CAUSES CONFLICT

As long as it is admitted that the law may be diverted from its true purpose—that it may violate property instead of protecting it—then everyone will want to participate in making the law, either to protect himself against plunder or to use it for plunder. Political questions will always be prejudicial, dominant, and all-absorbing. There will be fighting at the door of the Legislative Palace, and the struggle within will be no less furious. To know this, it is hardly necessary to examine what transpires in the French and English legislatures; merely to understand the issue is to know the answer.

Is there any need to offer proof that this odious perversion of the law is a perpetual source of hatred and discord; that it tends to destroy society itself? If such proof is needed, look at the United States [in 1850]. There is no country in the world where the law is kept more within its proper domain: the protection of every person's liberty and property. As a consequence of this, there appears to be no country in the world where the social order rests on a firmer foundation. But even in the United States, there are two issues—and only two—that have always endangered the public peace.

SLAVERY AND TARIFFS ARE PLUNDER

What are these two issues? They are slavery and tariffs. These are the only two issues where, contrary to the general spirit of the republic of the United States, law has assumed the character of a plunderer.

Slavery is a violation, by law, of liberty. The protective tariff is a violation, by law, of property.

It is a most remarkable fact that this double legal crime—a sorrowful inheritance from the Old World—should be the only issue which can, and perhaps will, lead to the ruin of the Union. It is indeed impossible to imagine, at the very heart of society, a more astounding fact than this: The law has come to be an instrument of injustice. And if this fact brings terrible consequences to the United States—where the proper purpose of the law has been perverted only in the instances of slavery and tariffs—what must be the consequences in Europe, where the perversion of the law is a principle; a system?

TWO KINDS OF PLUNDER

Mr. de Montalembert [politician and writer] adopting the thought contained in a famous proclamation by Mr. Carlier, has said: "We must make war against socialism." According to the definition of socialism advanced by Mr. Charles Dupin, he meant: "We must make war against plunder."

But of what plunder was he speaking? For there are two kinds of plunder: legal and illegal.

I do not think that illegal plunder, such as theft or swindling—which the penal code defines, anticipates, and punishes—can be called socialism. It is not this kind of plunder that systematically threatens the foundations of society. Anyway, the war against this kind of plunder has not waited for the command of these gentlemen. The war against illegal plunder has been fought since the beginning of the world. Long before the Revolution of February 1848—long before the appearance even of socialism itself—France had provided police, judges, gendarmes, prisons, dungeons, and scaffolds for the purpose of fighting illegal plunder. The law itself conducts this war, and it is my wish and opinion that the law should always maintain this attitude toward plunder.

THE LAW DEFENDS PLUNDER

But it does not always do this. Sometimes the law defends plunder and participates in it. Thus the beneficiaries are spared the shame, danger, and scruple which their acts would otherwise involve. Sometimes the law places the whole apparatus of judges, police, prisons, and gendarmes at the service of the plunderers, and treats the victim—when he defends himself—as a criminal. In short, there is a legal plunder, and it is of this, no doubt, that Mr. de Montalembert speaks.

This legal plunder may be only an isolated stain among the legislative measures of the people. If so, it is best to wipe it out with a minimum of speeches and denunciations—and in spite of the uproar of the vested interests.

HOW TO IDENTIFY LEGAL PLUNDER

But how is this legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime.

Then abolish this law without delay, for it is not only an evil itself, but also it is a fertile source for further evils because it invites reprisals. If such a law—which may be an isolated case—is not abolished immediately, it will spread, multiply, and develop into a system.

The person who profits from this law will complain bitterly, defending his acquired rights. He will claim that the state is obligated to protect and encourage his particular industry; that this procedure enriches the state because the protected industry is thus able to spend more and to pay higher wages to the poor workingmen.

Do not listen to this sophistry by vested interests. The acceptance of these arguments will build legal plunder into a whole system. In fact this has already occurred. The present-day delusion is an attempt to enrich everyone at the expense of everyone else; to make plunder universal under the pretense of organizing it.

LEGAL PLUNDER HAS MANY NAMES

Now, legal plunder can be committed in an infinite number of ways. Thus we have an infinite number of plans for organizing it: tariffs, protection, benefits, subsidies, encouragements, progressive taxation, public schools, guaranteed jobs, guaranteed profits, minimum wages, a right to relief, a right to the tools of labor, free credit, and so on, and so on. All these plans as a whole—with their common aim of legal plunder—constitute socialism.

Now, since under this definition socialism is a body of doctrine, what attack can be made against it other than a war of doctrine? If you find this socialistic doctrine to be false, absurd, and evil, then refute it. And

the more false, the more absurd, and the more evil it is, the easier it will be to refute. Above all, if you wish to be strong, begin by rooting out every particle of socialism that may have crept into your legislation. This will be no light task.

SOCIALISM IS LEGAL PLUNDER

Mr. de Montalembert has been accused of desiring to fight socialism by the use of brute force. He ought to be exonerated from this accusation, for he has plainly said: "The war that we must fight against socialism must be in harmony with law, honor, and justice."

But why does not Mr. de Montalembert see that he has placed himself in a vicious circle? You would use the law to oppose socialism? But it is upon the law that socialism itself relies. Socialists desire to practice legal plunder, not illegal plunder. Socialists, like all other monopolists, desire to make the law their own weapon. And when once the law is on the side of socialism, how can it be used against socialism? For when plunder is abetted by the law, it does not fear your courts, your gendarmes, and your prisons. Rather, it may call upon them for help.

To prevent this, you would exclude socialism from entering into the making of laws? You would prevent socialists from entering the Legislative Palace? You shall not succeed, I predict, so long as legal plunder continues to be the main business of the legislature. It is illogical—in fact, absurd—to assume otherwise.

THE CHOICE BEFORE US

This question of legal plunder must be settled once and for all, and there are only three ways to settle it:

1. The few plunder the many.
2. Everybody plunders everybody.
3. Nobody plunders anybody.

We must make our choice among limited plunder, universal plunder, and no plunder. The law can follow only one of these three.

Limited legal plunder: This system prevailed when the right to vote was restricted. One would turn back to this system to prevent the invasion of socialism.

Universal legal plunder: We have been threatened with this system since the franchise was made universal. The newly enfranchised majority has decided to formulate law on the same principle of legal plunder that was used by their predecessors when the vote was limited.

No legal plunder: This is the principle of justice, peace, order, stability, harmony, and logic. Until the day of my death, I shall proclaim this principle with all the force of my lungs (which alas! is all too inadequate).[2]

THE PROPER FUNCTION OF THE LAW

And, in all sincerity, can anything more than the absence of plunder be required of the law? Can the law—which necessarily requires the use of force—rationally be used for anything except protecting the rights of everyone? I defy anyone to extend it beyond this purpose without perverting it and, consequently, turning might against right. This is the most fatal and most illogical social perversion that can possibly be imagined. It must be admitted that the true solution—so long searched for in the area of social relationship—is contained in these simple words: Law is organized justice.

Now this must be said: When justice is organized by law—that is, by force—this excludes the idea of using law (force) to organize any human activity whatever, whether it be labor, charity, agriculture, commerce, industry, education, art, or religion. The organizing by law of any one of these would inevitably destroy the essential organization—justice. For truly, how can we imagine force being used against the liberty of citizens without it also being used against justice, and thus acting against its proper purpose?

THE SEDUCTIVE LURE OF SOCIALISM

Here I encounter the most popular fallacy of our times. It is not considered sufficient that the law should be just; it must be philanthropic. Nor is it sufficient that the law should guarantee to every citizen the free and inoffensive use of his faculties for physical, intellectual, and moral self-improvement. Instead, it is demanded that the law should directly extend welfare, education, and morality throughout the nation.

This is the seductive lure of socialism. And I repeat again: These two uses of the law are in direct contradiction to each other. We must choose between them. A citizen cannot at the same time be free and not free.

ENFORCED FRATERNITY DESTROYS LIBERTY

Mr. de Lamartine once wrote to me thusly: "Your doctrine is only the half of my program. You have stopped at liberty; I go on to fraternity." I answered him: "The second half of your program will destroy the first."

In fact, it is impossible for me to separate the word fraternity from the word voluntary. I cannot possibly understand how fraternity can be legally enforced without liberty being legally destroyed, and thus justice being legally trampled underfoot.

Legal plunder has two roots: One of them, as I have said before, is in human greed; the other is in false philanthropy.

At this point, I think that I should explain exactly what I mean by the word plunder.[3]

PLUNDER VIOLATES OWNERSHIP

I do not, as is often done, use the word in any vague, uncertain, approximate, or metaphorical sense. I use it in its scientific acceptance—as expressing the idea opposite to that of property [wages, land, money, or whatever]. When a portion of wealth is transferred from the person who owns it—without his consent and without compensation, and whether by force or by fraud—to anyone who does not own it, then I say that property is violated; that an act of plunder is committed.

I say that this act is exactly what the law is supposed to suppress, always and everywhere. When the law itself commits this act that it is supposed to suppress, I say that plunder is still committed, and I add that from the point of view of society and welfare, this agression against right is even worse. In this case of legal plunder, however, the person who receives the benefits is not responsible for the act of plundering. The responsibility for this legal plunder rests with the law, the legislator, and society itself. Therein lies the political danger.

It is to be regretted that the word plunder is offensive. I have tried in vain to find an inoffensive word, for I would not at any time—especially now—wish to add an irritating word to our dissentions. Thus, whether I am believed or not, I declare that I do not mean to attack the intentions or the morality of anyone. Rather, I am attacking an idea which I believe to be false; a system which appears to me to be unjust; an injustice so independent of personal intentions that each of us profits from it without wishing to do so, and suffers from it without knowing the cause of the suffering.

THREE SYSTEMS OF PLUNDER

The sincerity of those who advocate protectionism, socialism, and communism is not here questioned. Any writer who would do that must be influenced by a political spirit or a political fear. It is to be pointed out, however, that protectionism, socialism, and communism are basically the same plant in three different stages of its growth. All that can be said is that legal plunder is more visible in communism because it is complete plunder; and in protectionism because the plunder is limited to specific groups and industries.[4] Thus it follows that, of the three systems, socialism is the vaguest, the most indecisive, and, consequently, the most sincere stage of development.

But sincere or insincere, the intentions of persons are not here under question. In fact, I have already said that legal plunder is based partially on philanthropy, even though it is a false philanthropy.

With this explanation, let us examine the value—the origin and the tendency—of this popular aspiration which claims to accomplish the general welfare by general plunder.

LAW IS FORCE

Since the law organizes justice, the socialists ask why the law should not also organize labor, education, and religion.

Why should not law be used for these purposes? Because it would not organize labor, education, and religion without destroying justice. We must remember that law is force, and that, consequently, the proper functions of the law cannot lawfully extend beyond the proper functions of force.

When law and force keep a person within the bounds of justice, they impose nothing but a mere negation. They oblige him only to abstain from harming others. They violate neither his personality, his liberty, nor his property. They safeguard all of these. They are defensive; they defend equally the rights of all.

LAW IS A NEGATIVE CONCEPT

The harmlessness of the mission performed by law and lawful defense is self-evident; the usefulness is obvious; and the legitimacy cannot be disputed.

As a friend of mine once remarked, this negative concept of law is so true that the statement, the purpose of the law is to cause justice to reign, is not a rigorously accurate statement. It ought to be stated that the purpose of the law is to prevent injustice from reigning. It fact, it is injustice, instead of justice, that has an existence of its own. Justice is achieved only when injustice is absent.

But when the law, by means of its necessary agent, force, imposes upon men a regulation of labor, a method or a subject of education, a religious faith or creed—then the law is no longer negative; it acts positively upon people. It substitutes the will of the legislator for their own wills; the initiative of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intel-

[2]Translator's note: At the time this was written. Mr. Bastiat knew that he was dying of tuberculosis. Within a year, he was dead.

[3]Translator's note: The French word used by Mr. Bastiat is spoliation.

[4]If the special privilege of government protection against competition—a monopoly—were granted only to one group in France, the iron workers, for instance, this act would so obviously be legal plunder that it could not last for long. It is for this reason that we see all the protected trades combined into a common cause. They even organize themselves in such a manner as to appear to represent all persons who labor. Instinctively, they feel that legal plunder is concealed by generalizing it.

ligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property.

Try to imagine a regulation of labor imposed by force that is not a violation of liberty; a transfer of wealth imposed by force that is not a violation of property. If you cannot reconcile these contradictions, then you must conclude that the law cannot organize labor and industry without organizing injustice.

THE POLITICAL APPROACH

When a politician views society from the seclusion of his office, he is struck by the spectacle of the inequality that he sees. He deplores the deprivations which are the lot of so many of our brothers, deprivations which appear to be even sadder when contrasted with luxury and wealth.

Perhaps the politician should ask himself whether this state of affairs has not been caused by old conquests and lootings, and by more recent legal plunder. Perhaps he should consider this proposition: Since all persons seek well-being and perfection, would not a condition of justice be sufficient to cause the greatest efforts toward progress, and the greatest possible equality that is compatible with individual responsibility? Would not this be in accord with the concept of individual responsibility which God has willed in order that mankind may have the choice between vice and virtue, and the resulting punishment and reward?

But the politician never gives this a thought. His mind turns to organizations, combinations, and arrangements—legal or apparently legal. He attempts to remedy the evil by increasing and perpetuating the very thing that caused the evil in the first place: legal plunder. We have seen that justice is a negative concept. Is there even one of these positive legal actions that does not contain the principle of plunder?

THE LAW AND CHARITY

You say: "There are persons who have no money," and you turn to the law. But the law is not a breast that fills itself with milk. Nor are the lacteal veins of the law supplied with milk from a source outside the society. Nothing can enter the public treasury for the benefit of one citizen or one class unless other citizens and other classes have been forced to send it in. If every person draws from the treasury the amount that he has put in it, it is true that the law then plunders nobody. But this procedure does nothing for the persons who have no money. It does not promote equality of income. The law can be an instrument of equalization only as it takes from some persons and gives to other persons. When the law does this, it is an instrument of plunder.

With this in mind, examine the protective tariffs, subsidies, guaranteed profits, guaranteed jobs, relief and welfare schemes, public education, progressive taxation, free credit, and public works. You will find that they are always based on legal plunder, organized injustice.

THE LAW AND EDUCATION

You say: "There are persons who lack education," and you turn to the law. But the law is not, in itself, a torch of learning which shines its light abroad. The law extends over a society where some persons have knowledge and others do not; where some citizens need to learn, and others can teach. In this matter of education, the law has only two alternatives: It can permit this transaction of teaching-and-learning to operate freely and without the use of force, or it can force human wills in this matter by taking from some of them enough to pay the teachers who are appointed by government to instruct others, without charge. But in this second case, the law commits legal plunder by violating liberty and property.

THE LAW AND MORALS

You say: "Here are persons who are lacking in morality or religion," and you turn to the law. But law is force. And need I point out what a violent and futile effort it is to use force in the matters of morality and religion?

It would seem that socialists, however self-complacent, could not avoid seeing this monstrous legal plunder that results from such systems and such efforts. But what do the socialists do? They cleverly disguise this legal plunder from others—and even from themselves—under the seductive names of fraternity, unity, organization, and association. Because we ask so little from the law—only justice—the socialists thereby assume that we reject fraternity, unity, organization, and association. The socialists brand us with the name individualist.

But we assure the socialists that we repudiate only forced organization, not natural organization. We repudiate the forms of association that are forced upon us, not free association. We repudiate forced fraternity, not true fraternity. We repudiate the artificial unity that does nothing more than deprive persons of individual responsibility. We do not repudiate the natural unity of mankind under Providence.

A CONFUSION OF TERMS

Socialism, like the ancient ideas from which it springs, confuses the distinction between government and society. As a result of this, every time we object to a thing being done by government, the socialists concluded that we object to its being done at all.

We disapprove of state education. Then the socialists say that we are opposed to any education. We object to a state religion. Then the socialists say that we want no religion at all. We object to a state-enforced equality. Then they say that we are against equality. And so on, and so on. It is as if the socialists were to accuse us of not wanting persons to eat because we do not want the state to raise grain.

THE INFLUENCE OF SOCIALIST WRITERS

How did politicians ever come to believe this weird idea that the law could be made to produce what it does not contain—the wealth, science, and religion that, in a positive sense, constitute prosperity? Is it due to the influence of our modern writers on public affairs?

Present-day writers—especially those of the socialist school of thought—base their various theories upon one common hypothesis: They divide mankind into two parts. People in general—with the exception of the writer himself—form the first group. The writer, all alone, forms the second and most important group. Surely this is the weirdest and most conceited notion that ever entered a human brain?

In fact, these writers on public affairs begin by supposing that people have within themselves no means of discernment; no motivation to action. The writers assume that people are inert matter, passive particles, motionless atoms, at best a kind of vegetation indifferent to its own manner of existence. They assume that people are susceptible to being shaped—by the will and hand of another person—into an infinite variety of forms, more or less symmetrical, artistic, and perfected.

Moreover, not one of these writers on governmental affairs hesitates to imagine that he himself—under the title of organizer, discoverer, legislator, or founder—is this will and hand, this universal motivating force, this creative power whose sublime mission is to mold these scattered materials—persons—into a society.

These socialist writers look upon people in the same manner that the gardener views his trees. Just as the gardener capriciously shapes the trees into pyramids, parasols, cubes, vases, fans, and other forms, just so does the socialist writer whimsically shape human beings into groups, series, centers, sub-centers, honeycombs, labor-corps, and other variations. And just as the gardener needs axes, pruning hooks, saws, and shears to shape his trees, just so does the socialist writer need the force that he can find only in law to shape human beings. For this purpose, he devises tariff laws, tax laws, relief laws, and school laws.

THE SOCIALISTS WISH TO PLAY GOD

Socialists look upon people as raw material to be formed into social combinations. This is so true that, if by chance, the socialists have any doubts about the success of these combinations, they will demand that a small portion of mankind be set aside to experiment upon. The popular idea of trying all systems is well known. And one socialist leader has been known seriously to demand that the Constituent Assembly give him a small district with all its inhabitants, to try his experiments upon.

In the same manner, an inventor makes a model before he constructs the full-sized machine; the chemist wastes some chemicals—the farmer wastes some seeds and land—to try out an idea.

But what a difference there is between the gardener and his trees, between the inventor and his machine, between the chemist and his elements, between the farmer and his seeds! And in all sincerity, the socialist thinks that there is the same difference between him and mankind!

It is no wonder that the writers of the nineteenth century look upon society as an artificial creation of the legislator's genius. This idea—the fruit of classical education—has taken possession of all the intellectuals and famous writers of our country. To these intellectuals and writers, the relationship between persons and the legislator appears to be the same as the relationship between the clay and the potter.

Moreover, even where they have consented to recognize a principle of action in the heart of man—and a principle of discernment in man's intellect—they have considered these gifts from God to be fatal gifts. They have thought that persons, under the impulse of these two gifts, would fatally tend to ruin themselves. They assume that if the legislators left persons free to follow their own inclinations, they would arrive at atheism instead of religion, ignorance instead of knowledge, poverty instead of production and exchange.

THE SOCIALISTS DESPISE MANKIND

According to these writers, it is indeed fortunate that Heaven has bestowed upon certain men—governors and legislators—the exact opposite inclinations, not only for their own sake but also for the sake of the rest of the world! While mankind tends toward evil, the legislators yearn for good; while mankind advances toward darkness, the legislators aspire for enlightenment; while mankind is drawn toward vice, the legislators are attracted toward virtue. Since they have decided that this is the true state of affairs, they then demand the use of force

in order to substitute their own inclinations for those of the human race.

Open at random any book on philosophy, politics, or history, and you will probably see how deeply rooted in our country is this idea—the child of classical studies, the mother of socialism. In all of them, you will probably find this idea that mankind is merely inert matter, receiving life, organization, morality, and prosperity from the power of the state. And even worse, it will be stated that mankind tends toward degeneration, and is stopped from this downward course only by the mysterious hand of the legislator. Conventional classical thought everywhere says that behind passive society there is a concealed power called law or legislator (or called by some other terminology that designates some unnamed person or persons of undisputed influence and authority) which moves, controls, benefits, and improves mankind.

A DEFENSE OF COMPULSORY LABOR

Let us first consider a quotation from Bossuet [tutor to the Dauphin in the Court of Louis XIV]:[4]

One of the things most strongly impressed (by whom?) upon the minds of the Egyptians was patriotism. . . . No one was permitted to be useless to the state. The law assigned to each one his work, which was handed down from father to son. No one was permitted to have two professions. Nor could a person change from one job to another. . . . But there was one task to which all were forced to conform: the study of the laws and of wisdom. Ignorance of religion and of the political regulations of the country was not excused under any circumstances. Moreover, each occupation was assigned (by whom?) to a certain district. . . . Among the good laws, one of the best was that everyone was trained (by whom?) to obey them. As a result of this, Egypt was filled with wonderful inventions, and nothing was neglected that could make life easy and quiet.

Thus, according to Bossuet, persons derive nothing from themselves. Patriotism, prosperity, inventions, husbandry, science—all of these are given to the people by the operation of the laws, the rulers. All that the people have to do is to bow to leadership.

A DEFENSE OF PATERNAL GOVERNMENT

Bossuet carries this idea of the state as the source of all progress even so far as to defend the Egyptians against the charge that they rejected wrestling and music. He said:

How is that possible? These arts were invented by Trismegistus [who was alleged to have been Chancellor to the Egyptian god Osiris].

And again among the Persians, Bossuet claims that all comes from above:

One of the first responsibilities of the prince was to encourage agriculture. . . . Just as there were offices established for the regulation of armies, just so were there offices for the direction of farm work. . . . The Persian people were inspired with an overwhelming respect for royal authority.

And according to Bossuet, the Greek people, although exceedingly intelligent, had no sense of personal responsibility; like dogs and horses, they themselves could not have invented the most simple games:

The Greeks, naturally intelligent and courageous, had been early cultivated by the kings and settlers who had come from Egypt. From these Egyptian rulers, the Greek people had learned bodily exercises, foot races, and horse and chariot races. . . . But the best thing that the Egyptians had taught the Greeks was to become docile, and to permit themselves to be formed by the law for the public good.

THE IDEA OF PASSIVE MANKIND

It cannot be disputed that these classical theories [advanced by these latter-day teachers, writers, legislators, economist, and philosophers] held that everything came to the people from a source outside themselves. As another example, take Fenelon [archbishop, author, and instructor to the Duke of Burgundy].

He was a witness to the power of Louis XIV. This, plus the fact that he was nurtured in the classical studies and the admiration of antiquity, naturally caused Fenelon to accept the idea that mankind should be passive; that the misfortunes and the prosperity—vice and virtues—of people are caused by the external influence exercised upon them by the law and the legislators. Thus, in his Utopia of Salentum, he puts men—with all their interests, faculties, desires, and possessions—under the absolute discretion of the legislator. Whatever the issue may be, persons do not decide it for themselves; the prince decides for them. The prince is depicted as the soul of this shapeless mass of people who form the nation. In the prince resides the thought, the foresight, all progress, and the principle of all organization. Thus all responsibility rests with him.

The whole of the tenth book of Fenelon's Telemachus proves this. I refer the reader to it, and content myself with quoting at random from this celebrated work to which, in every other respect, I am the first to pay homage.

SOCIALISTS IGNORE REASON AND FACTS

With the amazing credulity which is typical of the classicists, Fenelon ignores the authority of reason and facts when he attributes the general happiness of the Egyptians, not to their own wisdom but to the wisdom of their kings:

We could not turn our eyes to either shore without seeing rich towns and country estates most agreeably located; fields, never fallowed, covered with golden crops every year; meadows full of flocks; workers bending under the weight of the fruit which the earth lavished upon its cultivators; shepherds who made the echoes resound with the soft notes from their pipes and flutes. "Happy," said Mentor, "is the people governed by a wise king.". . .

Later, Mentor desired that I observe the contentment and abundance which covered all Egypt, where twenty-two thousand cities could be counted. He admired the good police regulations in the cities; the justice rendered in favor of the poor against the rich; the sound education of the children in obedience, labor, sobriety, and the love of the arts and letters; the exactness with which all religious ceremonies were performed; the unselfishness, the high regard for honor, the faithfulness to men, and the fear of the gods which every father taught his children. He never stopped admiring the prosperity of the country. "Happy," said he, "is the people ruled by a wise king in such a manner."

SOCIALISTS WANT TO REGIMENT PEOPLE

Fenelon's idyl on Crete is even more alluring. Mentor is made to say:

All that you see in this wonderful island results from the laws of Minos. The education which he ordained for the children makes their bodies strong and robust. From the very beginning, one accustoms the children to a life of frugality and labor, because one assumes that all pleasures of the senses weaken both body and mind. Thus one allows them no pleasure except that of becoming invincible by virtue, and of acquiring glory. . . . Here one punishes three vices that go unpunished among other people: ingratuude, hypocrisy, and greed. There is no need to punish persons for pomp and dissipation, for they are unknown in Crete. . . . No costly furniture, no magnificent clothing, no delicious feasts, no gilded palaces are permitted.

Thus does Mentor prepare his student to mold and to manipulate—doubtless with the best of intentions—the people of Ithaca. And to convince the student of the wisdom of these ideas, Mentor recites to him the example of Salentum.

It is from this sort of philosophy that we receive our first political ideas! We are taught to treat persons much as an instructor in agriculture teaches farmers to prepare and tend the soil.

A FAMOUS NAME AND AN EVIL IDEA

Now listen to the great Montesquieu on this same subject:

To maintain the spirit of commerce, it is necessary that all the laws must favor it. These laws, by proportionately dividing up the fortunes as they are made in commerce, should provide every poor citizen with sufficiently easy circumstances to enable him to work like the others. These same laws should put every rich citizen in such lowered circumstances as to force him to work in order to keep or to gain.

Thus the laws are to to dispose of all fortunes!

Although real equality is the soul of the state in a democracy, yet this is so difficult to establish that an extreme precision in this matter would not always be desirable. It is sufficient that there be established a census to reduce or fix these differences in wealth within a certain limit. After this is done, it remains for specific laws to equalize inequality by imposing burdens upon the rich and granting relief to the poor.

Here again we find the idea of equalizing fortunes by law, by force.

In Greece, there were two kinds of republics, One, Sparta, was military; the other, Athens, was commercial. In the former, it was desired that the citizens be idle; in the latter, love of labor was encouraged.

Note the marvelous genius of these legislators: By debasing all established customs—by mixing the usual concepts of all virtues—they knew in advance that the world would admire their wisdom.

Lycurgus gave stability to his city of Sparta by combining petty thievery with the soul of justice; by combining the most complete bondage with the most extreme liberty; by combining the most atrocious beliefs with the greatest moderation. He appeared to deprive his city of all its resources, arts, commerce, money, and defenses. In Sparta, ambition went without the hope of material reward. Natural affection found no outlet because a man was neither son, husband, nor father. Even chastity was no longer considered becoming. By this road, Lycurgus led Sparta on to greatness and glory.

This boldness which was to found in the institutions of Greece has been repeated in the midst of the degeneracy and corruption of our modern times. An occasional honest legislator has molded a people in whom integrity appears as natural as courage in the Spartans.

[4] Translator's note: The parenthetical expressions and the italicized words throughout this book were supplied by Mr. Bastiat. All subheads and bracketed material were supplied by the translator.

Mr. William Penn, for example, is a true Lycurgus. Even though Mr. Penn had peace as his objective—while Lycurgus had war as his objective—they resemble each other in that their moral prestige over free men allowed them to overcome prejudices, to subdue passions, and to lead their respective people into new paths.

The country of Paraguay furnishes us with another example [of a people who, for their own good, are molded by their legislators].[5]

Now it is true that if one considers the sheer pleasure of commanding to be the greatest joy in life, he contemplates a crime against society; it will, however, always be a noble ideal to govern men in a manner that will make them happier.

Those who desire to establish similar institutions must do as follows: Establish common ownership of property as in the republic of Plato; revere the gods as Plato commanded; prevent foreigners from mingling with the people, in order to preserve the customs; let the state, instead of the citizens, establish commerce. The legislators should supply arts instead of luxuries; they should satisfy needs instead of desires.

A FRIGHTFUL IDEA

Those who are subject to vulgar infatuation may exclaim: "Montesquieu has said this! So it's magnificent! It's sublime!" As for me, I have the courage of my own opinion. I say: What! You have the nerve to call that fine? It is frightful! It is abominable! These random selections from the writings of Montesquieu show that he considers persons, liberties, property—mankind itself—to be nothing but materials for legislators to exercise their wisdom upon.

THE LEADER OF THE DEMOCRATS

Now let us examine Rousseau of this subject. This writer on public affairs is the supreme authority of the democrats. And although he bases the social structure upon the will of the people, he has, to a greater extent than anyone else, completely accepted the theory of the total inertness of mankind in the presence of the legislators:

If it is true that a great prince is rare, then is it not true that a great legislator is even more rare? The prince has only to follow the pattern that the legislator creates. The legislator is the mechanic who invents the machine; the prince is merely the workman who sets it in motion.

And what part do persons play in all this? They are merely the machine that is set in motion. In fact, are they not merely considered to be the raw material of which the machine is made?

Thus the same relationship exists between the legislator and the prince as exists between the agricultural expert and the farmer; and the relationship between the prince and his subjects is the same as that between the farmer and his land. How high above mankind, then, has this writer on public affairs been placed? Rousseau rules over legislators themselves, and teaches them their trade in these imperious terms:

Would you give stability to the state? Then bring the extremes as closely together as possible. Tolerate neither wealthy persons nor beggars.

If the soil is poor or barren, or the country too small for its inhabitants, then turn to industry and arts, and trade these products for the foods that you need. . . . On a fertile soil—if you are short of inhabitants—devote all your attention to agriculture, because this multiplies people; banish the arts, because they only serve to depopulate the nation. . . .

If you have extensive and accessible coast lines, then cover the sea with merchant ships; you will have a brilliant but short existence. If your seas wash only inaccessible cliffs, let the people be barbarous and eat fish; they will live more quietly—perhaps better—and, most certainly, they will live more happily.

In short, and in addition to the maxims that are common to all, every people has its own particular circumstances. And this fact in itself will cause legislation appropriate to the circumstances.

This is the reason why the Hebrews formerly—and, more recently, the Arabs—had religion as their principle objective. The objective of the Athenians was literature; of Carthage and Tyre, commerce; of Rhodes, naval affairs; of Sparta, war; and of Rome, virtue. The author of The Spirit of Laws has shown by what art the legislator should direct his institutions toward each of these objectives. . . . But suppose that the legislator mistakes his proper objective, and acts on a principle different from that indicated by the nature of things? Supports that the selected principle sometimes creates slavery, and sometimes liberty; sometimes wealth, and sometimes population; sometimes peace, and sometimes conquest? This confusion of objective will slowly enfeeble the law and impair the constitution. The state will be subjected to ceaseless agitations until it is destroyed or changed, and invincible nature regains her empire.

But if nature is sufficiently invincible to regain its empire, why does not Rousseau admit that it did not need the legislator to gain it in the first place? Why does he not see that men, by obeying their own instincts, would turn to farming on fertile soil, and to commerce on an extensive and easily accessible coast, without the interference of a Lycurgus or a Solon or a Rousseau who might easily be mistaken.

SOCIALISTS WANT FORCED CONFORMITY

Be that as it may, Rousseau invests the creators, organizers, directors, legislators, and controllers of society with a terrible responsibility. He is, therefore, most exacting with them:

He who would dare to undertake the political creation of a people ought to believe that he can, in a manner of speaking, transform human nature; transform each individual—who, by himself, is a solitary and perfect whole—into a mere part of a greater whole from which the individual will henceforth receive his life and being. Thus the person who would undertake the political creation of a people should believe in his ability to alter man's constitution; to strengthen it; to substitute for the physical and independent existence received from nature, an existence which is partial and moral.[6] In short, the would-be creator of political man must remove man's own forces and endow him with others that are naturally alien to him.

Poor human nature! What would become of a person's dignity if it were entrusted to the followers of Rousseau?

LEGISLATORS DESIRE TO MOLD MANKIND

Now let us examine Raynal on this subject of mankind being molded by the legislator:

The legislator must first consider the climate, the air, and the soil. The resources at his disposal determine his duties. He must first consider his locality. A population living on maritime shores must have laws designed for navigation. . . . If it is an inland settlement, the legislator must make his plans according to the nature and fertility of the soil. . . .

It is especially in the distribution of property that the genius of the legislator will be found. As a general rule, when a new colony is established in any country, sufficient land should be given to each man to support his family. . . .

On an uncultivated island that you are populating with children, you need do nothing but let the seeds of truth germinate along with the development of reason. . . . But when you resettle a nation with a past into a new country, the skill of the legislator rests in the policy of permitting the people to retain no injurious opinions and customs which can possibly be cured and corrected. If you desire to prevent these opinions and customs from becoming permanent, you will secure the second generation by a general system of public education for the children. A prince or a legislator should never establish a colony without first arranging to send wise men along to instruct the youth. . . .

In a new colony, ample opportunity is open to the careful legislator who desires to purify the customs and manners of the people. If he has virtue and genius, the land and the people at his disposal will inspire his soul with a plan for society. A writer can only vaguely trace the plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail.

LEGISLATORS TOLD HOW TO MANAGE MEN

Raynal's instructions to the legislators on how to manage people may be compared to a professor of agriculture lecturing his students: "The climate is the first rule for the farmer. His resources determine his procedure. He must first consider his locality. If his soil is clay, he must do so and so. If his soil is sand, he must act in another manner. Every facility is open to the farmer who wishes to clear and improve his soil. If he is skillful enough, the manure at his disposal will suggest to him a plan of operation. A professor can only vaguely trace this plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail."

Oh, sublime writers! Please remember sometimes that this clay, this sand, and this manure which you so arbitrarily dispose of, are men! They are your equals! They are intelligent and free human beings like yourselves! As you have, they too have received from God the faculty to observe, to plan ahead, to think, and to judge for themselves!

A TEMPORARY DICTATORSHIP

Here is Mably on this subject of the law and the legislator. In the passages preceding the one here quoted, Mably has supposed the laws, due to a neglect of security, to be worn out. He continues to address the reader thusly:

Under these circumstances, it is obvious that the springs of government are slack. Given them a new tension, and the evil will be cured. . . . Think less of punishing faults, and more of rewarding that which you need. In this manner you will restore to your republic the vigor of youth. Because free peo-

[5] Translator's note: What was then known as Paraguay was a much larger area then it is today. It was colonized by the Jesuits who settled the Indians into villages, and generally saved them from further brutalities by the avid conquerors.

[6] Translator's note: According to Rousseau, the existence of social man is partial in the sense that he is henceforth merely a part of society. Knowing himself as such—and thinking and feeling from the point of view of the whole—he thereby becomes moral.

ple have been ignorant of this procedure, they have lost their liberty! But if the evil has made such headway that ordinary governmental procedures are unable to cure it, then resort to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow.

In this manner, Mably continues through twenty volumes.

Under the influence of teaching like this—which stems from classical education—there came a time when everyone wished to place himself above mankind in order to arrange, organize, and regulate it in his own way.

SOCIALISTS WANT EQUALITY OF WEALTH

Next let us examine Condillac on this subject of the legislators and mankind:

My Lord, assume the character of Lycurgus or of Solon. And before you finish reading this essay, amuse yourself by giving laws to some savages in America or Africa. Confine these nomads to fixed dwellings; teach them to tend flocks. . . . Attempt to develop the social consciousness that nature has planted in them. . . . Force them to begin to practice the duties of humanity. . . . Use punishment to cause sensual pleasures to become distasteful to them. Then you will see that every point of your legislation will cause these savages to lose a vice and gain a virtue.

All people have had laws. But few people have been happy. Why is this so? Because the legislators themselves have almost always been ignorant of the purpose of society, which is the uniting of families by a common interest.

Impartiality in law consists of two things: the establishing of equality in wealth and equality in dignity among the citizens. . . . As the laws establish greater equality, they become proportionately more precious to every citizen. . . . When all men are equal in wealth and dignity—and when the laws leave no hope of disturbing this equality—how can men then be agitated by greed, ambition, dissipation, idleness, sloth, envy, hatred, or jealousy?

What you have learned about the republic of Sparta should enlighten you on this question. No other state has ever had laws more in accord with the order of nature; of equality.

THE ERROR OF THE SOCIALIST WRITERS

Actually, it is not strange that during the seventeenth and eighteenth centuries the human race was regarded as insert matter, ready to receive everything—form, face, energy, movement, life—from a great prince or a great legislator or a great genius. These centuries were nourished on the study of antiquity. And antiquity presents everywhere—in Egypt, Persia, Greece, Rome—the spectacle of a few men molding mankind according to their whims, thanks to the prestige of force and of fraud. But this does not prove that this situation is desirable. It proves only that since men and society are capable of improvement, it is naturally to be expected that error, ignorance, despotism, slavery, and superstition should be greatest towards the origins of history. The writers quoted above were not in error when they found ancient institutions to be such, but they were in error when they offered them for the admiration and imitation of future generations. Uncritical and childish conformists, they took for granted the grandeur, dignity, morality, and happiness of the artificial societies of the ancient world. They did not understand that knowledge appears and grows with the passage of time; and that in proportion to this growth of knowledge, might takes the side of right, and society regains possession of itself.

WHAT IS LIBERTY?

Actually, what is the political struggle that we witness? It is the instinctive struggle of all people toward liberty. And what is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, of trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?

It must be admitted that the tendency of the human race toward liberty is largely thwarted, especially in France. This is greatly due to a fatal desire—learned from the teachings of antiquity—that our writers on public affairs have in common: They desire to set themselves above mankind in order to arrange, organize, and regulate it according to their fancy.

PHILANTHROPIC TYRANNY

While society is struggling toward liberty, these famous men who put themselves at its head are filled with the spirit of the seventeenth and eighteenth centuries. They think only of subjecting mankind of the philanthropic tyranny of their own social inventions. Like Rousseau, they desire to force mankind docilely to bear this yoke of the public welfare that they have dreamed up in their own imaginations.

This was especially true in 1789. No sooner was the old regime destroyed than society was subjected to still other artificial arrangements, always starting from the same point: the omnipotence of the law.

Listen to the ideas of a few of the writers and politicians during that period:

Saint-Just: The legislator commands the future. It is for him to will the good of mankind. It is for him to make men what he wills then to be.

Robespierre: The function of government is to direct the physical and moral powers of the nation toward the end for which the commonwealth has come into being.

Billaud-Varennes: A people who are to be returned to liberty must be formed anew. A strong force and vigorous action are necessary to destroy old prejudices, to change old customs, to correct depraved affections, to restrict superiluous wants, and to destroy ingrained vices. . . . Citizens, the inflexible austerity of Lycurgus created in firm foundation of the Spartan republic. The weak and trusting character of Solon plunged Athens into slavery. This parallel embraces the whole science of government.

Le Pelletier: Considering the extent of human degradation, I am convinced that it is necessary to affect a total regeneration and, if I may so express myself, of creating a new people.

THE SOCIALISTS WANT DICTATORSHIP

Again, it is claimed that persons are nothing but raw material. It is not for them to will their own improvement; they are incapable of it. According to Saint-Just, only the legislator is capable of doing this. Persons are merely to be what the legislator wills them to be. According to Robespierre, who copies Rousseau literally, the legislator begins by decreasing the end for which the commonwealth has come into being. Once this is determined, the government has only to direct the physical and moral forces of the nation toward that end. Meanwhile, the inhabitants of the nation are to remain completely passive. And according to the teachings of Billaud-Varennes, the people should have no prejudices, no affections, and no desires except those authorized by the legislator. He even goes so far as to say that the inflexible austerity of one man is the foundation of a republic.

In cases where the alleged evil is so great that ordinary governmental procedures cannot cure it, Mably recommends a dictatorship to promote virtue: "Resort," he says, "to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow." This doctrine has not been forgotten. Listen to Robespierre:

The principle of the republican government is virtue, and the means required to establish virtue is terror. In our country we desire to substitute morality for selfishness, honesty for honor, principles for customs, duties for manners, the empire or reason for the tyranny of fashion, contempt of vice for contempt of poverty, pride for insolence, greatness of soul for vanity, love of glory for love of money, good people for good companions, merit for intrigue, genius for wit, truth for glitter, the charm of happiness for the boredom of pleasure, the greatness of man for the littleness of the great, a generous, strong, happy people for a good-natured, frivolous, degraded people; in short, we desire to substitute all the virtues and miracles of a republic for all the vices and absurdities of a monarchy.

DICTATORIAL ARROGANCE

At what a tremendous height above the rest of mankind does Robespierre here place himself! And note the arrogance with which he speaks. He is not content to pray for a great reawakening of the human spirit. Nor does he expect such a result from a well-ordered government. No, he himself will remake mankind, and by means of terror.

This mass of rotten and contradictory statements is extracted from a discourse by Robespierre in which he aims to explain the principles of morality which ought to guide a revolutionary government. Note that Robespierre's request for dictatorship is not made merely for the purpose of repelling a foreign invasion or putting down the opposing groups. Rather he wants a dictatorship in order that he may use terror to force upon the country his own principles of morality. He says that this act is only to be a temporary measure preceding a new constitution. But in reality, he desires nothing short of using terror to extinguish from France selfishness, honor, customs, manners, fashion, vanity, love of money, good companionship, intrigue, wit, sensuousness, and poverty. Not until he, Robespierre, shall have accomplished these miracles, as he so rightly calls them, will he permit the law to reign again.[7]

THE INDIRECT APPROACH TO DESPOTISM

Usually, however, these gentlemen—the reformers, the legislators, and the writers on public affairs—do not desire to impose direct despotism upon mankind. On no, they are

[7] At this point in the original French text, Mr. Bastiat pauses and speaks thusly to all do-gooders and would-be rulers of mankind: "Ah, you miserable creatures! You who think that you are so great! You who judge humanity to be so small! You who wish to reform everything! Why don't you reform yourselves? That task would be sufficient enough."

too moderate and philanthropic for such direct action. Instead, they turn to the law for this despotism, this absolutism, this omnipotence. They desire only to make the laws.

To show the prevalence of this queer idea in France, I would need to copy not only the entire works of Mably, Raynal, Rousseau, and Fenelon—plus long extracts from Bossuet and Montequieu—but also the entire proceedings of the Convention. I shall do no such thing; I merely refer the reader to them.

NAPOLEON WANTED PASSIVE MANKIND

It is, of course, not at all surprising that this same idea should have greatly appealed to Napoleon. He embraced it ardently and used it with vigor. Like a chemist, Napoleon considered all Europe to be material for his experiments. But, in due course, this material reacted against him.

At St. Helena, Napoleon—greatly disillusioned—seemed to recognize some initiative in mankind. Recognizing this, he became less hostile to liberty. Nevertheless, this did not prevent him from leaving this lesson to his son in his will: "To govern is to increase and spread morality, education, and happiness."

After all this, it is hardly necessary to quote the same opinions from Morelly, Babeuf, Owen, Saint-Simon, and Fourier. Here are, however, a few extracts from Louis Blanc's book on the organization of labor: "In our plan, society receives its momentum from power."

Now consider this: The impulse behind this momentum is to be supplied by the plan of Louis Blanc; his plan is to be forced upon society; the society referred to is the human race. Thus the human race is to receive its momentum from Louis Blanc.

Now it will be said that the people are free to accept or to reject this plan. Admittedly, people are free to accept or to reject advice from whomever they wish. But this is not the way in which Mr. Louis Blanc understands the matter. He expects that his plan will be legalized, and thus forcibly imposed upon the people by the power of the law:

In our plan, the state has only to pass labor laws (nothing else?) by means of which industrial progress can and must proceed in complete liberty. The state merely places society on an incline (that is all?). Then society will slide down this incline by the mere force of things, and by the natural workings of the established mechanism.

But what is this incline that is indicated by Mr. Louis Blanc? Does it not lead to an abyss? (No, it leads to happiness.) If this is true, then why does not society get to there of its own choice? (Because society does not know what it wants; it must be propelled.) What is to propel it? (Power.) And who is to supply the impulse for this power? (Why, the inventor of the machine—in this instance, Mr. Louis Blanc.)

THE VICIOUS CIRCLE OF SOCIALISM

We shall never escape from this circle: the idea of passive mankind, and the power of the law being used by a great man to propel the people.

Once on this incline, will society enjoy some liberty? (Certainly.) And what is liberty, Mr. Louis Blanc?

Once and for all, liberty is not only a mere granted right; it is also the power granted to a person to use and to develop his faculties under a reign of justice and under the protection of the law.

And this is no pointless distinction; its meaning is deep and its consequences are difficult to estimate. For once it is agreed that a person, to be truly free, must have the power to use and develop his faculties, then it follows that every person has a claim on society for such education as will permit him to develop himself. It also follows that every person has a claim on society for tools of production, without which human activity cannot be fully effective. Now by what action can society give to every person the necessary education and the necessary tools of production, if not by the action of the state?

Thus, again, liberty is power. Of what does this power consist? (Of being educated and of being given the tools of production.) Who is to give the education and the tools of production? (Society, which owes them to everyone.) By what action is society to give tools of production to those who do not own them? (Why, by the action of the state.) And from whom will the State take them?

Let the reader answer that question. Let him also notice the direction in which this is taking us.

THE DOCTRINE OF THE DEMOCRATS

The strange phenomenon of our times—one which will probably astound our descendants—is the doctrine based on this triple hypothesis: the total inertness of mankind, the omnipotence of the law, and the infallibility of the legislator. These three ideas form the sacred symbol of those who proclaim themselves totally democratic.

The advocates of this doctrine also profess to be social. So far as they are democratic, they place unlimited faith in mankind. But so far as they are social, they regard mankind as little better than mud. Let us examine this contrast in greater detail.

What is the attitude of the democrat when political rights are under discussion? How does he regard the people when a legislator is to be chosen? Ah, then it is claimed that the people have an instinctive wisdom; they are gifted with the finest perception; their will is always right; the general will cannot err; voting cannot be too universal.

When it is time to vote, apparently the voter is not to be asked for any guarantee of his wisdom. His will and capacity to choose wisely are taken for granted. Can the people be mistaken? Are we not living in an age of enlightenment? What! are the people always to be kept on leashes? Have they not won their rights by great effort and sacrifice? Have they not given ample proof of their intelligence and wisdom? Are they not adults? Are they not capable of judging for themselves? Do they not know what is best for themselves? Is there a class or a man who would be so bold as to set himself above the people, and judge and act for them? No, no, the people are and should be free. They desire to manage their own affairs, and they shall do so.

But when the legislator is finally elected—ah! then indeed does the tone of his speech undergo a radical change. The people are returned to passiveness, inertness, and unconsciences; the legislator enters into omnipotence. Now it is for him to initiate, to direct, to propel, and to organize. Mankind has only to submit; the hour of despotism has struck. We now observe this fatal idea: The people who, during the election, were so wise, so moral, and so perfect, now have no tendencies whatever; or if they have any, they are tendencies that lead downward into degradation.

THE SOCIALIST CONCEPT OF LIBERTY

But ought not the people be given a little liberty?

But Mr. Considerant has assured us that liberty leads inevitably to monopoly!

We understand that liberty means competition. But according to Mr. Louis Blanc, competition is a system that ruins the businessmen and exterminates the people. It is for this reason that free people are ruined and exterminated in proportion to their degree of freedom. (Possibly Mr. Louis Blanc should observe the results of competition in, for example, Switzerland, Holland, England, and the United States.)

Mr. Louis Blanc also tells us that competition leads to monopoly. And by the same reasoning, he thus informs us that low prices lead to high prices; that competition drives production to destructive activity; that competition drains away the sources of purchasing power; that competition forces an increase in production while, at the same time, it forces a decrease in consumption. From this, it follows that free people produce for the sake of not consuming; that liberty means oppression and madness among the people; and that Mr. Louis Blanc absolutely must attend to it.

SOCIALISTS FEAR ALL LIBERTIES

Well, what liberty should the legislators permit people to have? Liberty of conscience? (But if this were permitted, we would see the people taking this opportunity to become atheists.)

Then liberty of education? (But parents would pay professors to teach their children immorality and falsehoods; besides, according to Mr. Thiers, if education were left to national liberty, it would cease to be national, and we would be teaching our children the ideas of the Turks or Hindus; whereas, thanks to this legal despotism over education, our children now have the good fortune to be taught the noble ideas of the Romans.)

Then liberty of labor? (But that would mean competition which, in turn, leaves production unconsumed, ruins businessmen, and exterminates the people.)

Perhaps liberty of trade? (But everyone knows—and the advocates of protective tariffs have proved over the over again—that freedom of trade ruins every person who engages in it, and that it is necessary to suppress freedom of trade in order to prosper.)

Possibly then, liberty of association? (But, according to socialist doctrine, true liberty and voluntary association are in contradiction to each other, and the purpose of the socialists is to suppress liberty of association precisely in order to force people to associate together in true liberty.)

Clearly then, the conscience of the social democrats cannot permit persons to have any liberty because they believe that the nature of mankind tends always toward every kind of degradation and disaster. Thus, of course, the legislators must make plans for the people in order to save them for themselves.

This line of reasoning brings us to a challenging question: If people are as incapable, as immoral, and as ignorant as the politicians indicate, then why is the right of these same people to vote defended with such passionate insistence?

THE SUPERMAN IDEA

The claims of these organizers of humanity raise another question which I have often asked them and which, so far as I know, they have never answered: If the natural tendencies of mankind are so bad that it is not safe to permit people to be free, how is it that the tendencies of these organizers are always good? Do not the legislators and their appointed agents also belong to the human race? Or do they believe that they them-

selves are made of a finer clay than the rest of mankind? The organizers maintain that society, when left undirected, rushes headlong to its inevitable destruction because the instincts of the people are so perverse. The legislators claim to stop this suicidal course and to give it a saner direction. Apparently, then, the legislators and the organizers have received from Heaven an intelligence and virtue that place them beyond and above mankind; if so, let them show their titles to this superiority.

They would be the shepherds over us, their sheep. Certainly such an arrangement presupposes that they are naturally superior to the rest of us. And certainly we are fully justified in demanding from the legislators and organizers proof of this natural superiority.

THE SOCIALISTS REJECT FREE CHOICE

Please understand that I do not dispute their right to invent social combinations, to advertise them, to advocate them, and to try them upon themselves, at their own expense and risk. But I do dispute their right to impose these plans upon us by law—by force—and to compel us to pay for them with our taxes.

I do not insist that the supporters of these various social schools of thought—the Proudhonists, the Cabetists, the Fourierists, the Universitarists, and the Protectionists—renounce their various ideas. I insist only that they renounce this one idea that they have in common: They need only to give up the idea of *forcing* us to acquiesce to their groups and series, their socialized projects, their free-credit banks, their Gracco-Roman concept of morality, and their commercial regulations. I ask only that we be permitted to decide upon these plans for ourselves; that we not be forced to accept them, directly or indirectly, if we find them to be contrary to our best interests or repugnant to our consciences.

But these organizers desire access to the tax funds and to the power of the law in order to carry out their plans.

In addition to being oppressive and unjust, this desire also implies the fatal supposition that the organizer is infallible and mankind is incompetent. But, again, if persons are incompetent to judge for themselves, then why all this talk about universal suffrage?

THE CAUSE OF FRENCH REVOLUTIONS

This contradiction in ideas is, unfortunately but logically, reflected in events in France. For example, Frenchmen have led all other Europeans in obtaining their rights—or, more accurately, their political demands. Yet this fact has in no respect prevented us from becoming the most governed, the most regulated, the most imposed upon, the most harnessed, and the most exploited people in Europe. France also leads all other nations as the one where revolutions are constantly to be anticipated. And under the circumstances, it is quite natural that this should be the case.

And this will remain the case so long as our politicians continue to accept this idea that has been so well expressed by Mr. Louis Blanc: "Society receives its momentum from power." This will remain the case so long as human beings with feelings continue to remain passive; so long as they consider themselves incapable of bettering their prosperity and happiness by their own intelligence and their own energy; so long as they expect everything from the law; in short, so long as they imagine that their relationship to the state is the same as that of the sheep to the shepherd.

THE ENORMOUS POWER OF GOVERNMENT

As long as these ideas prevail, it is clear that the responsibility of government is enormous. Good fortune and bad fortune, wealth and destitution, equality and inequality, virtue and vice—all then depend upon political administration. It is burdened with everything, it undertakes everything, it does everything; therefore it is responsible for everything.

If we are fortunate, then government has a claim to our gratitude; but if we are unfortunate, then government must bear the blame. For are not our persons and property now at the disposal of government? Is not the law omnipotent?

In creating a monopoly of education, the government must answer to the hopes of the fathers of families who have thus been deprived of their liberty; and if these hopes are shattered, whose fault is it?

In regulating industry, the government has contracted to make it prosper; otherwise it is absurd to deprive industry of its liberty. And if industry now suffers, whose fault is it?

In meddling with the balance of trade by playing with tariffs, the government thereby contracts to make trade prosper; and if this results in destruction instead of prosperity, whose fault is it?

In giving the maritime industries protection in exchange for the liberty, the government undertakes to make them profitable; and if they become a burden to the taxpayers, whose fault is it?

Thus there is not a grievance in the nation for which the government does not voluntarily make itself responsible. It is surprising, then, that every failure increases the threat of another revolution in France?

And what remedy is proposed for this? To extend indefinitely the domain of the law; that is, the responsibility of government.

But if the government undertakes to control and to raise wages, and cannot do it; if the government undertakes to care for all who may be in want, and cannot do it; if the government undertakes to support all unemployed workers, and cannot do it; if the government undertakes to lend interest-free money to all borrowers, and cannot do it; if, in these words that we regret to say escaped from the pen of Mr. de Lamartine, "The state considers that its purpose is to enlighten, to develop, to enlarge, to strengthen, to spiritualize, and to sanctify the soul of the people"—and if the government cannot do all of these things, what then? Is it not certain that after every government failure—which, alas! is more than probable—there will be an equally inevitable resolution?

POLITICS AND ECONOMICS

[Now let us return to a subject that was briefly discussed in the opening pages of this thesis: the relationship of economics and of politics—political economy.[8]]

A science of economics must be developed before a science of politics can be logically formulated. Essentially, economics is the science of determining whether the interests of human beings are harmonious or antagonistic. This must be known before a science of politics can be formulated to determine the proper functions of government.

Immediately following he development of a science of economics, and at the very beginning of the formulation of a science of politics, this all-important question must be answered: What is law? What ought it to be? What is its scope; its limits? Logically, at what point do the just powers of the legislator stop?

I do not hesitate to answer: Law is the common force organized to act as an obstacle to injustice. In short, law is justice.

PROPER LEGISLATIVE FUNCTIONS

It is not true that the legislator has absolute power over our persons and property. The existence of persons and property preceded the existence of the legislator, and his function is only to guarantee their safety.

It is not true that the function of law is to regulate our consciences, our ideas, our wills, our education, our opinions, our work, our trade, our talents, or our pleasures. The function of law is to protect the free exercise of these rights, and to prevent any person from interfering with the free exercise of these same rights by any other person.

Since law necessarily requires the support of force, its lawful domain is only in the areas where the use of force is necessary. This is justice.

Every individual has the right to use force for lawful self-defense. It is for this reason that the collective force—which is only the organized combination of the individual forces—may lawfully be used for the same purpose; and it cannot be used legitimately for any other purpose.

Law is solely the organization of the individual right of self-defense which existed before law was formalized. Law is justice.

LAW AND CHARITY ARE NOT THE SAME

The mission of the law is not to oppress persons and plunder them of their property, even though the law may be acting in a philanthropic spirit. Its mission is to protect persons and property.

Furthermore, it must not be said that the law may be philanthropic if, in the process, it refrains from oppressing persons and plundering them of their property; this would be a contradiction. The law cannot avoid having an effect upon persons and property; and if the law acts in any manner except to protect them, its actions then necessarily violate the liberty of persons and their right to own property.

The law is justice—simple and clear, precise and bounded. Every eye can see it, and every mind can grasp it; for justice is measurable, immutable, and unchangeable. Justice is neither more than this nor less than this.

If you exceed this proper limit—if you attempt to make the law religious, fraternal, equalizing, philanthropic, industrial, literary, or artistic—you will then be lost in an uncharted territory, in vagueness and uncertainty, in a forced utopia or, even worse, in a multitude of utopias, each striving to seize the law and impose it upon you. This is true because fraternity and philanthropy, unlike justice, do not have precise limits. Once started, where will you stop? And where will the law stop itself?

THE HIGH ROAD TO COMMUNISM

Mr. de Saint-Cricq would extend his philanthropy only to some of the industrial groups; he would demand that the law control the consumers to benefit the producers.

Mr. Considerant would sponsor the cause of the labor groups; he would use the law to secure for them a guaranteed minimum of clothing, housing, food, and all other necessities of life.

Mr. Louis Blanc would say—and with reason—that these minimum guarantees are merely the beginning of complete fraternity; he would say that the law should give tools of production and free education to all working people.

[8] Translator's note: Mr. Bastiat has devoted three other books and several articles to the development of the ideas contained in the three sentences of the following paragraph.

Another person would observe that this arrangement would still leave room for inequality; he would claim that the law should give to everyone—even in the most inaccessible hamlet—luxury, literature, and art.

All of these proposals are the high road to communism; legislation will then be—in fact, it already is—the battlefield for the fantasies and greed of everyone.

THE BASIS FOR STABLE GOVERNMENT

Law is justice. In this proposition a simple and enduring government can be conceived. And I defy anyone to say how even the thought of revolution, of insurrection, of the slightest uprising could arise against a government whose organized force was confined only to suppressing injustice.

Under such a regime, there would be the most prosperity—and it would be the most equally distributed. As for the sufferings that are inseparable from humanity, no one would even think of accusing the government for them. This is true because, if the force of government were limited to suppressing injustice, then government would be as innocent of these sufferings as it is now innocent of changes in the temperature.

As proof of this statement, consider this question: Have the people ever been known to rise against the Court of Appeals, or mob a Justice of the Peace, in order to get higher wages, free credit, tools of production, favorable tariffs, or government-created jobs? Everyone knows perfectly well that such matters are not within the jurisdiction of the Court of Appeals or a Justice of the Peace. And if government were limited to its proper functions, everyone would soon learn that these matters are not within the jurisdiction of the law itself.

But make the laws upon the principle of fraternity—proclaim that all good, and all bad, stem from the law; that the law is responsible for all individual misfortunes and all social inequalities—then the door is open to an endless succession of complaints, irritations, troubles, and revolutions.

JUSTICE MEANS EQUAL RIGHTS

Law is justice. And it would indeed be strange if law could properly be anything else. Is not justice right? Are not rights equal? By what right does the law force me to conform to the social plans of Mr. Mimerel, Mr. de Melun, Mr. Thiers, or Mr. Louis Blanc? If the law has a moral right to do this, why does it not, then, force these gentlemen to submit to my plans? Is it logical to suppose that nature has not given me sufficient imagination to dream up a utopia also? Should the law choose one fantasy among many, and put the organized force of government at its service only?

Law is justice. And let it not be said—as it cotinually is said—that under this concept, the law would be atheistic, individualistic, and heartless; that it would make mankind in its own image. This is an absurd conclusion, worthy only of those worshippers of government who believe that the law is mankind.

Nonsense. Do those worshippers of government believe that free persons will cease to act? Does it follow that if we receive no energy from the law, we shall receive no energy at all? Does it follow that if the law is restricted to the function of protecting the free use of our faculties, we will be unable to use our faculties? Suppose that the law does not force us to follow certain forms of religion, or systems of association, or methods of education, or regulations of labor, or regulations of trade, or plans for charity; does it then follow that we shall eagerly plunge into atheism, hermitary, ignorance, misery, and greed? If we are free, does it follow that we shall no longer recognize the power and goodness of God? Does it follow that we shall then cease to associate with each other, to help each other, to love and succor our unfortunate brothers, to study the secrets of nature, and to strive to improve ourselves to the best of our abilities?

THE PATH TO DIGNITY AND PROGRESS

Law is justice. And it is under the law of justice—under the reign of right; under the influence of liberty, safety, stability, and responsibility—that every person will attain his real worth and the true dignity of his being. It is only under this law of justice that mankind will achieve—slowly, no doubt, but certianly—God's design for the orderly and peacefull progress of humanity.

It seems to me that this is theoretically right, for whatever the question under discussion—whether religious, philosophical, political, or economic; whether it concerns prosperity, morality, equality, right, justice, progress, responsibility, cooperation, property, labor, trade, capital, wages, taxes, population, finance, or government—at whatever point on the scientific horizon I begin my researches, I invariably reach this one conclusion: The solution to the problems of human relationships is to be found in liberty.

PROOF OF AN IDEA

And does not experience prove this? Look at the entire world. Which countries contain the most peaceful, the most moral, and the happiest people? Those people are found in the countries where the law least interferes with private affairs; where government is least felt; where the individual has the greatest scope, and free opinion the greatest influence; where administrative powers are fewest and simplest; where taxes are lightest and most nearly equal, and popular discontent the least excited and the least justifiable; where individuals and groups most actively assume their responsibilities, and, consequently, where the morals of admittedly imperfect human beings are constantly improving; where trade, assemblies, and associations are the least restricted; where labor, capital, and populations suffer the fewest forced displacements; where mankind most nearly follows its own natural inclinations; where the inventions of men are most nearly in harmony with the laws of God; in short, the happiest, most moral, and most peaceful people are those who most nearly follow this principle: Although mankind is not perfect, still, all hope rests upon the free and voluntary actions of persons within the limits of right; law or force is to be used for nothing except the administration of universal justice.

THE DESIRE TO RULE OVER OTHERS

This must be said: There are too many "great" men in the world—legislators, organizers, do-gooders, leaders of the people, fathers of nations, and so on, and so on. Too many persons place themselves above mankind; they make a career of organizing it, patronizing it, and ruling it.

Now someone will say: "You yourself are doing this very thing."

True. But it must be admitted that I act in an entirely different sense; if I have joined the ranks of the reformers, it is solely for the purpose of persuading them to leave people alone. I do not look upon people as Vancauson looked upon his automaton. Rather, just as the physiologist accepts the human body as it is, so do I accept people as they are. I desire only to study and admire.

My attitude toward all other persons is well illustrated by this story from a celebrated traveler: He arrived one day in the midst of a tribe of savages, where a child had just been born. A crowd of soothsayers, magicians, and quacks—armed with rings, hooks, and cords—surrounded it. One said: "This child will never smell the perfume of a peace-pipe unless I stretch his nostrils." Another said: "He will never be able to hear unless I draw his ear-lobes down to his shoulders." A third said: "He will never see the sunshine unless I slant his eyes." Another said: "He will never stand upright unless I bend his legs." A fifth said: "He will never learn to think unless I flatten his skull."

"Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."

LET US NOW TRY LIBERTY

God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as a human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their rings, chains, hooks, and pincers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!

And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. SYMMS. Mr. President, I will continue:

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law became the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and prop-

erty existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

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

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

Mr. SYMMS. Mr. President, I continue on with this great work by Frederic Bastiat:

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a nation were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread. We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

Mr. President, I find it interesting that Frederic Bastiat wrote these words in 1948 and how pertinent they are to the day that we now live in.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes; stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—if follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protest property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This, fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destory in varying degree among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participating in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

Mr. President, I am going to close by giving the last paragraph of this trea-

tise. I urge my colleagues to review this and to ask their staffs to review this because it is so pertinent to the situation we face today in this great country of ours. Here is a French philosopher and statesman who wrote this book, most of it, in 1848. It is a little treatise. You can see the parallels of the quest towards more Government in the United States of America, more solutions, all the gullible ideas, all the positive, noble ideas. And I impugn no one's motives in the Senate who pushes for Government to solve problems.

Bastiat closes with a little story that I shall share about a traveler who comes upon a group of people who were living out in a more primitive state and his observation of how they wanted to do certain things to improve the life of the people.

He made the observation that these people are already gifted with the right facilities and faculties; that maybe we should just stop trying to change them. We were trying to flatten their heads; slant their eyes; that we could do all these things. He made the point:

"Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."

LET US NOW TRY LIBERTY

God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!

And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Oklahoma.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator SYMMS from Idaho. I, for one, hate to see him retire from this body. He has made valuable contributions, day in and day out. I had the pleasure of being elected with him 12 years ago to the U.S. Senate.

The speech he has been making today in talking about individual liberty, talking about preserving and protecting individual freedom, is a message that needs to be heard in this body. That is what a lot of people think about the Senate when they think of our forefathers who had the courage and conviction to fight to protect our freedoms. I think of that, and of Senator SYMMS and his unrelenting conviction for trying to protect individual liberty. I compliment him again for his speech, and also for his consistency and steadfastness and his conviction.

There are very few times we have Members of the Senate, and probably for the House as well, that really have conviction on issues; that are not just looking for the weather vane, but they actually have heartfelt convictions that they believe would help make this country better. And certainly Senator SYMMS has exemplified that for the last 12 years. I for one will certainly miss his service and tenure in this body.

Mr. SYMMS. Will my colleague yield? I thank my outstanding colleague from Oklahoma, and the feeling is mutual. I appreciate the work he has done in this body. I look forward to seeing him here in this body for many years to come.

With reference to the book, "Treatise by Bastiat," I have not completed it yet, I say to my colleagues. I am sure many would like to hear the rest of it. If it is necessary, I will come back and read it all personally into the RECORD, although it will be printed in the RECORD. But I thank my colleague.

Mr. NICKLES. I thank my friend.

THE ENERGY BILL

Mr. NICKLES. Mr. President, this Congress needs to pass an energy bill. This Congress needs to pass a positive energy bill. I have heard many people say we have not had an energy policy in the last 10 or 12 years. We certainly need one.

I think somewhat implied in that is that we had an energy policy in the late seventies. And I will just state yes, we had some energy policies in the late seventies, but they did more harm than good. As a matter of fact they did a lot of damage. We had to make changes. I tell my friend and colleague, who is Presiding Officer, that we had to undo most all the damage that was done in the late seventies because Congress made some serious mistakes. I hope that Congress will not repeat those mistakes.

Congress passed legislation in the late seventies to impose a windfall profits tax which was placed only on domestic production. It was not placed on imports. It was only placed on domestic production.

I tell my friend from New Jersey, maybe they do not have a lot of oil wells in New Jersey, but we have quite a few in Oklahoma, about 80,000-some.

We only placed a tax on domestic production. We did not place it on imports. So we discouraged domestic production and we encouraged imports. That does not make any sense.

This Senator came into office saying we need to repeal the windfall profit tax. It took several years. But we finally did repeal it. So we had to undo some of the damage that was done in that particular piece of legislation that passed in 1980.

We had to undo the price controls on natural gas.

When Congress passed, in 1978, the Natural Gas Policy Act, it placed price controls on 28 different categories of natural gas. That did not make any sense whatsoever. It was a serious mistake. Finally, we repealed it.

Finally, President Bush signed legislation that many people have worked on for 35 years, decontrolling all natural gas. I will tell my colleagues that has been a real benefit for consumers. Gas prices have fallen as a result of that legislation, as many of us said it would.

Many of us happened to believe that the marketplace is much better at setting prices than Congress. Congress certainly set prices with the Natural Gas Policy Act and in effect made some serious mistakes that caused ripples throughout the economy. A lot of people are not aware of the fact that when Congress passed the Natural Gas Policy Act it controlled all prices except for one category of gas, and that was so-called deep gas, gas that was below 15,000 feet. We decontrolled the so-called deep gas and the net result was there was a shortage back in 1978.

We had some real shortages that were not caused by a shortage of natural gas. It was caused by an abundance of regulation. The net result was we had a shortage. When we decontrolled that one category of gas, everybody ran in to drill the so-called deep gas. It is unbelievable to many that it was directed toward that one category.

The point I am making is that then the banks came running in, yes, we will loan money. Gas prices went way up to $9, $10. They went up very rapidly. But then when supply equaled demand, they also fell very rapidly. We had the first big bank failure in some time, not a particularly big bank, but Penn Square Bank in my State of Oklahoma on July 5, 1982. Then following that we had the bank failure of Penn Continental Illinois that had to be bailed out.

Then we had the problems in Seattle with the Sea First Bank. Even Chase Manhattan, as big it was, had to write off very large loans, all of which loans were predicated on loaning money to drill for deep gas that was decontrolled, because Congress did not decontrol all gas. It only decontrolled one category of gas.

Again, that made no sense whatsoever; no economic sense. Congress made a serious mistake. I will mention that it was the Carter administration that supported that. Both the House and Senate were controlled by the Democrats. They made a serious mistake. We have been paying for that and paying for that ever since.

Finally, we eliminated the Natural Gas Policy Act for all practical purposes, and decontrolled natural gas. That has been a positive solution to correcting a previous mistake.

Also, I might mention in the late seventies Congress passed the Synthetic Fuels Corporation Act, creating a massive Federal corporation; we were going to produce synthetic fuel with the Federal Government owning the corporation. Many of us thought that was a serious mistake. We did not need the Federal Government involved in the business, and supported repeal.

Finally, a few years later we were successful in repealing the Synthetic Fuels Corporation Act, although I might mention after we wasted billions and billions of dollars.

So my point is, Mr. President, we need an energy policy. But we need a good energy policy, and we need to pass it this year.

So I call upon my colleagues, while we have a little floor time available, to look at the energy issue that we have before us.

Many of us worked on an energy bill for months. I wish to compliment my colleagues, Senator JOHNSTON from Louisiana, and also Senator WALLOP from Wyoming, for their leadership, because I think we put together a good bill, both in the Senate and I also say coming out of conference. This was not an easy conference. It is a conference that many of us spent many hours in. We did not conclude until, I think, 12:30 in the morning. That would have been Wednesday morning. It was a very long and difficult conference, but one where I believe we came up with a good package, one that needs to pass.

I hope we will be able to bring up the energy package tomorrow, or maybe tonight. Let us get it on the floor and debate it and pass it and have the President sign it.

We had a successful conference dealing with all of the titles of the bill except for the tax title. The House and Senate have yet to have a conference on the tax titles. One particular section of the tax title deals with reform of the alternative minimum tax. We need that. In this Senator's opinion, it is the most important part of the energy bill.

You may ask why do we need that. Well, there is a real depression right now in the drilling industry. Many people are not aware of that, but actually the number of rigs running right now are about 700 some-odd rigs, and that is one of the lowest number we have had running in the last 40-some years. So we need to encourage drilling.

You may ask, why is it so low, and why are we not drilling more than that? The reason is because of the tax changes that were made in 1986. Tax changes in 1986 placed intangible drilling costs as a preference item for alternative minimum tax.

A lot of people in this body do not understand the alternative minimum tax. There are a lot of different preference items. The idea is that we are going to tax income that has been tax exempt to make sure people pay their fair share.

I do not disagree with the theory. Intangible drilling costs are out-of-pocket business expenses incurred in drilling a well. Those are expenses that are expensed, and if anybody is familiar with business, you should not tax expended items. You are supposed to tax net income items. This is not an income item. That is money that is spent on drilling muds and fluids and pipe, and not pipe that is recoverable, pipe that is sunk into the well and mud and comet and other expenditures that cannot be taken and moved to the next well site. It is not something you can amortize over 10 different wells. This is an out-of-pocket business expense that is put into the ground, that is not recovered. So it should be written off that year.

But Congress, in 1986, made a mistake and included intangible drilling costs as a preference item for alternative minimum tax. What does that mean? It means that an independent—which is who does most of the drilling in this country, and certainly makes most of the new finds in this country—has to pay a surcharge or surtax of 24 percent on his expensed items, not on net income items, not on how much money they made off of the oil well, but a 24-percent tax surcharge on an expense. It is just the opposite of the refundable tax credit, or just the opposite of a tax benefit. It is a tax penalty. It needs to be repealed and changed.

I will tell my colleagues that in the bill now pending that passed the Senate, and hopefully the House will concur, I do not think we went far enough. We did not totally repeal the alternative minimum tax on intangible drilling costs. Actually, we did it only for about 40 percent, and it should have been 100 percent. You should not have a tax on an expense. At least that is a big step in the right direction. We have to take the tax penalty off if we are going to be successful in encouraging drilling in the United States.

So I just urge Senator BENTSEN and Senator PACKWOOD, our leaders on the tax committees that are now in Conference in the Senate, to get together with the chairman and ranking member on the House Ways and Means Committee to pass this section. Let us get the energy bill on the floor of the Senate tomorrow and pass the energy bill. We need to pass the energy bill.

A lot of people are not aware that we are still importing today almost 50 percent of our oil needs. They are not aware of the fact that our net balance of payments is over 50 percent for oil. They are not aware of the fact that we are becoming more and more vulnerable all of the time. So we need to pass the bill.

We have a letter from the President, written to Senator DOLE. I will soon insert this into the RECORD.

Mr. President, the President said it well. We have spent months and months, actually, well over a year in this body working together in a bipartisan fashion to pass this bill. We need to pass it. We need to pass it before we adjourn. If we do not adjourn on Monday, that is OK. We need to pass this bill.

So I urge the Members of the tax-writing committees to have their conference, to report out the tax-writing sections of the energy bill so we can take it up on the floor, hopefully on Saturday, Sunday or Monday. This Senator does not care which day but it is important that we pass it before we adjourn.

Mr. President, I ask unanimous consent that the letter from the White House be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, October 2, 1992.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: I strongly urge the 102nd Congress to pass H.R. 776, legislation implementing my National Energy Strategy, before it adjourns. For the last 18 months, my Administration has worked closely with the Congress to produce comprehensive and balanced energy legislation that will meet the nation's future energy needs and promote economic growth.

The energy bill Conference report will soon come before the Congress. Although the Conference Report does not include everything I wanted in the bill, I strongly support the bipartisan work of the conference. Both Houses of Congress also have demonstrated their support for this legislation. The Senate passed its version on July 30 by a vote of 93–3, and the House passed its version on May 27 by a vote 381–37.

The energy bill is good news for Americans. The legislation will increase conservation efforts, promote domestic renewable resources and alternative fuels, increase competition in the electric utility industry and reduce consumer costs, and remove regulatory barriers to increased use of clean-burning natural gas. The bill also provides much-needed Alternative Minimum Tax (AMT) relief for independent oil and gas producers, thus removing a substantial disincentive to domestic oil and gas production.

The National Energy Strategy has come too far to let the bill fall victim to the rush to adjourn. I strongly urge the Congress to send me a bill that I can sign before it adjourns.

Sincerely,

GEORGE BUSH.

Mr. NICKLES. Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak out of order.

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

THE REMARKS OF SENATOR GORE

Mr. LIEBERMAN. Mr. President, there has been a discussion, at times a debate, sometimes substantive and sometimes heated, going on here in the Chamber over the last day about remarks that our colleague from Tennessee, Senator GORE, has made and what underlies them with regard to American policy toward Iraq prior to the outbreak of the Persian Gulf war.

I want to just speak for a very few moments, in the first regard, to try to say some things for the RECORD that I hope will affect what history will think of what the distinguished Senator and our colleague from Tennessee was doing at that time and, second, just to comment briefly and more generally on the so-called "Iraqgate" situation, and what it suggests for our future.

Mr. President, during the week prior to that fateful vote here in this Chamber, I believe on Saturday, January 12, 1991, on the question of whether to authorize the President to take military action to enforce the U.N. resolutions within the Persian Gulf, I spoke at length on more than one occasion to our colleague, the Senator from Tennessee [Mr. GORE] about his thoughts about this.

I can tell you and I want to record for the RECORD that he appreciated the seriousness of the decision, he considered it to be a momentous decision, and he was going at it in a thoughtful way, I might say a painstakingly thoughtful way, having extensive conversations with people on both sides of the question.

I was privileged to have been party to a few of those conversations with him, urging him, along with many others, to support the resolution.

When he reached the decision to support the resolution, he did so, because he thought it was right for America, for the Persian Gulf, for the Middle East, for the world.

In my opinion, the question of when he spoke or how long he spoke—though I am not party to any conversations that he may have had with any other Member of the Senate—was irrelevant to that decision.

If I may say so, looking back at that moment, as will be recalled, as we headed into Thursday or Friday of that week, working as I was alongside the representatives of the President, we were not certain that we had a majority support in this Chamber to authorize the President to take military action in the Persian Gulf.

The decision of Senator GORE to support that resolution was critical. It was pivotal; it was one of the decisions that authorized that war and led to what I believe was not only appropriate action by the President, but probably the finest hour of the Bush Presidency and one of the finest hours in recent American history. We stood for a principle and carried it out, thanks to the bravery and skill of our military. We won the war. We reversed Iraqi aggression.

But the RECORD will note from this Senator, who spent a fair amount of time with Senator GORE that week discussing this question, he made a very serious, thoughtful, and substantive decision, the right decision, I think, but what I want to stress here, made for the right reasons.

Second, and very briefly, Mr. President, though as I have said, I think the assembling of the allied coalition, the carrying out of the Persian Gulf war was probably the finest hour of the Bush Presidency, I regret much that this administration did before the war and afterward and that of course is the subject that has now become known as Iraqgate. I do not need to go over the details of this prewar history of relations between the United States and Iraq. But I do want to suggest that they reveal for us the conflict that runs through the history of American foreign policy and that is between policy and principle, and personality and practicality on the other side.

We are a nation. Someone—I think it was F. Scott Fitzgerald—who said a long time ago—I hope I got this one right—that France is a land, Britain is a people, America is an idea. America is an idea, and that idea is freedom, is democracy.

It is when that idea stands as the guidepost for American foreign policy that we are at our best. I am not naive, Mr. President. I know we live in a world of realities, and there are occasions where real political decision, real politics influence our foreign policy. We were at our best in the Persian Gulf war when we stood for principle.

In the time before the war, I think our foreign policy relations with Iraq were guided not by policy and principle but by a sense of practicality and, if I may say so, personality, feeling that we could convert Saddam; that we could make him into our friend in spite of all the evidence that went on even immediately prior to the war was impossible and his policy was aggressive and not in the interest of the United States, certainly not in the interest of our allies within the Persian Gulf.

Looking back at the last decades—President Truman, President Kennedy, and President Reagan—Presidents who I think conducted foreign policy based primarily on principle, and particularly the great overriding American principles of freedom, freedom politically and freedom economically of free markets, I think the error of our ways prior to Operation Desert Storm and afterward was that we retreated from principle and we acted too much on the basis of personality, practicality, balance of power politics.

Mr. President, I think that is the leasson for us. And, in conclusion, I would say this: I think increasingly as this Presidential campaign has gone on, Governor Clinton has articulated a policy-principle-based American approach to the world and in that he offers us great hope of the kind of leadership that we need, that we want, that makes America great, the kind of leadership that would not have attempted to curry favor with Saddam prior to the war, that would have understood, if I may quote a homey old adage: "When you lie down with dogs, you get up with fleas." That is exactly but in mch more consequential terms what happened prior to the war.

Mr. President, yesterday, Governor Clinton gave a speech on foreign policy in Milwaukee, WI. I quote from two paragraphs of it.

> But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.
>
> Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

I am proud of these words spoken by Governor Clinton yesterday. I think they reflect the lessons that are learned not just from Iraqgate but so much else that has occurred in American history.

I ask unanimous consent that excerpts of the speech given by Governor Clinton in Milwaukee be printed in the RECORD.

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

THE 1992 CAMPAIGN: EXCERPTS FROM SPEECH BY CLINTON ON U.S. ROLE

WASHINGTON, October 1.—Following are excerpts from today's foreign-policy speech by Gov. Bill Clinton in Milwaukee, as transcribed by News Transcripts Inc.:

No American foreign policy can succeed if it neglects our domestic needs, and no American foreign policy can succeed if it slights our commitment to democracy.

The President often takes a lot of credit for Communism's downfall, but fails to recognize that the global democratic revolution actually gave freedom its birth.

He simply does not seem at home in the mainstream pro-democracy tradition of American foreign policy. He shows little regard for the idea that we must have a principled and coherent American purpose in international affairs, something he calls "the vision thing."

Instead, President Bush seems too often to prefer a foreign policy that embraces stability at the expense of freedom, a foreign policy built more on personal relationships with foreign leaders than on consideration of how those leaders acquired and maintained their power.

It is almost as if this Administration were nostalgic for a world of times past, when foreign policy was the exclusive preserve of a few aristocrats. This approach to foreign policy is sometimes described as power politics, to distinguish it from what some contend is

sentimentalism and idealism of a pro-democracy foreign policy.

But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.

Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

STATEMENT OF PURPOSE

Let there be no mistake, this world is still a dangerous place. Military power still matters. And I am committed to maintaining a strong and ready defense. I will use that strength where necessary to defend our vital interests. But power must be accompanied by clear purpose.

Mr. Bush's ambivalence about supporting democracy, his eagerness to defend potentates and dictators, has shown itself time and again.

It has been a disservice not only to our democratic values, but also to our national interest. For in the long run I believe that Mr. Bush's neglect of our democratic ideals abroad could do as much harm as our neglect of our economic needs at home.

Let us look at the record. It reflects an unmistakable pattern in the Bush Administration's foreign policy. Fearing attacks by isolationists in his own party, President Bush was reluctant to offer Boris Yeltsin, Russia's freely elected president, a helping hand. It took a chorus of complaints, culminating with the prodding of another Republican, Richard Nixon, to move him into action on the Russian aid package.

Just weeks before the attempted coup in Moscow, President Bush traveled to Ukraine: There he lectured a people subjected to genocidal starvation in the Stalin era, warning that their aspirations for independence constituted, and I quote, "a suicidal nationalism."

A few months later, the people of Ukraine voted by a huge margin for the immediate and total dissolution of the Soviet Union.

ACTION ON THE BALTICS

For over 40 years, the United States refused to recognize Soviet claims to the Baltic nations: Lithuania, Latvia and Estonia. But when at long last, the moment of Baltic independence came, President Bush suddenly became a reluctant bridegroom.

The United States was 37th among the world's nations to extend diplomatic recognition to these countries. We should have been first.

In the Middle East, I supported the President when it became necessary to evict Saddam Hussein from Kuwait, and I support his decision now to provide air cover to Saddam's Kurdish and Shiite opponents in the north and the south of Iraq.

But I am angered by the Administration's appeasement of Saddam Hussein before the war and disappointed by its callous disregard for democratic principles after the war.

Just this week another friend of freedom, my running mate, Senator Gore, laid out in precise and devastating detail the errors of this Administration in dealing with Saddam Hussein.

President Bush showered Government-backed grain credits and high technology on a regime that had used poison gas on its own people. After the war, Mr. Bush encouraged the Iraqi people to revolt against Saddam Hussein but then abandoned them.

MIDDLE EAST POLICIES

The Adinistration has sometimes treated the conflict between Israel and the Arab states as just another quarrel between religions and nations, rather than one in which the survival of a democratic ally, Israel, has been at stake. I support strongly the peace talks that are under way, and if elected, I will continue without interruption America's role in them.

I also believe that America's policy in the Middle East should be guided by a vision of the region in which Israel and Arab partners are secure in their peace, and where the practices and principles of the personal liberty and governmental accountability are spreading.

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL

Mr. MITCHELL. Mr. President, yesterday, during debate in the Senate, references were made to Senator GORE's vote, and his Senate speech announcing his vote, during debate on the gulf war resolution last year. I was involved in those events.

It is routine practice in the Senate for Senators to discuss with me the timing and length of floor statements. During the debate on the gulf war resolution, I discussed with most Democratic Senators the timing and length of their floor statements, since I controlled the time allotted to those Senators who were in favor of the resolution then pending. My discussions with Senator GORE were similar to my discussions with other Senators.

I discussed the matter with Senator GORE on the Friday evening prior to the Saturday vote. He told me that he had not yet made up his mind on the resolution. I told him that I would make time available to him if he decided to vote for the resolution, but that if he were going to vote against the resolution he would have to talk with Senator DOLE who controlled the time allotted to those Senators who were opposed to the resolution. At no time did Senator GORE suggest that his vote was dependent on floor time made available to him.

My understanding was and is that as of Friday evening he had not made up his mind on the resolution and therefore was arranging time to make his statement however he eventually decided to vote. This was a reasonable and honorable approach. I believe any criticism of Senator GORE on this matter is wholly unfounded.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

SENATOR WARREN RUDMAN

Mr. GORTON. Mr. President, it is a matter of regret to this Senator that his tribute to his colleague, the senior Senator from New Hampshire [Mr. RUDMAN] takes place 2 days after that presented to this body by the senior Senator from Maine [Mr. COHEN]. That tribute was so eloquent that any other must pale by comparison. But, nonetheless, an attempt must be made to state the feelings of this Senator about his long-time friend and colleague.

The departure from this body of Senator RUDMAN will leave an aching void in the lives and hearts of his legion of friends and admirers in the U.S. Senate on both sides of the political dividing line, a legion which, in the view of this Member, almost certainly includes every Member of this body.

Nevertheless, for this Senator, that void will be particularly difficult to fill as I believe that I have perhaps known the Senator from New Hampshire over more extended period of time than any or almost any of his other colleagues here.

He and I were attorneys general from our respective States from 1970 in the case of Senator RUDMAN, each of us was devoted to the work of that organization and to what we could learn from one another. Senator RUDMAN became president of the National Association of Attorneys General and was in fact during that Presidency instrumental in helping my candidacy to succeed him after a year or so.

During the time that he served as attorney general of New Hampshire, the now Senator was an aggressive prosecutor of wrongdoing of all types in his State. He was a fearless defender of the interests of consumers of the State of New Hampshire and, in general, of the rights of the people whom he represented in that appointed position.

Mr. RUDMAN resigned after half a decade or more of distinguished service as attorney general to return to the private practice of law, but in a way, with an opportunity that is offered only to a handful of us in positions like that of State attorney general, he was able to see to his successors for several future generations in that office. They included many other distinguished New Hampshire lawyers, including the now Associate Justice of the Supreme Court of the United States, David Souter, whose nomination to that position and whose confirmation by this body were guided in large measure by the skills and advocacy and friendship of Senator RUDMAN.

When he left office as attorney general, I felt that personal loss of friendship very severely. As a consequence, this Senator was delighted when each of us became a candidate for the U.S. Senate in 1980, when we ran together and were elected.

From the time that we were sworn in, early in 1981, we found that we voted as similarly in this body, with or without consultation between ourselves, as, I think, was the case with

any other pair of Members of the U.S. Senate. We often vigorously debated particular issues. But Senator RUDMAN, no matter how strongly he holds views on an issue, is willing to listen to and credit to good faith of those against whom he debates as well as the good faith and intentions of his friends and allies.

Senator RUDMAN served in this body for 12 years as a soaring comet, perhaps most particularly in his vice chairmanship of the Iran-Contra investigating committee with his friend and partner, the Senator from Hawaii, Mr. INOUYE. That investigation was one of the most successful ever conducted by the U.S. Senate. And, for all practical purposes, every fact relevant to a history of that sorry episode was, in fact, determined by that committee and included in its report.

Senator RUDMAN, as well as any Member of this body, has combined that balanced duty of representing the peculiar and particular interests of his own State with the duties incumbent upon any U.S. Senator to act in the public interests of all of the people of this country and of its future.

Senator RUDMAN here, and in the rest of his life, has been a man of passion and a man of action. But passion can be directed at unworthy ends as well as worthy ends. In the case of our friend, that passion has been for justice, that passion has been for fiscal responsibility, that passion has been for the preservation of ordered liberty in the United States of America, that passion has been for a nation he has loved and served extraordinarily well.

Each of us is a better person as a result of his or her associations with the Senator from New Hampshire. Each of us can do far worse in our future careers than to measure ourselves and our performance by the standard he has set and to strive to live and act by his example.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, a little later on this evening—I hope when we wrap up, it will be cleared—I will be introducing a resolution on behalf of Senator KASSEBAUM, Senator PELL, and Senator HELMS on the situation in the Sudan.

Back as early as January 15, looking at the records, Senator KASSEBAUM and I talked about the situation in Somalia, warning that we were heading for some very grim times.

Unfortunately, until there is media attention on some of these spots, we do not get the attention that we need. Right now, there is attention on Somalia, and I am pleased to say that food is getting in, though it is still a very troubled area where there is more chaos than government and where we need the presence of U.N. troops, at least those that have been authorized, about an additional 3,000, to bring some stability to the situation.

Unfortunately, the situation in the Sudan is another situation that is developing that is a very grim one. If we cannot get U.N. action to bring some sense to the Government there, not only will we have the very severe human rights violations that are taking place in the Sudan, we are going to have massive starvation.

Around Khartoum, the capital city, they have relocated some 500,000 people, who, in desperation, have come from the south. They have relocated them to camps where there is very little water, no means of livelihood, and where the situation is desperate. Perhaps an additional 250,000 will go there shortly.

In Juba, a city in the southern part of Sudan, where we have a civil war going on, the Sudanese army has taken 300,000 people and made them buffers against the opposition forces. And there is danger both of starvation and of people just being wiped out by military action.

A few days ago, we learned that two of the Sudanese employees of USAID were killed for treason. What they were doing was simply delivering food to desperate people and were slain. And we have reports of at least two people, and perhaps four, from voluntary organizations who were down there delivering food to people, who have also been slain. It is a grim situation.

Our resolution urges that this be brought to the Security Council. We urge the Secretary General, who has been doing a good job, to do what he can to try to bring some sense and some leverage on the Government of the Sudan.

We do not want the Sudan to turn out to be as bad a situation as we have in Somalia right now. But right now, it is grim.

I have just been handed a note by a page that Senator LEVIN would like to be added as a cosponsor on the resolution, and Senator BRADLEY, the Presiding Officer, who has shown an interest in these areas, also wants to be added as a cosponsor.

I ask unanimous consent that both be added as cosponsors.

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

Mr. SIMON. Mr. President, I would add that the general situation in Africa is one of hope, despite Somalia, despite what is happening in the Sudan. Democracy is spreading in Africa. It is one of the little-known realities of our world. But the economic problems are overwhelming. Africa has had an increase of 50 percent in population over the last 20 years, and a drop of 20 percent in food production.

I just see my colleague, Senator LEAHY coming through. Senator LEAHY has been great, as chairman of the appropriations subcommittee, in focusing more attention on Africa. And while there are probably very few people in Africa who know the name of Senator PATRICK LEAHY of Vermont, I for one am very grateful that he has been able to shift a little more attention to the desperate plight of the people of Africa. Since he was coming right through, I wanted to mention that.

Mr. LEAHY. Will the distinguished Senator yield?

Mr. SIMON. I would be pleased to yield to my colleague.

WORLD HUNGER

Mr. LEAHY. I would say, Mr. President, the distinguished Senator and his subcommittee have brought the plight of Africa, and the issues of food and starvation, not only to my attention but to the attention of many, many other Senators.

I would compliment him on the work that he has done. We have many demands, in the Appropriations Committee. Certain demands, though, are not of a strategic or economic nature, but more of a real moral imperative. The Senator from Illinois has stressed the fact over and over again, that this Nation, with our relatively small world population but our enormous use of world resources, have moral responsibilities in other parts of the world.

I thank him for his praise; it is high praise indeed. But nobody could praise enough, the work the Senator from Illinois has done.

Mr. SIMON. I thank my colleague for his generous remarks.

Mr. President, I yield the floor. I see my distinguished and colorful colleague from Montana is seeking the floor. I am pleased to yield the floor to him.

Let me just add, later this evening, as I think I indicated earlier, I believe our resolution will be adopted.

My colleague from Montana has also shown an interest in these problems, and I appreciate it.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. If the Senator will suspend, the Chair, on behalf of the Republican leader, pursuant to Public Law 102-325, appoints the following Senators as members of the National Commission on the Cost of Higher Education:

The Senator from Vermont [Mr. JEFFORDS], from the Committee on Labor and Human Resources; and

The Senator from Mississippi [Mr. COCHRAN], from the Appropriations Committee.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints to the Federal Council on the Aging:

Rudolph Cleghorn, of Oklahoma; and Stephen M. Farnham, of Maine.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I ask unanimous consent I may be allowed to speak out of order.

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

NATURAL GAS

Mr. BURNS. Mr. President, I thank my friend from Illinois for his comments. I would wear a bow tie if I could get away with it. But I cannot do that. But his work along those humanitarian lines is well known here in the U.S. Senate.

Mr. President, we have finally wrapped up our work on the conference on energy and I think there are some important measures in this energy bill that are of interest to all Americans. There were some things that were dropped from conference, and from the energy bill, that also should be noted at this time.

We, in the conference, dropped the authority to buy back Federal Outer Continental Shelf leases. We leased the Outer Continental Shelf for oil and gas and then the Government went in and put a moratorium on that kind of activity offshore so we still have that liability to take care of. We also dropped the House language, preempting State regulation of natural gas production.

That brings me to a point. This afternoon there was a Montana wilderness bill that originated here in the U.S. Senate, on which Senator BAUCUS and I worked very hard in crafting a compromise and to pass through the Senate. It was then sent to the House. They have had it about 6 months. They chose, in a closing hours of the 102d Congress, to finally act on it.

We will see that final version, probably in conference over the weekend. But in that wilderness bill is action contradictory to what we are trying to do for, not only energy security in this country but also responding to the obligation we have promulgating those activities to directly result in a better environment.

It is pretty much thought among the scientific community and all those people who dealt with the Clean Air Act that compressed natural gas or natural gas will be part of the fuel mix or energy mix in this country. Not only is it clean burning and helps the environment but also we have great reserves of natural gas. That is in parts of my State of Montana. But those same folks who would promote the Clean Air Act and are very concerned about cleaning up the air are the same folks who want to designate thousands and thousands of acres of public lands as wilderness, which precludes any oil or gas—principally gas in our part of the country—development whatsoever.

So there are two different movements here, moving against one another. We have established goals on what we would like to do and what we would like to see in our transportation fuels as far as the air is concerned, but we also take another step and lock up those areas that hold vast amounts of natural gas. There is a contradiction in that.

I want to congratulate Montana and Dakota Utilities up in Montana. Last time I was home we dedicated a compressed natural gas fuel station in Billings. They will have them all over the western part of the Dakotas and the eastern part of Montana as a principal transportation fuel. That is certainly a step in the right direction. Because we will have to depend on that for transportation fuel.

It just does not make sense for this country. If those folks are all excited about our trade deficit—65 percent of the trade deficit in this country is directly attributed to energy purchased offshore. Fifty percent of the oil that we use in this country is now being imported into this country from foreign sources. That leaves us in a very vulnerable position. Whenever we take a look at this country's economy, this country's economic strength is based on our mobility and the way we power our cars—our needs for energy.

We also dropped from that conference report new restrictions on hydroelectric dam licensing. As we progress, increasing our demand for electricity across the country, we will probably have to revisit that issue. How do we become more efficient in producing electricity from water, the cleanest form of producing electricity? In my State of Montana we have ongoing research with MHD and also on the way we can better use our coal reserves which the West has. They are low-sulfur coals, in our coal-powdered electric generating plant. That, too, that research, will have to be ongoing. Of course, in this bill are ways to fund the research that will let that go forward.

If you look at the States of Montana, North Dakota, Wyoming, and in the West, the coal reserves in the West are equal to the oil reserves in the Middle East. We are the Saudi Arabia of the coal industry. It is economical to get to; it is low in sulfur; and research has to go on. We become more efficient and we also deal with the emissions problem of coal-fired generation.

When we start talking about alternative fuels, I think we have to start matching some dollars with industry in the research and development of fuel cells, and I will talk about that in a little bit.

Also, dropped from that bill was the requirement to establish an expensive gasoline and diesel fuel storage in New England. Mr. President, that is not a bad idea. I can sympathize with those folks who live in areas of these United States where we are dependent on imported fuel sources, both in natural gas and heating oil, as we go into the winter, should some disruption happen on the foreign side where oil cannot come into this country and it cannot even go through the refineries, then I will say the States up in the Northeast will have concerns that, yes, maybe there is some way they could set up something that looks like the Strategic Oil Reserve that this country has. But also we deal with problems of turnover and the storage of the refined product or the end product which is very difficult to handle and turn over.

I am aware and I am concerned for those folks in the Northeast who are dependent on those fuels to come in from somewhere else—especially going into the winter—where the majority of their heating oil has to be imported to their States. The same would be true of natural gas.

What was also dropped from this energy bill was the change to the present authority to draw down oil in the Strategic Petroleum Reserve, the SPR, that would increase control of price manipulation by the Federal Government.

That is one of the things that was debated, and we had to go back to the old philosophy of just exactly why was the SPR developed in the first place. The primary reason and the first-tier reason would be for national security, if we had another embargo, and we know that the security of this Nation would be severely undermined if we had to depend on foreign sources again for our energy supplies just to power our Armed Forces.

The SPR never was established and put there to manipulate prices, price spikes. We saw that happen at the opening of the gulf war when many said the President should use the oil that was contained or held in the SPR to be used in order to defuse the price increase.

We have to keep with the philosophy, I think, that was established and that, of course, was for national security.

There are some awfully good things in this energy bill. Energy efficiency: We tried to set some goals and I think we set some goals that we have to be more efficient on all of the energy that we have in this country. It enacts the entire agenda of the past decade's energy efficiency proposals, including those policies that increase the energy efficiency of residential and commercial buildings, appliances and heating and cooling equipment, utilities, and the Federal Government.

I was a little concerned the other day when I saw a figure released that there are now more people working for the Government than we have in manufacturing jobs. I am wondering how long we can stand that kind of a situation.

But there will be new goals and new requirements on what we put into buildings, how we will handle our heating and cooling situations and, yes, how we handle our utilities; that we are more efficient in the power that we use, both the fossil fuels and, yes, of course, electricity.

In this bill also under the natural gas it eliminates certain restrictions on natural gas imports and exports, and it contains a sense-of-Congress provision on competitive wellhead natural gas markets. In other words, do we treat all of our gas suppliers the same?

In the fleet and alternative fuels section, I think the country has to pay a lot of attention to that section because when we start talking about alternative fuels, we are talking about fuels that do not come from a fossil base. It gives the Secretary of Energy authority to require private and municipal fleet programs starting in 1998. It will be applicable to fleets of 20 or more centrally fueled vehicles used primarily in cities of 250,000 or more population if the fleet operator owns 50 or more vehicles.

That sounds kind of funny, but that was the formula that was worked out so the different parts of the country and industry and those folks who depend on fleets to do business can make some sanity of their transition.

There is a phase-in purchase goal started at 20 percent in 1998. What is the use of building a flexible car equipped to burn flexible fuels if there is nobody to buy it? And of course we still have a lot of work to do on that, a lot of technology has to be developed before we can finally get it done.

But the Secretary can set those goals and can get some formula and establish the program by the year 2002. It provides for a Federal fleet program with purchase requirements of 5,000 vehicles in 1993, increasing to 75 percent of the fleet acquisitions in 1999 and after. In other words, the Government, it is going to put mandates on private enterprise then we, too, have to lead the way so that the marketplace will finally be the driving force of these new fuels.

The use of ethanol and methanol as additives to fuels as extenders is a step in the right direction because ethanol is being produced from a renewable resource, the grains across the country. With the announcement of the President yesterday on some waivers, he is going to enable that to happen, we hope, just a little bit quicker than the pace at which it is now going.

We used to say how come we can be in agriculture and farm? If you look at the farm prices, we were selling wheat in 1948 for more dollars a bushel than we are selling it now. Back then a combine cost $7,000. Now it costs $110,000 and, yes, it does more work and it probably does it a little better, but still the price of the grain did not go up with the cost of everything else. It sure did not stay with the retail price of what you pay for bread in the grocery store. For those folks who wonder how that formula works, in an average pound loaf of bread, the wrapper cost more than the wheat that went in it.

Nonetheless, agriculture was produced back then probably with a lot of horsepower. We used horses. What we did is we produced our own fuel on the farm. Then when we mechanized and we had to use tractors and all of the equipment we use today, that requires an off-farm fuel source. Of course, now we see the trend going back. This provides for an alternative fuels program applicable to those who transport and sell alternative fuels and operate large fleets which operate in large cities.

Phase-in purchase requirements start at 30 percent of acquisitions in 1996, increasing to 90 percent in 1999 and thereafter. There, again, it gives a big leeway to the Secretary of Energy to establish some goals and to set up the rules of that transition.

Electric vehicles: We have always heard that they are there, but we do not see them. We do not see them on the street. Maybe we see them going down the fairway on the golf course. That is about the only ones we see so far. But this bill addresses electric vehicles. This provision establishes a comprehensive program for research and development, infrastructure promotion, and vehicle demonstration for electric motor vehicles.

Here we might bring in something else that we overlooked in this bill and the importance of its development and that is a thing called fuel costs. Most of the developed countries around the world are quickly developing this kind of power.

The fuel cell is nothing more than just a big old battery, you might say, developed of coal base and methanol that would probably power your house. You just plug it in, it would run a certain time, and you would change it. But that development is getting awfully close now where the cost can almost compete with other forms of electricity.

Over in the electricity department, and those of you who use electricity, we did not have a very hot summer this summer. Maybe some areas of the country did, but we sure did not. We saw the heavy use of air conditioning. We also have a thing called brownouts. As we move into the winter, that concerns me a little bit. But it is marvelous that the American people will probably put some restrictions on how we produce power and they will not get excited about it until the electric lights go out. Then we will get awfully excited on how we produce our energy and where it comes from and how much can we produce.

But in this bill it removes the obstacles to wholesale power competition in the Public Utility Holding Company Act of 1935 by allowing both utilities and nonutilities to form exempt wholesale generators without triggering the restrictions of the 1935 act.

What that means is that there will be independent power producers that will have to be paid for their power if they can get access to transportation for that power.

The bill contains provisions allowing the FERC, or the Federal Energy Regulatory Commission to order wholesale but not retail transmission access on a case-by-case basis.

And that is good because I think all of your small power producers that want to get in the business of producing power should be reviewed on a case-by-case basis. We try to do it in Congress every day. We try to produce a law of one-size-fits-all, and that just does not work.

Renewable energy establishes a program for Federal support on a competitive basis for renewable energy technologies. There again we go back to our renewable energy sources and how we dealt with that.

And, in coal, new strategies, new moneys for research and development for a variety of advanced coal-based technologies that offer significant potential not only for producing clean fuel for energy and electricity but also for producing coal byproducts that may have considerable commercial value for other uses.

We tried to level the playing field between what we call a low-sulfur coal in parts of Montana, but we also have lignite. We tried to level the playing field so both of those fuels could be used and developed.

Also, in global climate change, it directs EIA to establish a baseline inventory of greenhouse gas emissions, establishes a program for the voluntary reporting of greenhouse gas emissions, and it directs the Secretary to prepare a report analyzing strategies for mitigating or adopting to global climate change including the economic, environmental, social, and competitive implications of such strategies. It directs the Secretary to prepare a least-cost energy strategy for reducing the generation of greenhouse gases.

But I think probably the most important part of this bill as it gets to the President is that we gave the Secretary wide discretion in the use of R&D, research and development moneys in a multitude of areas: natural gas supply, high-efficiency heat engines, oil shale, high-temperature super conducting electric power systems, renewable energy sources, energy efficiency, natural gas, electric heating and cooling tech-

nologies, and also support for post-secondary education programs promoting math and science, education for low-income and first-generation college students. That is to go into this business called energy and keeping this country energy secure.

So it would look to me that this bill which covers so much of America and is so important to America tried to cover all the bases, but yet we will probably leave some uncovered. As we look at energy and energy supply, there is not one thing that is any more key to the security of the country.

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

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ENERGY CONFERENCE

Mr. DOLE. Mr. President, we have but a few days—a few hours really—before the sine die adjournment of the 102d Congress. In the past few days, we have made great progress on the so-called must-do list of bills we need to pass before we leave.

One of the bills on my must do list is the energy bill. The Senate has already passed it twice, and it would be a black mark on this Congress if we leave without providing for a comprehensive strategy on that which truly fuels our economy—energy.

I want to commend the Senate Energy Committee for completing its work with the House in the conference to resolve the differences on the matters under its jurisdiction. Long, arduous hours were spent by our colleagues on the Energy Committee and they deserve our gratitude.

But, Mr. President, one title remains to be resolved in conference—the revenue title and that is under the jurisdiction of the Senate Finance Committee and the House Ways and Means Committee. As a conferee from the Finance Committee I want all my colleagues to know I am prepared to go to work, to go to conference and reach consensus on this title.

Let me remind my colleagues of some of the provisions:

For the oilpatch—the elimination of the alternate minimum tax for intangible drilling costs and percentage depletion allowance for independent oil and gas producers will breath some life back into the industry. We hear a lot of talk about jobs around here, about how our trade deficit is too high, about the economy being stagnant. I have said it many times, but let me repeat it again—over two-thirds—in fact almost 70 percent—of our entire foreign trade deficit is due to imported oil. It is not Sony televisions or Braun coffeemakers that is causing our problem, it is that we import too much oil. This would be a big shot in the arm for our domestic industry, and industry which has lost 450,000 jobs—450,000 jobs of American workers.

In the past, some of my colleagues have suggested offering any assistance to the oil and gas industry is bad public policy, because the oil and gas industry makes too much money. Well, those voices seem to have had their day. Because we now have a tax system under which the oil and gas industry has the highest effective tax rate in the country—over 70 percent. We raised their taxes all right, but we also drove the industry overseas and we have a trade deficit to prove it.

But the energy bill has incentives for other industries as well. We provide for mass transportation benefits, which will reduce congestion on our roadways. We would grant credits for the purchase of clean burning vehicles and the facilities to pump the alternate fuels into those vehicles. The bill makes permanent the investment credit for solar, geothermal, and ocean energy producing facilities.

Mr. President, there are several other similar provisions worthy of our consideration this year. Many of these projects on the drawing board might not make it if they have to wait until next year, and they wouldn't have to wait if we just do our job.

As I said, I am a conferee, and I am ready to meet. The Republican conferees in the Senate and the House are ready to meet. We are ready to strike a blow in favor of American jobs and the American economy. Mr. President, the Republicans are awaiting word on whether our colleagues on the other side of the aisle are ready to do the same.

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

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

BRETT KIMBERLIN

Mr. LEVIN. Mr. President, as chairman of the Subcommittee on Oversight of Government Management, for the past several months I have been looking into allegations that the Bureau of Prisons silenced a Federal prisoner named Brett Kimberlin for political purposes prior to the 1988 election. My subcommittee staff has prepared a report which summarizes my findings and in short, based on the information that was obtained by my subcommittee staff and based on the refusal of the Justice Department to provide two witnesses to me, I can only conclude that the bureau did act for political purposes with respect to Kimberlin.

I have referred this matter today to the inspector general of the Justice Department for his investigation.

Mr. President, in May of this year, the New York Times ran an article about a 1988 incident involving a Federal prisoner by the name of Brett Kimberlin and allegations that the Bureau of Prisons had tried to silence him for political purposes. Although the article appeared almost 4 years after the incident, it contained information that had recently come to light in a related court case. It was the first time I had read about the Kimberline matter in any detail, and I found it startling.

The Times reported that when Kimberlin began making allegations involving then vice presidential candidate Dan Quayle just before the 1988 election—and the press began to pay attention to those allegations—the Bureau of Prisons took a number of actions to silence him. The Times reported that after calls from the Bush-Quayle campaign to the Justice Department, the Director of the Bureau of Prisons Michael Quinlan took a highly unusual course of action. He personally cancelled a press conference arranged by local prison officials in response to several press requests to interview Kimberlin. He then personally ordered Kimberlin placed in administrative detention, or the hole as it is referred to by the prisoners. Both events took place only days before the November 1988 election.

The prison released Kimberline from detention the following day. But when he later attempted to give an interview to a group of reporters by telephone, the Bureau put Kimberline back into administrative detention for a week, until well after the election. A month later, when the press again began to pay attention to Kimberlin's allegations, the Bureau again returned him to administrative detention.

The Times article suggested that the Bureau of Prisons had violated prison rules in its effort to silence Kimberlin. Such an allegation, if true, would violate our fundamental principle of a fair and open government.

As chairman of the Subcommittee on Oversight of Government Management, I initiated a subcommittee investigation into the facts behind the New York Times article and the Kimberlin detentions. Let me make clear that the focus of this investigation was not to examine the validity of the allegations made by Kimberlin but solely whether, in 1988, the Bureau of Prisons and the Department of Justice engaged in improper conduct in the Kimberlin matter to advance a political purpose.

After my subcommittee staff reviewed press accounts, public docu-

ments in a pending court case filed by Kimberlin against key officials in the Bureau of Prisons and the Department of Justice, and other information, I sent a list of questions to Mr. Quinlan, Mr. Loye Miller who headed the public affairs office of the Department of Justice in 1988, and the Justice Department itself. My questions were not answered specifically or by the person to whom they were addressed; the Justice Department responded in narrative form on behalf of all three addressees.

I responded with a letter identifying the many questions that had not been answered and requesting interviews with Mr. Quilan and Mr. Miller. The Justice Department answered, again on behalf of both Mr. Quinlan and Mr. Miller, denying my request for interviews, but providing some additional information. The additional information did not, however, lay to rest important questions in this matter.

Those questions go to a fundamental concern: guaranteeing that the power of our Federal Government is not used to silence individuals for political purposes.

Without interviewing Mr. Quinlan and Mr. Miller, I can go no further in the investigation. Were these ordinary times, I would convene a subcommittee hearing and call these individuals and others to testify under oath to the facts pertaining to the cancellation of Kimberlin's press conference and his detentions by the Bureau of Prisons.

However, these are not ordinary times—we are in the final month of a Presidential election—and holding a hearing would probably lead to charges of politics. That would deflect the public's attention and the attention of the agencies involved from the important substance of the issues involved. Consequently, I have decided not to hold a hearing at this time, but to present my findings as well as the outstanding questions to the Inspector General of the outstanding questions to the Inspector General of the Department of Justice.

Mr. President, I ask unanimous consent that my letter dated today to the inspector general and a report describing my investigation be included in the RECORD in full immediately following these remarks.

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

[See exhibit 1.]

Mr. LEVIN. The report addresses four key events in the Kimberlin chronology, all flashpoints of what appears to be improper Government action to isolate Kimberlin. These are: the decision by Bureau Director Quinlan on November 4, 1988, to cancel a press conference arranged by local prison officials and three separate decisions by the Bureau of Prisons on November 4, November 7, and December 22, 1988, to confine Kimberlin in administrative detention. The information we have about each of these events is based upon our review of depositions taken in the pending civil case, court pleadings and decisions, our own interviews, and the responses to our questions by the Department of Justice.

Mr. President, after reviewing that evidence and given the refusal of the Justice Department to allow interviews of Mr. Quinlan and Mr. Miller, I can only conclude that the cancellation of Kimberlin's November 4th press conference and his subsequent administrative detentions were actions taken by the Bureau of Prisons for political purposes. The primary purpose was to keep Kimberlin's allegations that he sold marijuana to Vice President QUAYLE in the 1970's out of the 1988 campaign. Whether these actions occurred on the independent initiative of Mr. Quinlan or other Federal employees or at the request of the Bush-Quayle campaign is a question that remains unanswered.

The evidence of political considerations in the Kimberlin matter is as follows:

We know that the most senior officials in the Bush-Quayle campaign—Jim Baker, Lee Atwater, Fred Fielding, Stu Spencer and Joe Canzeri, as well as Vice President QUAYLE himself—knew about Kimberlin's allegations and his efforts to publicize them.

We know the Bush-Quayle campaign believed that the public's attention to the Kimberlin allegations could have serious consequences. Mark Goodin, the campaign's deputy press secretary, has stated in a deposition that:

> Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity.

Mr. Goodin conveyed that sentiment to the Justice Department in a conversation described in a 1989 memorandum prepared by Mr. Miller in which he states that Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Stu Spencer, QUAYLE's campaign manager, stated in his deposition that he, too, took the Kimberlin allegations seriously because, "Late charges can be devastating."

We know that the campaign monitored the situation closely. Mr. Goodin, the campaign's key link to the Justice Department, stayed in constant touch with the Department on the Kimberlin matter. As Mr. Goodin stated in his deposition:

> Over a fairly substantial period of time, it is fair to characterize my contact with the Department of Justice as fairly close contact. * * * It's certainly fair to say that I kept close tabs on the issue through the Department of Justice.

A December 1988 memorandum prepared by Mr. Quinlan for his superiors also reveals that at least one unidentified person from the campaign—Mr. Goodin has said it wasn't him—telephoned the Bureau directly to inquire about Kimberlin's media contacts.

We know the Justice Department, through Mr. Miller, agreed to keep the campaign informed and, in fact, kept Mr. Goodin apprised of key developments in Kimberlin's attempts to reach the press with his allegations. Mr. Goodin then kept Mr. Baker and other top campaign officials apprised of the key developments.

We know that the campaign, the Justice Department and the Bureau of Prisons fielded frequent calls from the press in the final days of the 1988 election about the Kimberlin allegations.

We know that Mr. Quinlan became personally involved to a highly unusual, if not unprecedented, degree in the decisions made with respect to Kinberlin: First, he personally ordered the cancellation of the press conference arranged by the prison; second, he personally ordered Kimberlin placed in administrative detention; and third, he requested and reviewed transcripts of Kimberlin's telephone calls during this period.

We know that Mr. Quinlan was aware of and concerned about Kimberlin's contacts with the media. The December 1988 memorandum he prepared for his superiors began, for example, by stating that, "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days." Later in that memorandum, Mr. Quinlan pointed with satisfaction to the fact that his earliest decision in the Kimberlin matter, to allow an interview by NBC, resulted in "no news outlet carr[ying] the story in the pre-election period."

We know that there are serious gaps and inconsistencies in the Bureau's explanations of the substantive basis for its actions in the Kimberlin matter:

> First, Mr. Quinlan cancelled the November 4th press conference arranged by local prison officials by citing a purported policy against inmate press conferences, which local prison officials had never heard of, has never been put in writing, and was not applied by the Bureau to monthly press conferences held by a former Member of Congress incarcerated in federal prison in 1986 and 1987.
>
> Second, Mr. Quinlan justified placing Kimberlin in detention on November 4th by claiming he'd received information that Kimberlin feared for his safety from other inmates, despite a contemporaneous finding by the prison that no such inmate threat existed, and despite inconsistent and questionable evidence of how that information reached the Director late at night in an out-of-town hotel.
>
> Third, the Bureau's decision to return Kimberlin to detention on November 7th, the day before the election, relies on unclear documentation and suspect timing, lacks an

identifiable authorizing official, and has been justified by inconsistent explanations.

Fourth, the Bureau's explanations for placing Kimberlin in detention on December 22nd were found unconvincing by an independent hearing officer who determined that Kimberlin was innocent of the rule infractions charged.

Key individuals must be directed to explain these inconsistencies, contradictions and gaps in the Kimberlin story. Because the Justice Department has refused to permit subcommittee interviews of two of these individuals, Mr. Quinlan and Mr. Miller, and a subcommittee hearing is not feasible at this time, I've taken the investigation as far as I can. That is why I have asked the inspector general to become involved.

If the conclusion of the inspector general is similar to mine—that the Bureau took these actions against Kimberlin to isolate him for political purposes—the inspector general should identify the Federal officials involved and recommend appropriate disciplinary action.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, October 2, 1992.

Hon. RICHARD J. HANKINSON,
Inspector General, Department of Justice, Washington, DC.

DEAR MR. HANKINSON: As Chairman of the Senate Subcommittee on Oversight of Government Management, I recently directed my staff to investigate allegations that the Bureau of Prisons acted for political purposes to silence a federal prisoner in 1988. The prisoner's name is Brett Kimberlin, and he was incarcerated at the time in El Reno, Oklahoma.

Although the incidents occurred in 1988, a pending civil suit against the Department of Justice and several individuals involved in the incidents has brought new and more detailed information to light. Based on the evidence which I and my staff reviewed, I have concluded that the allegations are substantial and credible. Several key people, however, have not been interviewed because the Justice Department has refused to make them available. Before any administrative or personnel actions can be recommended, further investigation is necessary.

I ask your office to investigate this matter as soon as possible, and I am enclosing a report on the investigation conducted by my staff for your information and use. Your office may have access to the information and documents we have obtained or developed.

Some key questions for your office to address are as follows:

What were the reasons for actions taken by the Bureau of Prisons in 1988 to cancel the press conference and place Kimberlin in administrative detention in the enclosed report?

Did these actions violate Bureau policy, and were they motivated in whole or in part by political considerations?

Were efforts made to cover-up the real reasons for the Bureau's actions?

Did any Bureau or Department personnel engage in improper conduct with respect to Kimberlin in 1988, and, if so, would they be subject to disciplinary action?

For additional information, please contact Elise Bean of my staff at (202) 224-3682. I appreciate your prompt attention to this matter.

Sincerely,

CARL LEVIN,
Chairman, Subcommittee on Oversight of Government Management.

REPORT BY SENATOR CARL LEVIN, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT ON ACTIONS BY BUREAU OF PRISONS IN RESPONSE TO MEDIA CONTACTS WITH PRISONER BRETT KIMBERLIN, OCTOBER 2, 1992

In June 1992, as Chairman of the Subcommittee on Oversight of Government Management, I directed my Subcommittee staff to undertake an investigation into the facts behind an article published in the New York Times on May 3, 1992. The article claimed that, in the weeks just prior to the 1988 election, the Bureau of Prisons took action to silence a federal prisoner, Brett Kimberlin, who had been making allegations to the press about then vice presidential candidate Dan Quayle.

The investigation has reviewed press accounts, pleadings and sworn depositions in a pending court case, materials provided by the Justice Department, and other information. The Justice Department has refused to permit requested interviews of two key individuals, Michael Quinlan, Director of the Bureau of Prisons, and Loye Miller, Director of the Office of Public Affairs of the Justice Department in 1988.

Based on the information reviewed and having been denied by the Justice Department the two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

This report sets forth the information that forms the basis for this conclusion.

BACKGROUND

Approximately one month before the 1988 presidential election, Brett Kimberlin, who has been incarcerated in federal prison since 1979, talked to National Public Radio reporter Nina Totenberg about his allegations that he sold marijuana to Vice President Dan Quayle in the 1970's. Shortly thereafter, Ms. Totenberg, without disclosing Kimberlin as the source, asked the deputy press secretary of the Bush-Quayle campaign, Mark Goodin, to comment on these allegations. When Mr. Goodin declined to comment without more information on who was making the allegations, Ms. Totenberg provided a signed affidavit from Kimberlin.

Mr. Goodin has stated he immediately notified the top officials in the campaign, including Jim Baker, overall campaign chairman; Lee Atwater, overall campaign manager; and Stu Spencer, campaign manager for Mr. Quayle. Mr. Goodin has stated that Mr. Baker told him to "find out" who Kimberlin was, and when the campaign's research discovered that Kimberlin was a convicted felon, Mr. Goodin continued to refuse comment to Ms. Totenberg.

According to Mr. Goodin, when he informed Ms. Totenberg that he had discovered Kimberlin's prison status and declined further comment, her response convinced him that she was nevertheless preparing to publicize Kimberlin's allegations. He again notified top campaign officials. Mr. Goodin has testified that, at that point, Mr. Baker decided Mr. Quayle had to be informed. When told of the Kimberlin allegations, Mr. Goodin said that Mr. Quayle flatly denied them. Mr. Goodin reported that denial to Ms. Totenberg on an "off the record" basis to convince her not to run the story, but, according to Mr. Goodin, he still wasn't sure what she would do.

After a few days passed, Mr. Goodin has stated that he began to receive calls from other reporters repeating the Kimberlin allegations. He guessed that Kimberlin "was becoming restless" and had begun contacting other media outlets. Mr. Goodin has stated that he called the Justice Department to find out how Kimberlin was getting through to the press.

Mr. Goodin called the Justice Department because the Bureau of Prisons is under its authority. He has stated that the deputy director of the Department's office of public affairs, Deborah Burstion-Wade, told him that federal prisoners have the right to use the telephone and may contact the press. Mr. Goodin has stated that he expressed surprise, but accepted her explanation.

On Thursday, November 3, 1988, five days before the presidential election, NBC News asked the 1500-inmate prison at El Reno, Oklahoma, where Kimberlin was then incarcerated, for an on-camera interview with Kimberlin. The prison offered to schedule the interview on Wednesday of the following week, its regular scheduling day for media interviews. Because that day would be after the election, however, NBC asked that the interview take place earlier, before the election.

The prison called the Bureau's public affairs office in Washington, D.C. for guidance. The chief of that office, Jim Jones, has stated that he met with Bureau Director Quinlan and Mr. Quinlan's chief of staff, Tom Kane, about NBC's request. He also spoke with Frank Keating, the Associate Attorney General of the Justice Department with direct management authority over the Bureau of Prisons. Mr. Keating's deputy, Cary Copeland was also contacted and testified later that, while the Bureau didn't call him about every inmate interview, it did "[o]bviously because of the political sensitivity here. We had a candidate for vice president, the election is 5 days away, very obvious sensitivity."

In a memoradum prepared for his superiors, Director Quinlan has stated that someone from the Bush-Quayle campaign also called the Bureau to inquire about the interview, although the Bureau has not disclosed who made the call, who took it, or what was said.

The Bureau decided to instruct the prison to schedule the interview for the next day. In a subsequent memorandum, Director Quinlan gave three reasons: (1) unless granted, NBC had threatened to air the Kimberlin allegations "with the additional twist that the Bureau was preventing the interview until after the election to protect the Quayle candidacy"; (2) Kimberlin had a "fundamental lack of credibility," and (3) delaying the interview created the "likelihood of unnecessarily precipitating a 'cover-up' story just before the election." Director Quinlan also noted with satisfaction that the Bureau's judgment to allow the interview was "borne out by the fact that no news outlet carried the story in the pre-election period."

The NBC interview took place the next day, November 4, 1988. Although it was not broadcast, it did create a local stir when a

small Oklahoma paper published the fact that the interview had taken place earlier that day. This article resulted in several new requests to the prison for interviews with Kimberlin.

PRESS CONFERENCE CANCELLATION—EARLY EVENING, NOVEMBER 4TH

The prison attempted to respond to the new interview requests. The acting warden, Greg Hershberger, who'd been with the Bureau for about ten years, decided that the best way to handle the requests was to schedule a single group interview that night in the prison's visiting room.

Mr. Hershberger set the group interview for 7:00 that evening. He told the prison official who handled press matters, Rodger Benefiel, to inform those interested in attending. He called his warden, Tom Martin, who was out of town for the weekend to tell him what he'd decided. The warden has testified that his reaction at the time was that, it "seemed to be a way of * * * appropriately utilizing the resources of the institution, as opposed to having a lot of individual interviews there. It was a way of handling the situation." He expressed no opposition. Mr. Hershberger also notified the Bureau's regional office, which expressed no opposition. He has stated that he consciously decided not to alert the Bureau's Washington office, because that was out of his "chain of command"; he instead left it to the regional office to take what action it would in terms of notifying Bureau headquarters.

About 10 to 15 individuals indicated that they would attend the prison's group interview that night, just four nights before the election.

Then word of the prison's plan started getting back to Washington. Reporters contacted the campaign and the Department of Justice public affairs office. The campaign's deputy press secretary, Mark Goodin, called the Justice Department to determine whether the prison was, in fact, going to hold a group interview. He has stated that, "I knew that I was about to be overtaken by events, and if this guy had a press conference, it was very likely that I was going to have to respond to the [Kimberlin] allegation[s] whether I liked it or not."

Mr. Goodin says that when he was told by Ms. Burstion-Wade, deputy director of public affairs at the Justice Department, that inmates can participate in press conferences, he responded, "I just never cease to be amazed." He then asked to speak to the public affairs director, Loye Miller, who also said it was within an inmate's rights to participate in a group interview. Goodin has stated that he responded, "I'm amazed," and later, "I am bowled over."

Mr. Goodin has stated that he asked Mr. Miller to keep the campaign informed of developments in this matter and that Mr. Miller agreed. Mr. Goodin and Mr. Miller have both stated that they later discussed the fact that a press conference could affect the election. In a 1989 memorandum, Mr. Miller stated that, in one conversation, Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Mr. Goodin has testified: "Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity."

Mr. Miller and his deputy, Ms. Burstion-Wade, each called the chief of the public affairs office at the Bureau of Prisons, Jim Jones, to inquire about the press event. Mr. Jones had already learned of the planned event from a reporter. Other top officials at the Justice Department, including the Attorney General's chief of staff, Robin Ross, were also informed.

Mr. Goodin alerted Mr. Baker and other top officials in the Bush-Quayle campaign to the possibility of the press event. In response, Mr. Quayle's campaign manager, Stu Spencer, began making press calls to challenge Kimberlin's credibility, but testified later that he got "no guarantees" from the press not to run the story. He testified that he made these press calls because, "Late charges can be devastating."

In the meantime, Mr. Jones sent a beeper message to Bureau Director Quinlan, then on a plane to Chicago. After landing, Mr. Quinlan called his office and was told of the prison's plan. Mr. Quinlan and Mr. Jones decided that the press event should be cancelled.

Mr. Quinlan then personally called the Bureau's regional director, J.D. Williams, and told him to cancel the press event. Mr. Williams called the prison. According to the acting warden, Mr. Hershberger, it was almost time for the group interview, and he asked Mr. Williams to reconsider. Mr. Williams agreed to do so, hung up the phone and apparently consulted with Mr. Quinlan or Mr. Jones once more. Mr. Hershberger has testified that Mr. Williams then called back with the verdict: "It's off. Cancel it."

The prison official assigned to deal with the media, Rodger Benefiel, told the 10 to 15 reporters waiting in the prison parking lot. When one demanded to film a public statement on why the interview had been cancelled, Mr. Benefiel read a statement drafted by the acting warden. It said that the press conference had been cancelled due to "unforeseen developments." When asked in a recent deposition what those unforeseen developments were, Mr. Benefiel said they were the order from Bureau officials to cancel the event.

Meanwhile, word of the cancellation got back to others in Washington who were interested. Mr. Miller in the Justice Department said word reached him within an hour or two of his first learning that a press conference was going to be held. Mr. Goodin at the campaign has stated that Justice alerted him by "late afternoon." The acting warden has reported learning of the cancellation a short time before the press conference was scheduled to begin at 7:00 p.m. It is unclear whether Mr. Goodin and Mr. Miller knew of the cancellation before the acting warden did. Mr. Miller has said that he also alerted Ms. Totenberg, who had inquired about the press event earlier. Kimberlin has said he was told of the cancellation about 8:30 that night.

At various times, the Bureau has given two different reasons for cancelling the prison's press event. In some depositions, Bureau personnel have implied that the press event was disruptive to the prison and had to be cancelled due to logistical problems. However, since the prison officials most closely involved have testified that there was no significant disruption to prison routine, that explanation is unconvincing.

The primary justification that Mr. Quinlan, Mr. Jones and other Bureau officials have offered is the flat statement that inmate press conferences are against Bureau policy. The Justice Department has stated in a letter to my Subcommittee that it has been "unable to identify any occasion on which an inmate 'press conference' was held in a federal prison."

There are four facts which refute this position. First, there is no written Bureau regulation or guideline that prohibits press conferences or even indirectly discusses them. The Bureau subsequently proposed such a written policy as part of a larger regulation, but then withdrew the rule without taking action on it.

Second, a November 1988 affidavit by former Congressman George Hansen, filed in unrelated litigation, copy attached, states that, during 1986 and 1987, the Bureau of Prisons allowed him to hold monthly press conferences in a federal prison in Virginia.

In his affidavit, Mr. Hansen states that, "Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me * * *." He states that "[s]ometimes over ten reporters and several television cameras were present."

A third fact that contradicts the Bureau's explanation is that the El Reno and regional prison officials were unaware that a "no press conference" policy existed. Tom Martin, who had been with the Bureau for almost 30 years, eight of them as warden of El Reno prison, testified that during his term the prison had housed some notorious inmates and "we were not exactly novice in terms of dealing with high visibility inmates." Yet he had not known of the policy against inmate press conference.

The Bureau's regional director, J.D. Williams, had been with the Bureau over 20 years. He also knew of the press event beforehand, yet expressed no opposition to it nor did he alert the prison to the alleged "no press conference" policy.

The acting warden, Mr. Hershberger, who had been with the Bureau about 10 years, has stated that he was unaware of the policy at the time and has yet to see it in writing.

Finally, Mr. Miller and his deputy at Justice initially advised the Bush-Quayle campaign that inmates are allowed to participate in press conferences. Deposition testimony indicates that they obtained that information from the Bureau. The Bureau's general counsel, Clair Cripe, has also been quoted in the press as saying inmate press conferences have been allowed in the past and are not against law or Bureau policy. The Hansen monthly press conferences provide proof of that position.

Yet Director Quinlan and the Justice Department maintain that the Kimberlin press conference, which was set up by the El Reno prison officials, was cancelled because inmate press conferences are not allowed. The available evidence does not support that claim.

FIRST DETENTION—LATE EVENING, NOVEMBER 4TH

The same night the press event was cancelled, Kimberlin was removed from the general prison population, placed in administrative detention, and his access to the media was halted.

Being placed in administrative detention is described by El Reno prisoners as getting thrown "in the hole." It consists of a prisoner's being confined in a particular cellblock with restricted privileges. Telephone use, exercise and visiting privileges are curtailed. Administrative detention removes prisoners from the general prison population to assess or protect their safety, investigate rule infractions, prepare for transfers to other facilities, or for other reasons. Accord-

ing to the Bureau, placement in administrative detention is not a punitive action. Punishment for prison rule violations is handled instead by placing prisoners in "disciplinary segregation," although at El Reno in 1988, prisoners subject to administrative detention were housed in the same cellblock as those subject to disciplinary segregation.

By November 1988, Kimberlin had been in prison approximately nine years without disciplinary problems. But on November 4, 1988, shortly after the press conference was cancelled, he was taken from his cell and thrown in "the hole."

When asked to explain the reason for placing Kimberlin in administrative detention, the Justice Department and Bureau of Prisons have provided the following facts.

Bureau Director Quinlan, whose actions directly caused Kimberlin's detention, has stated that sometime between 10:00 and 11:00 p.m. on November 4th, while attending an ABA function in Chicago, he received information that Kimberlin had expressed fear for his safety. Federal prison policy states that any inmate who fears for his or her safety may be placed in administrative detention pending an investigation of possible threats. Receiving that information thus gave Mr. Quinlan the justification he needed to order Kimberlin's detention.

Mr. Quinlan has never related who gave him this alleged information, when or in what form. But the Department of Justice has indicated that, upon receiving it, Mr. Quinlan personally telephoned the Bureau's regional director, J.D. Williams. In his December 1988 memorandum prepared for his superiors, Mr. Quinlan has stated that, "My instructions were to take appropriate steps to ensure the inmate's safety and to investigate the purported danger; it was clearly understood that this information would result in Kimberlin being placed in administrative detention * * * pending an assessment of any possible threat * * *."

Within the hour of Mr. Quinlan's call, Kimberlin was seized in his cell by six guards, handcuffed, marched to the detention unit in the cold, strip searched and placed in a small cell. Kimberlin's housing order stated: "NO! MORE CALLS FOR THIS INMATE/per Lt. Garvue"—a note which has been described by El Reno officials as unusual.

There is no evidence that any Director of the Bureau of Prisons had ever before personally ordered an individual inmate into administrative detention. Tom Martin, the prison warden, has expressed surprise at any involvement by the Director since, in his words, Mr. Quinlan "leaves that kind of thing up to the local facility." In fact, Mr. Martin has stated that administrative detention decisions are usually the province of the on-duty supervising lieutenant at the prison—in most cases, not even wardens are involved. Yet Kimberlin's circumstances rose through the Bureau's ranks all the way to the Director, leading Mr. Quinlan to make a late-night call from an out-of-town hotel to get Kimberlin placed in administrative detention, and, in contradiction to his own 1988 memorandum, is apparently now claiming it was a local decision.

The Justice Department made that latter claim in a September letter to the Subcommittee which stated that, "there was no order or instruction [by Mr. Quinlan or Mr. Williams] that Mr. Kimberlin be placed in administrative detention. * * * The actual decision to place Mr. Kimberlin into administrative detention pending an evaluation of the degree of risk facing him was made at the local level by Acting Warden Hershberger."

Yet Mr. Hershberger has stated under oath that he did not order Kimberlin's detention. In fact, after the press event was cancelled, Mr. Hershberger has stated that he ordered his staff to go out on the prison compound to assess any threat to Kimberlin from other inmates. The staff and he explicitly concluded that there was insufficient threat to justify Kimberlin's being confined. Mr. Hershberger then went home. Mr. Benefiel, the prison official who actually received the call from the regional director, was trying to finish up after the cancelled press event so he, too, could go home. He has stated under oath that he did not independently decide to place Kimberlin in administrative detention; he merely "passed on the request from the regional director" to do so. In fact, both he and Mr. Hershberger have agreed under oath that, in light of the prison's own investigation into Kimberlin's safety that night, absent the instruction from the regional director (which was initiated by Mr. Quinlan), Kimberlin would not have been placed in detention at all.

In contrast to the Justice Department's current position, in a June 19, 1989 letter issued by the Bureau of Prisons denying tort claims filed by Kimberlin, Carolyn Sabol, Regional Counsel, speaking for the Bureau states: "Mr. Quinlan did request that Mr. Kimberlin be placed in administrative detention late in the evening of November 4, 1988 * * * ."

In short, despite the Justice Department's latest claim, the evidence is overwhelming that it was Mr. Quinlan's personal action that was the direct cause of Kimberlin's detention on November 4th.

There are also a number of unanswered questions about this detention. First is how Mr. Quinlan came to believe that Kimberlin feared for his safety. The Justice Department has indicated that Kimberlin told Ms. Totenberg over the telephone at some time on November 4th that he feared for his safety, that Ms. Totenberg conveyed this to Mr. Miller at the Justice Department, and that somehow Mr. Miller conveyed that information to Mr. Quinlan.

Contemporaneous documents and subsequent deposition testimony also use the Totenberg-Miller conversation as the primary justification for Kimberlin's detention on November 4th. A memorandum drafted by Mr. Benefiel, the prison official who got the call from the regional director to place Kimberlin in detention, cites that conversation. The actual detention papers, completed by a Lt. Wingo, cites that conversation. Jim Jones at the Bureau has stated under oath that both Mr. Miller and Mr. Quinlan told him that Mr. Miller had spoken directly to Mr. Quinlan about his conversation with Ms. Totenberg, and that Mr. Quinlan then called the regional director to detain Kimberlin on that basis.

Yet the evidence for this chain of events is weak and contradictory. First, the prison's own review of all of Kimberlin's telephone conversations on November 4th did not find any call in which Kimberlin made such a statement. Second, Ms. Totenberg has stated in a sworn affidavit that she never communicated that information to Mr. Miller, the alleged source for Mr. Quinlan. Third, Mr. Miller, who insists that Ms. Totenberg did give him that information, says she did so *after* she learned Kimberlin had been placed in administrative detention and was calling Mr. Miller to demand his release. Finally, Mr. Miller denies ever speaking to Mr. Quinlan about Kimberlin, period.

When asked to explain these discrepancies, the Justice Department merely states in its September letter to the Subcommittee that, "Just when and how that information reached Director Quinlan, who was then in Chicago, remains obscure."

Another unanswered question is who placed the "NO! MORE CALLS" order on Kimberlin's detention papers, which was unusual at El Reno and appears intended to cut off Kimberlin's access to the media. Lt. Garvue, who is credited with the no-more-calls order, cannot recall giving it nor can he explain the basis for it. Lt. Wingo, who completed the detention papers that night, has stated that Lt. Garvue did not have the authority to issue that order, and it would have "had to come from higher up." Yet Mr. Benefiel, Mr. Williams, Mr. Jones and everyone else deposed so far has denied providing that instruction.

The instruction was overridden the next day anyway when Ms. Totenberg called Mr. Miller at the Justice Department and Fred Fielding at the campaign and threatened to run the Kimberlin story unless Kimberlin were allowed to speak with her on the telephone to prove he was unharmed. Mr. Miller conveyed that threat to the Bureau, and Jim Jones instructed the regional office to arrange the call.

A third question pertains to why the investigation that was conducted the next day, on November 5th, to assess the alleged threat to Kimberlin's safety was handled in such an unusual way. The Special Investigative Supervisor placed in charge of the investigation was Lt. Jim Monk. He has stated under oath that his normal procedure when a third party alleges that an inmate fears for his safety is to interview the third party, the inmate, other inmates and the prison staff. But he took none of those steps here. Instead, he was instructed by acting warden Hershberger to review all of Kimberlin's telephone calls from October 31st through November 4th to determine whether Kimberlin ever expressed a fear for his safety. Lt. Monk reviewed 35 calls over that five-day period and never located such a statement. After he concluded his analysis, Kimberlin was released from detention at about 7:30 that evening. The Bureau has been unable to determine, however, who actually ordered Kimberlin's release.

The discrepancies, contradictions and confusion in the explanation of the first decision to place Kimberlin in administrative detention are evidence that it was not a straightforward decision made by professionals. Rather than protecting Kimberlin's safety it appears to be an effort to isolate Kimberlin for political purposes.

SECOND DETENTION—EARLY MORNING, NOVEMBER 7TH

Shortly after Kimberlin's release from detention the first time, the Bureau learned of his plans to contact an assembled group of reporters by telephone on November 7, 1988. Kimberlin was then isolated in a second administrative detention for a week, starting the day before the election and minutes before his scheduled telephone call.

After Kimberlin had been released from his first detention on Saturday evening, November 5th, he spent the next 24 hours trying to arrange his own press conference. His plan was to convince a group of reporters to assemble in a room at the Mayflower Hotel in Washington, D.C. on Monday, November 7th, at 10:00 a.m. and, at the appointed time, to telephone and present his story with the help of a speaker phone.

Because acting warden Hershberger had instructed Lt. Monk to monitor all of

Kimberlin's telephone conversations that weekend, the Bureau learned of Kimberlin's plan. There was no instruction, by the way, that Lt. Monk listen for threats to Kimberlin's safety; Mr. Hershberger did not provide him with any instruction other than to listen to all of Kimberlin's calls.

Federal prisons have the capability to monitor and record all telephone calls by inmates. Inmates are warned of this capability and, at the El Reno prison, signs by the telephones remind prisoners they are being monitored. El Reno's system permits the prison both to review past calls and to listen contemporaneously to ongoing conversations.

On Sunday evening, November 6, 1988, two days before the election, Richard Acuff, an associate warden at El Reno who was serving as acting warden while Mr. Hershberger was called away on a family emergency, stopped by the monitoring facility.

Mr. Acuff has stated that he regularly stopped by the monitoring facility to listen to prisoners' calls on a random basis. He has stated that he did so on Sunday night to get a sense of what was going on in the prison and to see what the prisoners thought about the upcoming election. During that visit, he listened to a conversation in which Kimberlin was urging a reporter to attend the hotel press conference the next morning. Lt. Monk informed him about Kimberlin's plan.

Mr. Acuff left the prison and walked to the nearby residence of prison warden Tom Martin, who had returned from out of town that Sunday night. Mr. Acuff has stated that he was leaving town for the next three days and wanted to be sure that the warden was informed of Kimberlin's plan to contact reporters at the Mayflower Hotel the next morning at 10:00 a.m.

By Monday morning, word of the hotel press conference had also reached Washington as reporters contacted both the Bureau of Prisons and the Department of Justice. At 9:45 on Monday morning, November 7th, 15 minutes before his scheduled telephone call to the press, Kimberlin was once again seized, handcuffed, strip searched, and placed in administrative detention. The log was marked: "No Phone Calls." He remained there for a week.

Like the first detention, there are a number of unanswered questions about this decision by the Bureau to place Kimberlin in administrative detention.

First, no one has admitted to making the decision to put Kimberlin in administrative detention a second time. The prison warden, Tom Martin, was in his office Monday morning, but doesn't recall giving the order or being consulted about it. He has stated that such decisions are usually made by a supervising lieutenant. However, Lt. Monk denies making the decision, as does Mr. Benefiel. On that particular Monday morning, Messrs. Hershberger and Acuff were both out of town.

A press article has quoted Mr. Miller as saying that Director Quinlan ordered the second detention. Mr. Quinlan is quoted in the same article as saying that he was aware of the detention but did not "personally" make the decision—unspecified local prison officials did. The Justice Department has claimed that Kimberlin's second detention was not even known to Washington officials beforehand.

Second, no one has admitted to issuing the "No Phone Calls" instruction. Kimberlin's access to the media was clearly halted during his week in detention yet, again, no Bureau official can recall issuing or being consulted about the order that limited Kimberlins's telephone use.

Third, the Bureau's justification for detaining Kimberlin raises substantive issues. The Bureau now insists that the sole reason for his November 7th detention was because, three days earlier, on November 4th, Kimberlin had made an unallowed third party telephone call to the Dukakis campaign. On November 4th, Kimberlin had, in fact, attempted to telephone the campaign. When the Dukakis campaign refused to accept his collect call, Kimberlin telephoned a friend who called the campaign on his behalf and forwarded Kimberlin's call. The Dukakis campaign then took a message from Kimberlin for the person he was trying to reach. This third party call was allegedly discovered on Monday morning by Lt. Monk who completed an "incident report" by 9:30 a.m.; this time is marked on the document. Fifteen minutes later, Kimberlin was thrown into administrative detention.

This alleged explanation for Kimberlin's second detention is suspect for several reasons.

There is the question of timing. Lt. Monk had completed reviewing Kimberlin's November 4th calls on November 5th, yet allegedly didn't discover the unallowed call until November 7th. It is unclear why he either failed to notice the call two days earlier or why he was again reviewing Kimberlin's calls that Monday morning. Even more surprising is that, within 15 minutes of his filing the incident report at 9:30 a.m., the prison processed it, located Kimberlin and placed him in administrative detention by 9:45 a.m.—all prior to his scheduled 10:00 a.m. call to the Mayflower Hotel.

There is the question of the administrative detention order itself. The only explanation given for Kimberlin's detention is the single word, "Investigation." The order doesn't say what was being investigated or who was doing it. And there is no evidence that any investigation was then underway. Lt. Monk has stated under oath that, unlike Kimberlin's first detention, he performed no investigation during Kimberlin's second detention. He explained that he had already completed his investigative work when he filed the incident report.

There is the question of the severity of the detention decision. Although third party calls are against prison rules, because they interfere with a prison's ability to monitor its prisoners and raise concerns about prison security and commissions of crime, federal regulations classify third party calls as one of the least severe rule infractions a prisoner can commit. A telephone call to the Dukakis campaign is not the type of call that raises security or criminal considerations. Administrative detention is not required in such circumstances.

For those reasons, the claim that Kimberlin's November 7th detention was caused by his November 4th third party call to the Dukakis campaign is simply not convincing.

Another factor is that there have also been other explanations offered by the Bureau of Prisons and Justice Department for this detention. The first focuses on the hotel press event. A December 1988 press article in the *Legal Times* quotes Mr. Miller as stating that, "The Bureau of Prisons caught on that [Kimberlin] was going to hold another press conference, so they put him back in." A memorandum written by Mr. Miller in October 1989, states that the Bureau had told him that Kimberlin: "had indeed tried to set up such a press conference. When they overhead this they took steps to prevent that and, in fact, Kimberlin was back in detention. It was certainly my understanding at the time that it was this attempt to hold an unauthorized press conference which directly caused him to be segregated once again. But it may well be that the cause, instead, was his attempt to get hold of the Dukakis campaign. Both of these gambits were clearly in violation of prison regulations and either or both were good cause for detention."

Similarly, the Bureau of Prisons stated in its June 1989 letter denying Kimberlin's tort claim that he was placed in detention a second time "as a result of" his attempts to "use the telephone to set up a press conference in Washington, D.C. that morning * * * [in] violation of our rules and [to] protect the integrity of institutional security." This document makes no mention of the third party call to the Dukakis campaign.

Another explanation advanced by Bureau officials cites third party calls in connection with the hotel press conference. Bureau Director Quinlan, in a December 1988 letter to Senator Biden, stated that it was a third party call on "Monday, November 7" that led to Kimberlin's detention. He made no mention of the call to the Dukakis campaign on Friday, November 4th. In an August 1990 letter to Congressman Kastenmeier, Mr. Quinland wrote that Kimberlin was detained because he made third party calls to arrange the hotel press conference, again making no mention of the November 4th call to the Dukakis campaign. Mr. Quinlan's chief of staff, Tom Kane, has also stated that his recollection of the reason for Kimberlin's second detention was his use of third party telephone calls to arrange the hotel press conference.

Yet the Justice Department has claimed in a letter to the Subcommittee that the hotel press conference was completely "unrelated" to the decision to place Kimberlin in detention a second time. The sole reason for Kimberlin's second detention on November 7th, according to the Justice Department, was Kimberlin's third party call on November 4th.

Finally, on November 7th, after Kimberlin's second detention had begun, the warden mailed to Director Quinlan, personally, seven cassette tapes containing recordings of Kimberlin's telephone conversations over the previous few days. Mr. Hershberger and Mr. Acuff have stated under oath that this was an unusual occurrence. Mr. Quinlan's chief of staff, Tom Kane, has stated that Mr. Quinlan's receipt of such tapes was "uncommon." We don't know why Mr. Quinlan requested these tapes or what was done with them.

THIRD DETENTION—DECEMBER 22ND

Kimberlin's second detention ended after a hearing on November 14th. That hearing found him guilty of making the third party call to the Dukakis campaign, then ordered his release. That same day, the United States Parole Commission reversed an earlier, preliminary decision making Kimberlin eligible for parole in 1993. It set back his parole date five years, to 1998.

A month later, on December 19, 1988, an extensive article on Kimberlin's allegations and treatment by the Bureau of Prisons appeared in the *Legal Times*. On December 20th, a short piece appeared in the *New York Times*. On December 21st, Kimberlin provided a telephone interview to a New York radio show which requested a response from the Bureau. That same day, USA Today, which then produced a television show, ran a story which featured split screen photographs of Kimberlin and Director Quinlan.

The prison resumed surveillance of Kimberlin during this time. Deposition testimony indicates that prison Lt. Gale Williams recorded Kimberlin's telephone conversations on at least December 20th and 21st, and in some cases listened to them contemporaneously.

At some point on December 21st, Jim Jones, chief of the public affairs office in the Bureau's headquarters in Washington, asked his chief of communications, Richard Phillips, to obtain an immediate recording of at least some of Kimberlin's calls. Mr. Phillips has stated under oath that he doesn't know why Mr. Jones wanted the recording, but "[t]here was a great deal of media interest" in Kimberlin at the time. He also stated that this was the only time he has been asked to obtain a recording of an inmate's conversations.

After obtaining permission from Warden Martin, Mr. Phillips contacted Lt. Gale Williams that same day. Lt. Williams played a tape of several Kimberlin conversations over the telephone, which Mr. Phillips recorded on his end. Mr. Phillips' recording also picked up the voices of himself and Lt. Williams as they discussed the calls. Several of the conversations were between Kimberlin and his attorney. At one point, Mr. Phillips indicated that he had taken notes, had to get the "attorney call * * * into the director," and asked Lt. Williams to send him by overnight mail cassette tapes of the conversations. Lt. Williams agreed.

The next day, on December 22, 1988, the prison seized Kimberlin from his work detail, handcuffed him, marched him to the administrative detention unit, strip searched him, and isolated him a third time. The housing log stated: "No phone calls unless permitted by team (per R Benefiel)." The charge was that Kimberlin had made a third party call to his attorney.

Again, no one has admitted issuing this detention order, and Mr. Benefiel can't recall giving the no-phone-calls instruction. The justification for the detention is even flimsier than for the second detention. According to letters provided by Kimberlin's attorneys to the prison, the findings of the hearing officer and information provided to the Subcommittee by the Justice Department, Kimberlin had called his attorney's office and the receptionist, without informing Kimberlin, had forwarded his call to the appropriate attorney who was in another building. A subsequent Bureau hearing not only cleared Kimberlin of any guilt, but criticized the prison for sending the matter out for a formal review.

On the same day that Kimberlin was thrown in "the hole" for the third time, Bureau Director Quinlan sent a memorandum to his superior, Associate Attorney General Keating, describing the "media activity" in the Kimberlin case. He began the memorandum by stating: "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days."

FINDINGS

Based on the information reviewed and having been denied by the Justice Department two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

As to each of these events:

(1) *Press Conference.* At the time, the Bureau of Prison's alleged "no inmate press conference" policy was either non-existent or selectively enforced and was used by the Bureau as a pretext for cancelling the press event scheduled by the prison on November 4, 1988.

(2) *First Detention.* Director Quinlan's actions were the direct cause of Kimberlin's placement in administrative detention on November 4, 1988. Director Quinlan's determination of the need to place Kimberlin in administrative detention on November 4th to protect him from other inmates contradicted the prison's own analysis of Kimberlin's safety needs and served as a pretext for placing Kimberlin in detention in order to limit his access to the media.

(3) *Second Detention.* After learning of Kimberlin's plan for a telephone press conference at the Mayflower Hotel on November 7, 1988, at 10:00 a.m., the Bureau used the information that Kimberlin had made an unallowed third party telephone call to the Dukakis campaign on November 4th as a pretext for returning him to detention on November 7th at 9:45 a.m., in order to prevent his telephone call to reporters and otherwise limit his access to the media.

(4) *Third Detention.* After several media stories in December 1988 describing Kimberlin's allegations and treatment by the Bureau of Prisons, the Bureau used information that Kimberlin had made a third party telephone call to his attorney as a pretext for returning him to administrative detention a third time on December 22, 1988, again in order to limit his access to the media.

UNANSWERED QUESTIONS

The information available to date leaves a number of specific questions about the Kimberlin matter unanswered:

Who from the Bush-Quayle campaign called the Bureau of Prisons on November 3, 1988, to ask about the NBC interview, and what was said?

Was the "no inmate press conferences" policy in existence on November 4, 1988; why hasn't the Bureau ever placed that policy in writing; and why wasn't it applied to the monthly press conferences held by former Congressman Hansen?

Who told Mr. Quinlan on November 4th that Kimberlin feared for his safety, and when did that occur?

Who released Kimberlin on November 5th?

Who ordered Kimberlin's second detention on November 7, 1988, and what was the Bureau's Washington office involvement, if any?

Why did Lt. Monk write up the incident report on Kimberlin's unallowed third party call to the Dukakis campaign on the morning of November 7th rather than the afternoon of November 5th, and how was the prison able to process that incident report within 15 minutes?

Who ordered Kimberlin's third detention on December 22, 1988, and what was the Bureau's Washington office involvement, if any?

Who limited Kimberlin's right to use the telephone during each of the three detentions and why?

What was the reason for heightened monitoring of Kimberlin's telephone calls; why were tapes of those calls sent to Director Quinlan; and what was done with the information?

What was the extent and purpose of all contacts by the Bush-Quayle campaign with either the Bureau of Prisons or the Department of Justice on this matter?

These specific questions cannot be answered until, at a minimum, interviews with Mr. Quinlan and Mr. Miller are conducted. Interviews of top officials from the 1988 campaign and the Justice Department may also be needed. Without this additional information, the evidence accumulated to date indicates that, in 1988, the Bureau of Prisons cancelled the prison's press conference and repeatedly placed Kimberlin in administrative detention for political purposes.

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[U.S. District Court, Northern District of California, Case No. C-88-2570 CAL]

DANNIE MARTIN, THE CHRONICLE PUBLISHING COMPANY, AND NANCY HOFFMAN, PLAINTIFFS, *v.* R.H. RISON, WARDEN FOR THE UNITED STATES PENITENTIARY AT LOMPOC, CALIFORNIA; TOM CURD, ASSISTANT WARDEN; PAUL HOFER, EXECUTIVE ASSISTANT TO THE WARDEN; JERRY WILLIFORD, DIRECTOR, WESTERN REGION, FEDERAL BUREAU OF PRISONS; MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS; AND THE FEDERAL BUREAU OF PRISONS, DEFENDANTS

DECLARATION OF GEORGE HANSEN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND SUMMARY JUDGMENT

I George Hansen, declare:

1. I am a former member of the United States Congress, having served for seven terms as a Congressman from the State of Idaho. I make this Declaration based upon my personal knowledge, and if called as a witness, I could competently testify to the truth and accuracy of the statements herein.

2. I served a six month federal prison term in 1986 on a charge of filing false financial disclosure statements. Because I allegedly violated a parole condition that required me to stay in the State of Virginia, I was returned to federal prison in April of 1987 for approximately six more months. I was incarcerated at the Federal Prison Camp at Petersburg, Virginia, during both my 1986 and 1987 prison stays.

3. While incarcerated at the Petersburg Federal Prison Camp, I wrote a provocative article entitled "The American Gulag" that was published with my byline in the *Freedom Magazine*. The Bureau of Prisons was well aware of my by-lined article. Thousands of petitions protesting my incarceration were sent to the White House, the Directors of the Federal Bureau of Prisons and the United States Parole Commission, and my Warden at the Peterburg Federal Prison Camp. Many of these petitions enclosed copies of my "American Gulag" article. In addition, copies of the "American Gulag" article were mailed to me in prison, and prison authorities reviewed my mail prior to my receipt of that mail. Finally, based on my observations, my by-lined article was common knowledge among prisoners and prison staff at the Petersburg Federal Prison Camp.

4. I gained substantial notoriety while I was in federal prison. Once every month of my incarceration, I conducted a press con-

ference with television, radio and newspaper reporters. Sometimes over ten reporters and several television cameras were present for these press conferences. Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me, my incarceration and my views on the federal prison system.

5. As a federal inmate I was an outspoken advocate for my fellow inmates. For example, while I was in federal prison, I testified in Washington, D.C., before the House Select Committee on Narcotics on the spread of AIDS in prisons. I also complained about prison conditions to numerous journalists. For example, I wrote to Columnist Jack Anderson about the serious health hazards from prison food preparation and handling. As reflected by the attached nationally syndicated columns by Jack Anderson, my written criticisms were quoted word-for-word and extensively in Mr. Anderson's columns. Other magazines, such as *Human Events* and *Spotlight Magazine* also quoted me extensively while I was incarcerated.

6. I was never punished during my incarceration for having a bylined article published. Nor was I ever even made aware of any prohibition on bylines or compensation for writers of articles in newspapers and magazines.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of Nov. 1988, in Washington, D.C.

GEORGE HANSEN.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report on the defense authorization bill, H.R. 5006; and that when the conference report is considered, it be considered under the following limitations: that there be a time limitation for debate of 90 minutes, with the time controlled as follows: 60 minutes under the control of the two managers, or their designees, and 30 minutes under the control of Senator GLENN.

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

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement be modified to make clear that if this matter is taken up while the pending measure is before the Senate, that the time used on the DOD authorization be counted against the 30 hours postcloture on the pending NIH authorization bill.

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

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 5677

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may, at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report and the amendments in disagreement to the Labor HHS appropriations bill, H.R. 5677, that no amendments to any amendments in disagreement be in order thereto; and that there be a time limitation for debate of 1 hour on both the conference report and the amendments in disagreement, equally divided between the two managers, or their designees, with an additional 20 minutes for debate under the control of Senator GRAHAM; provided that managers amendments be in order if the House further amends any amendments in disagreement.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for not more than 10 minutes each.

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

THE 1992 12-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 22, 1992. The mailing date for the aforementioned report in Monday, October 19, 1992, if postmarked by registered or certified mail. If this report is transmitted in any other manner is must be received by the filing date. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Thursday, October 22, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224–0322.

THE 1992 30-DAY POST-GENERAL REPORTS

The mailing and filing date of the 30-Day Post-General Report required by the Federal Election Campaign Act, as amended, in Thursday, December 3, 1993. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 9 a.m. until 5:30 p.m. on Thursday, December 3, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224–0322.

THE 48-HOUR NOTIFICATIONS

The Office of Public Records will be open on three successive Saturdays and Sundays from 12 noon until 4 p.m. for the purpose of accepting 48-hour notifications of contributions required by the Federal Election Campaign Act, as amended. The dates are October 17 and 18, October 24 and 25, and October 31 and November 1. All principal campaign committees supporting Senate candidates in 1992 must notify the Secretary of the Senate regarding contribution of $1,000 or more if received after the 20th day, but more than 48 hours before the day of the general election. The 48-hour notifications may also be transmitted by facsimile machine. The Office of Public Records fax number is (202) 224–1851.

IN SUPPORT OF LEAHY AMENDMENT TO THE FISCAL YEAR 1993 DOD AUTHORIZATION

Mr. KERREY. Mr. President, I rise in strong support of the amendment offered by Senator LEAHY to impose a 1-

year moratorium on the sale, transfer or export of antipersonnel landmines.

The amendment also calls on the President to demonstrate leadership in an area where America's leadership is critically needed—to go much further than a 1-year moratorium by leading the international community in an effort to prohibit the sale, transfer or export of landmines.

The end of the cold war has brought with it tremendous opportunities to reduce and control the proliferation of nuclear and nonnuclear weapons around the world, but those opportunities demand that we demonstrate leadership within the international community. We have made progress recently with treaties to curb conventional forces in Europe and strategic weapons with the former Soviet States. We have made progress here in the Senate recently by adopting a mutual ban on nuclear testing. We must add to that effort measures to control the proliferation of antipersonnel landmines.

To understand why we need only look at the graphic results of the unrestricted laying of landmines in Afghanistan, Nicaragua, Mozambique, Angola, Sri Lanka and other conflicts. While the intended targets may be forces opposing the layers of the mines, all too often the true victims are children and other noncombatants. In the name of fighting a war, the minelayers sow terror and the trauma of living, and maybe dying, with grievous injuries and disabilities.

Nowhere is this more true today than in Cambodia. No one knows how many mines have been laid, what types of mines have been laid, where they have been laid, which factions have laid them, which country produced them, and so forth. The result is chaos, terror, and the highest percentage of physically disabled inhabitants of any country in the world.

The mines that are being detonated by civilians clearly miss the mark if the objective is to hit combatants. They are laid along footpaths, rice paddies, riverbeds, and around villages. According to a March 1991 survey conducted by representatives for Asia Watch, there are now 30,000 amputees in Cambodia, with an additional 5,000 to 6,000 living in refugee camps along the Thai-Cambodian border. They conclude that "These grim statistics mean that the Cambodian conflict may be the first war in history in which landmines have claimed more victims—combatants and noncombatants alike—than any other weapon."

It is estimated that, for every victim who survives the injuries from the explosion, another dies. For those who do survive and who must then undergo amputations, the prospects of rehabilitation are grim. The number of prosthetics turned out each year average 1,300—falling far short of the demand. Only 1 in 8 amputees receives an artificial limb, and most of them are soldiers.

These landmines are a major obstacle to the successful repatriation of Cambodian refugees who have lived for years on the Thai-Cambodian border. In the absence of an aggressive mine-clearing operation, which is still not in place, repatriation cannot proceed safely.

On a trip to Cambodia in 1990, I visited a clinic treating landmine victims in a refugee camp on the border. The conditions were appalling and the suffering extreme. And, even more troubling, the future for these amputees was grim in a country where access to prosthetics is very limited and where society treats them like pariahs. I urge my colleagues to support this amendment which can help prevent future situations like we see in Cambodia. And I urge the President to take the lead in the international community to curb the proliferation of these devastating weapons.

THE FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS BILL

Mr. KERREY. Mr. President, I rise to express my strong objections to the conference agreement on the fiscal year 1993 transportation appropriations bill. Had there been a recorded vote on the conference report, I would have voted no.

While I understand that spending constraints impose heavy burdens on appropriations legislation, the allocation of highway funds in this conference agreement imposes an undue burden on Nebraska. Nebraska's allocation of highway funds in the conference agreement is $10 million less than the figure in the bill when it passed the Senate. A $10 million cut will impose serious hardships on a rural State like Nebraska where highway construction needs are great and where potential job creation would be of great benefit.

In the first year in which the new highway authorization legislation is in place, it is unfortunate but not surprising that Nebraska's allocation is so restrictive. Unfortunately, the authorizing legislation, which passed the Congress and was signed by the President in late 1991, included a formula that disadvantaged Nebraska. Under the final conference agreement on the highway legislation Nebraska will receive $87 million less than in the version which passed the Senate over the 5-year authorization period.

While there are problems with the underlying highway authorization legislation, I intend to work with Senator EXON to address this situation in next year's appropriations legislation.

START TREATY RATIFICATION

Mr. KERREY. Mr. President, I rise in support of ratifying the START Treaty. This is a vital treaty, an essential treaty. I didn't always feel that way. When the Soviet Union dissolved into 15 countries, when those successor countries renounced communism and came under leadership that was friendlier to us, when the economic problems in the former Soviet Union seemed to affect their military readiness, and especially when, last June 17, Presidents Bush and Yeltsin agreed on weapons reductions far below the START levels, it seemed to me that START's relevance had faded. But when we reviewed the treaty in the Intelligence Committee, to determine whether the treaty could be monitored and verified by our Intelligence Community, I recognized that for several reasons, this treaty is key to a peaceful transition away from the cold war.

First, START provides a method for reducing nuclear arms. Its mix of cooperative measures—inspections, measurements, transmission of missile test telemetry in the clear—provides a system and a recurring, reassuring routine by which these weapons can be reduced. The cooperative measures and unilateral intelligence capabilities can, together, provide us and the former Soviet signatories with confidence in the process. The same methods ordained by START can and almost undoubtedly will be used to carry out the reductions required by the Bush-Yeltsin agreement. The parties know these methods work because we and they use some of them to enforce the INF and CFE Treaties.

Second, START works toward our longer range interest, which is stability in the former Soviet Union. In the course of carrying out their START obligations, the new Republics of Russia, Byelarus, Ikraine, and Kazakhstan will have to cooperate with each other, since they together are the Soviet Union's successor for the purposes of arms reduction under START. Their militaries will have strong reasons to share data and to coordinate. The possibility of inspections under START will also encourage the smaller Republics to meet their commitments to gradually cease to be nuclear states. START reduces the risk that these countries will fight each other. That's a key goal for us, especially if the fight could become nuclear.

Third, START helps stabilize the former Soviet Republics because it encourages them to be responsibile and mature. It brings Ukraine, Byelarus, and Kazakhstan into the world of grownups on the international stage. No longer are they the artifical creations of some long-deceased Soviet mapmaker. START makes them signatories to a nuclear weapons reduction treaty with the strongest nation on Earth. I can think of no better way to bring maturity and responsibility to these new republics than to have them playing in our league, required to send

inspection teams to the United States and to receive ours in their countries.

But I am concerned about the ability of the former Soviet signatories to carry out their obligations under the START. These countries are undergoing terrible financial crises, their resources are very poorly distributed. I note the administration's stated belief that each of the parties is capable of paying its portion of the START costs, but I also note that Ukraine has already asked informally for a reallocation of the costs. I doubt if this will be the last such request, because these countries are truly strapped. It is in our long term interest to respond favorably.

They are also strapped for know-how. If they can't destroy their missiles and warheads safely, and if our cosignatories, who lived through Chernobyl, don't have confidence in their destruction methods, START won't work. We shouldn't wait for their request for technical assistance in START-mandated destruction, we should be preparing now to provide it. No country in the world can match out expertise in demilitarizing these missiles and warheads.

The last thing anyone wants to hear about START, or any other treaty, is that it will involve us spending money in another country. There is nothing in START that says we have to, either. But if we don't offer financial and technical assistance so that these impoverished countries can abide by START, we run the risk of losing the greatest opportunity presented by our victory in the cold war.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. JOHNSTON. Mr. President, it is appropriate that we are considering the conference report to S. 2, the Neighborhood Schools Improvement Act, upon the recent release of the 1992 edition of the National Education Goals Report. The report is a timely reminder of what our purpose should be when we consider educational reform measures.

Perhaps the most important message contained in the report for students, parents, and policymakers is that we are in danger of becoming too complacent about academic achievement and performance. Evidence suggests that too many of our notions about educational achievement are rooted in misperceptions about innate ability and not in the reality of hard work and effort.

In addition, many of us are not realistic about the educational demands of the changing global economy. For example, we do not have enough programs for noncollege-bound students who, now more than ever, must have the ability to quickly create and adapt to new technologies in order to compete effectively.

Our mandate is clear, and the objectives of Federal support for education must be targeted even more effectively. This brings me to the issue before the Senate today.

The purpose of the Neighborhood Schools Improvement Act is to codify the national educational goals under a framework which can be achieved by the year 2000. And the question before us today is, will this legislation help in achieving these goals? I think that it does.

This bill strengthens our resolve to enhance the role of public education. Funds will be targeted directly to help those schools which have the greatest needs. And, without question, our public schools must be the backbone of the effort to reform education in the United States.

The Neighborhood Schools Improvement Act will do much to provide the resources needed to restore confidence in our public schools, especially in my home State, Louisiana. The bill will provide $16.9 million for my State's public schools, which are in need of increased support.

According to the Louisiana State Department of Education, over 787,000 students attend Louisiana public schools and we spend an average of $3,641 per student, which ranks our State 42d in the Nation. The programs that can be implemented by this act will afford my State the opportunity to extract even more value for every dollar spent on education.

Under this legislation, our local school districts will have the opportunity to create innovative, cooperative educational ventures to benefit all of our students, teachers, and families. It will concentrate on, among other things, our efforts to save the 9,394 students in my State who dropped out of school last year, and the potential dropouts who will be denied opportunity to gain the necessary skills to fulfill their lives. If we do not address the needs of such students, the cost to our future will be crippling.

We need more legislative initiatives such as this to foster a cooperative effort of policy, public opinion, compassion, and courage. By allowing for local input, where the decisions about our educational priorities should be made, we honor the tradition of community based American public education.

Finally, we must recognize, as Jonathan Kozol points out in "Savage Inequalities", that our Nation's best public schools are also the best schools in the world. Many have argued for the abandonment of many of our most impoverished public schools. But, in my view, this subverts the intent of real reform. The problem is not that we do not have great schools; it is that we do not have enough of them.

I believe that the Neighborhood Schools Improvement Act will create incentives for an expansion of public schools of excellence and achievement. It will add to the number of our great public schools and provide an impetus for all students to achieve their goals and our Nation's goals.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Ms. MIKULSKI. Mr. President, our education system is in big trouble and we all know it. The Neighborhood Schools Improvement Act is a big step in the right direction.

This bill establishes broad national goals toward which State and local school systems and individual schools can work.

These goals allow schools the flexibility to develop and try innovative methods, but give the necessary framework to assure that we're all moving in the same direction.

This is an important step forward because we want to improve all our schools and be able to borrow the best ideas from each other toward meeting mutual goals.

Mr. President, I want all American children to start school ready to learn. That's why I'm glad this is one of the goals in this bill.

I also want American students to graduate from high school. We know that 25 percent of current jobs will disappear before the end of this century—they just won't exist any more. What jobs are these? They're the jobs that don't require a high school diploma.

Mr. President, the goal under this bill to increase the rate of high school graduation is critical to our national well-being because our jobs are at stake.

It's also critical that our students get the math and science skills to compete for the jobs that will take the place of the lost jobs I just spoke about.

Making our students No. 1 in the world in math and science is another goal in this bill. I know we can do it, but we need the national commitment and focus that this bill gives.

And who can argue against the goal to rid our schools of the drugs and violence that have threatened our children?

Mr. President, goals are important. They are important because they keep us focused on our future, the future of Maryland's students, and future of students all across America.

My State has an innovative education reform plan called Schools for Success. The support that Maryland could get from S. 2 would add the financial spark Maryland schools need to get this plan going. The plan is aimed at comprehensive school improvement and reform.

S. 2 will allow the State to set up more regional staff development centers. These centers will better train the teachers in our classrooms.

It will also allow the State to award challenge grants to schools to develop annual improvement plans and strengthen the Maryland school performance program. My State needs this help.

Mr. President, I submit that we all need this help. We must make this investment in improving our schools. The promise of education is too precious to squander. I want the best for our children and our future.

Mr. President, there is much to like about this bill, but I want to mention a few things that I especially like.

First, it is based on the premise that the best solutions to the problems facing the schools will come from local schools, parents, teachers, business people, administrators, and students—not from the Federal Government. I couldn't agree more with this premise.

Second, this bill deals with improving all our schools in a comprehensive manner.

Third, it gets money down to the individual school level—at least 80 percent must reach the local level after the first year. We don't need or want to fund bureaucracies at the State or local level. We need money to be in the hands of the people on the front lines.

Fourth, it demands that schools that participate in the improvement grants program actually improve. If they don't improve in the area they are working on, funds are cut off. We don't continue to pour good money after bad. Schools are held accountable.

Fifth, it continues development of education content standards. As a nation, we need to know if we are progressing in meeting our goals.

And finally, Mr. President, it contains a provision to fund tests in 10 States in which schools will be freed from regulatory requirements.

Mr. President, I am pleased to support the bill we are considering today.

We are in a war for America's future. And the future of our children is at stake.

It's time we stopped fooling around and stopped talking about the need for school reform and, instead, actually do something about it.

We need this bill to add some fuel to the fire we must light under the educational system in this country.

THE CONFERENCE REPORT TO THE CRIME BILL

Mr. GORTON. Mr. President, in June 1988, Chief Justice Rehnquist formed the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases in response to widespread frustration with the criminal justice system's inability to administer fairness and justice in cases dealing with the death penalty. The committee was chaired by retired Associate Justice Lewis F. Powell and included several highly respected judges from the fifth and eleventh circuits which experience the highest numbers of death penalty cases.

The committee's findings in 1989 included the following statement:

> The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

Rather than responding to that appeal, the conference report that is before us again instead overturns the Supreme Court's habeas corpus decisions that keep convicted criminals in prison and limit obstruction of the death penalty. In addition, the conference report would require the reversal of convictions based on harmless error despite independent overwhelming evidence of guilt. The conference bill also has provisions which would shorten the prison terms of many Federal offenders.

Mr. President, it is the habeas corpus provisions in the conference report that concern me the most. These provisons not only ignore the appeal of the Powell Commission, they intentionally reverse the progress the Supreme Court has made to alleviate the delays in our justice system. In Barefoot versus Estelle (1983), the Supreme Court encouraged the lower Federal courts to give expedited consideration to habeas corpus petitions in capital cases, and held that stays of execution are not automatically granted in the course of habeas corpus litigation in such cases.

The conference bill, however, overturns this decision and increases delay by imposing an automatic stay of execution in all capital cases which continues through the litigation of a habeas corpus petition. A position more consistent with the Powell Commission is the Thurmond-Gramm Crime Control Act of 1992 which goes beyond Barefoot in reducing delay by providing for a 180-day time limit for filing habeas corpus petitions in capital cases and sets definite time limits for Federal courts to finish the litigation of such petitions. That is progress in achieving fairness in our criminal justice system.

A closer look at the fine print of the conference report confirms the belief shared among many that the Democrat's crime bill is a lawyer's dream. For instance, in Murray versus Giarratano (1989), Pennsylvania versus Finley (1987), and Ross versus Moffitt (1974), the Supreme Court has held that States are not required to provide appointed counsel at the later stages of litigation—collateral and discretionary review proceedings—which come after trial and appeal. The conference bill overturns these decisions as well and requires in capital cases States to appoint at least two lawyers to represent capital defendants at all stages of litigation, including collateral and discretionary review proceedings. Such a requirement, again, will simply add to the delays and costs already prevalent in our legal system.

Another common abuse in capital cases is efforts by defendants and their attorneys to overturn convictions by raising claims in Federal habeas corpus proceedings that were never presented to State courts. Even in the Warren Court period, the Supreme Court placed some limits on this abuse, holding in Fay versus Noia (1963) that a Federal court may dismiss a claim if it was deliberately withheld in the State proceedings.

Recent decisions of the Court have imposed more stringent restrictions on this abuse. A prisoner generally must show cause; that is, a clear justification—for failing to raise a claim earlier. Alleged error by a defendant's lawyer in failing to raise a claim is no excuse unless the error amounted to constitutional ineffectiveness of counsel. In addition, in Sumner verus Mata (1981), the Supreme Court strengthened a rule that requires Federal habeas corpus courts to respect the Federal determinations of the State courts that rejected a prisoner's claims.

The conference bill overturns all of these decisions and all appointments of lawyers in State capital cases would have to be made by a defender organization, a capital defense resource center, or a special committee of criminal lawyers, not by judges. At least two lawyers would have to be appointed at all stages of litigation, and these lawyers would have to meet qualifications standards which exceed those that Congress has provided for Federal capital cases. Again, we can see why this legislation has so much support by lawyers.

In contrast, the proposed Thurmond-Gramm crime bill, S. 2305, provides effective reforms to curb the abuse of habeas corpus that thwarts the use of State death penalty laws and undermines the criminal justice process in every type of criminal case. The reforms include definite time limits for Federal courts to conclude the litigation of habeas corpus petitions so that lawfully imposed death sentences can be promptly carried out, and strict limitation of repetitive habeas petitions. In addition, the Thurmond-Gramm Crime Control Act provides for time limits on the filing by prisoners of habeas corpus petitions attacking their convictions or sentences, and a rule upholding reasonable decisions by State courts rejecting prisoners' claims.

The issue of habeas corpus is arcane and usually reserved for law school classroom debates. However, its relevance here cannot be overstated. The impact of the Democrats' conference report would be devastating to efforts to reform and improve the fairness and efficiency of our criminal justice sys-

tem. We cannot afford to take a step backwards and create more impediments to justice. Although this conference report contains a variety of reasons to oppose it, mostly due to the fact that Republicans were left out of the critical House-Senate conference, the habeas corpus provisions are reason enough for this Senator to oppose a motion to proceed to consideration.

THE 20TH ANNIVERSARY OF RHODE ISLAND HEALTH CENTER ASSOCIATION

Mr. PELL. Mr. President, this October marks the 20th anniversary of the Rhode Island Health Center Association, the organization that represents Rhode Island's community health centers. As a strong and longtime supporter of our Nation's community health centers, and as a Rhode Islander who is very proud of the excellent work of, and quality care provided by, Rhode Island's community health centers, I would like to offer my congratulations and best wishes to all those affiliated with the Rhode Island Health Center Association, including its hard-working and dedicated director, Barbara Colt.

Mr. President, I recently received the September 1992 issue of the Community's Health, the newsletter of the Rhode Island Health Center Association. The cover page contains an excellent article describing the association and its history and goals. I ask unanimous consent to include in the RECORD, at the conclusion of my remarks, the article entitled "Association's Twentieth Anniversary," and would like to take this opportunity to wish Rhode Island's community health centers, their staffs, and their patients, a healthy and successful future.

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

[Newsletter of the Rhode Island Health Center Association, September 1992]

ASSOCIATION'S TWENTIETH ANNIVERSARY

In October, the Rhode Island Health Center Association will mark its twentieth anniversary. The Association was founded to promote the development of a sound system of high quality primary health care for all and to advance the work of community health centers.

Community health centers are organizations governed by the people they serve. They provide primary care, address the health needs of their community, and care for people regardless of their ability to pay. In 1992, the goals of the Association haven't changed, but the environment in which they operate is vastly different.

Community health centers are no longer small, store-front clinics with volunteer doctors and nurses delivering minimal primary care. There are now fourteen community health centers in Rhode Island providing the full range of primary health care services to almost 60,000 people, in every part of the state. Although each center is a private, non-profit, charitable organization, the network of centers functions as the state's public health system, but without the sufficient public funding that such a responsibility demands.

As for the health care environment, the emphasis has been on developing sophisticated and expensive technologies for complicated diseases. It has often been done at the expense of basic prenatal, pediatric, and adult health care which might, if rendered early and appropriately, prevent serious and chronic disease and, hopefully, the financial and personal cost of treatment.

An even more detrimental trend, however, has been the erosion of concern for providing good health care for people who are poor or have limited resources. Every day, there are more and more people without health insurance. Practically daily, the cost of health care escalates, putting it out of the reach of even middle-income families. The anguish, frustration, and just plain fear which these developments cause is real and damaging to people's mental and physical well-being.

We hope that the hallmark of our twenty-first year is a renewed commitment on the part of the political and medical establishment to get serious about ensuring proper health care for everyone.

ALAN CRANSTON: CRUSADER FOR PEACE

Mr. PELL. Mr. President, it was with a true sense of sadness and regret that I learned of the coming departure of our colleague and friend, the distinguished senior Senator from California, ALAN CRANSTON.

I have long admired Senator CRANSTON for his courageous espousal of the many causes in which we shared a common commitment, most especially his crusade for arms control. It was because of his unwavering dedication to reduction in armaments that I enthusiastically supported his candidacy for President in 1984.

For almost 24 years, ALAN CRANSTON has been in the forefront of the campaign for world peace. It is perhaps fitting that he should choose to retire now that the cold war has ended, for it was his concern over the threat of nuclear arms which first brought him to the Senate. Since that time, no issue was too small or too large for him to take on in his quest to make the world a safer better place in which to live.

In his first term, Senator CRANSTON was a very active participant in the Senate deliberations on the interim Strategic Arms Limitation Treaty in 1972, and called for deep reductions in SALT II. As Whip, he organized a bipartisan, informal SALT Study Group to discuss ways of controlling the spread of nuclear arms. He was an original cosponsor of the Nuclear Nonproliferation Act of 1978, which tightened nuclear exports standards and safeguards.

He has always been quick to use the Senate's bully pulpit to focus the Nation's attention on the dangers of nuclear proliferation, whether it was his 1980 fight to oppose the sale of nuclear fuel to India or his speeches early in 1981 which drew attention to the danger of nuclear programs in Pakistan, India and Iraq.

Recently, as a member of the Foreign Relations Committee and chairman of the Subcommittee on East Asia and Pacific Affairs, he held a series of hearings to draw attention to North Korea's nuclear weapons program, as well as that of the People's Republic of China.

From his early days, ALAN CRANSTON was a crusader against man's inhumanity to man and a vigorous advocate for the rule of law. In 1939, he translated a version of Hitler's "Mein Kampf" draw the American people's attention to the implications of the Nazi program.

As a member of the Senate, he worked to make human rights a cornerstone of American foreign policy. He joined with Hubert Humphrey to win adoption of 1975 legislation which curbed U.S. aid to dictators. He supported conditions of United States aid to El Salvador, and he led efforts to secure emigration rights for Soviet Jews.

Most recently he tenaciously led the fight on the Senate floor to reverse the Bush administration's policies toward Cambodia. Today there are United Nations forces in Cambodia, due in good part to ALAN CRANSTON's insistence that an American policy of supporting warring Cambodia factions was not going to lead to a Cambodian peace.

ALAN CRANSTON was an early supporter of United States recognition of the People's Republic of China, but he always believed that the Chinese people were more important than the Chinese Government. When the massacre in Tiananmen Square took place in June 1989, he was one of the first Senators to introduce legislation ending most-favored-nation treatment for China. Diplomatic relations and trade have always been perceived as a means to the end, which is achievement of freedom and democracy—but not the end itself.

ALAN CRANSTON is bringing to a close a truly remarkable senatorial career. It can best be summed up, I believe, by saying that ALAN CRANSTON has been, above all, an ardent crusader for peace, a vigilant guardian of human rights and a ready opponent of injustice wherever it appeared. I can think of no higher levels of accomplishment to which any of us could aspire.

TRIBUTE TO WILLIAM PENN MOTT

Mr. CRANSTON. Mr. President, I rise to pay tribute to William Penn Mott who died on September 21.

Many of my colleagues will remember Bill Mott as the director of the National Park Service from 1985 to 1989. But they may not be familiar with Bill's long and distinguished career in parks and recreation at all levels of government. Bill first worked for the National Park Service from 1933 to 1946

when he became parks superintendent for Oakland, CA. In 1962 Bill Mott was named general manager of the East Bay Regional Park District, the largest regional park in the Nation. From 1967 to 1975 he served as director of the California Department of Parks and Recreation under Governor Reagan. He then served as general manager of the East Bay Zoological Society in Oakland before being named director of the National Park Service. After stepping down as NPS director, Bill Mott returned to California where he continued to work for the Interior Department as a special assistant to the NPS western regional director until his death.

I first met Bill Mott years ago in California and was enormously pleased with his appointment as NPS Director. Bill gave early encouragement to my efforts to protect the California desert, and most especially for national park status of Kelso Dunes and surrounding lands in the East Mojave. He worked well with both Democrats and Republicans. He was courteous and mild mannered, and also a strong voice for and champion of preservation and parks throughout his life.

We shall miss Bill Mott.

JOSEPH L. RAUH, JR.—A FEARLESS FIGHTER FOR JUSTICE

Mr. KENNEDY. Mr. President, on September 3, 1992, the Constitution and the country lost one of their greatest defenders when Joseph L. Rauh, Jr. passed away. I extend my deepest sympathy to Olie Rauh, Joe's wife of 57 years, and to the entire Rauh family.

Joe Rauh was a lawyer's lawyer. A graduate of Harvard College and Harvard Law School, he served as a law clerk for Justices Benjamin Cardozo and Felix Frankfurter. He then became one of the young Turks who made the New Deal work, and he played an important role in America's mobilization at the beginning of World War II, before enlisting and serving in the Pacific.

Following the war, Joe Rauh entered private law practice, where he was a consistent champion of individual liberty. He defended playwrights Lillian Hellman and Arthur Miller against congressional excesses during the McCarthy era. And he represented many outstanding leaders of organized labor, including Jock Yablonski and Walter Reuther.

Even in the face of many setbacks, Joe Rauh maintained his wonderful humor and good cheer. Of his years in practice, he said, "Others made all the money, but we had all the fun." And I would add, he made all the difference.

For more than half a century, Joe Rauh was the conscience of civil rights in America. He helped to draft the civil rights plank at the 1948 Democratic Convention, a key first step in the struggle to remove the stain of discrimination from the fabric of America. As counsel to the Leadership Conference on Civil Rights, he was a leader in all of the historic legislative battles to enact into law the Constitution's great promise of equal justice for all. No one fought harder or better than Joe Rauh to resist efforts to stack the Supreme Court with Justices who would turn back the clock on civil rights.

Here in the Senate, whenever constitutional rights and liberties were at issue, Joe Rauh would be in the Senate reception room just off the floor, or walking the Halls of the Capitol and the Senate office buildings, urging Senators to cast a vote of conscience. He was a beacon of principle cutting through the fog of political debate. I sought his wise counsel many times over the years on legislative strategy and Supreme Court nominations and he gave it generously, with wit, grace, surpassing intelligence, and always straight from the heart.

Looking back on America's accomplishments in his lifetime, Joe said, "I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact." All of us who knew Joe and loved him will miss him deeply in the years ahead. His greatest memorial will be to rededicate ourselves to working, as he did, to fulfill the Constitution's great promise of equal justice under law.

Last Sunday, September 27, nearly a thousand people attended a memorial service for Joe here in Washington. The list of speakers reflected the breadth and richness of Joe's extraordinary life: Senator Tom Eagleton, Roger Wilkins, Arthur Schlesinger, Jr., Arthur Miller, and Katharine Graham joined Joe's family in paying tribute to this exemplary American.

I ask unanimous consent that their tributes and other materials be printed in the RECORD.

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

JOSEPH L. RAUH, JR., JANUARY 3, 1911 TO SEPTEMBER 3, 1992

(Memorial Service, September, 27, 1992)

QUOTES FROM JOE RAUH

"Do your best and don't take yourself too seriously."

"Others made all the money, but we had all the fun."

"Everybody knows that lawyers are rated below sanitation workers in public esteem but even the legal profession affords those who will take it the opportunity to work in the public interest and the joy that comes with such work."

"I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact."

"I believe the organizations that comprise the Leadership Conference on Civil Rights can one day build a truly equitable society. Having accomplished so much we should be bold enough to try for more."

"The legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating them."

THE FREEDOM OF SPEECH MEDAL

(Presented on March 4, 1983, St. James Church, Hyde Park)

As a young man, you served Franklin Roosevelt, first as a lieutenant in the New Deal, later as a lieutenant-colonel in the Pacific war. In the years since, you have greatly exemplified the purposes that President Roosevelt affirmed in demanding Freedom of Speech as a universal obligation of nations. Your courage and eloquence in defense of civil liberties and human rights have commanded the consent of the courts and the respect of your countrymen. The working people of our land have found in you an undaunted champion. You have roused the national conscience in the struggle against injustice. You have lived faithfully by your own philosophy. In your vindication of Freedom of Speech, you have shown the power of free expression to help shape the better world of which Franklin Roosevelt dreamed.

MEMORIAL SERVICE

Rabbi Fred Reiner, Fifteenth Psalm, Twenty-third Psalm.

Suzanne Rauh, B. Michael Rauh, Jr.

Thomas F. Eagleton.

Roger W. Wilkins.

Arthur M. Schlesinger, Jr.

Arthur Miller.

Katharine Graham.

Statements of Carl S. Rauh and Joseph L. Rauh, III (read by Rabbi Reiner).

B. Michael Rauh.

Memorial Prayer: Mourners Kaddish.

Songs sung by Douglas Mishkin: "Sweet Survivor," "Weave Me The Sunshine".

DEMOCRACY'S PITCHMAN

The life story of Joseph Rauh, who died on Thursday at 81, had many histories. The most famous, perhaps, were his strenuous lobbying in behalf of every major civil rights bill from 1957 on, his battle against McCarthyism and his struggles over the conscience and membership of the U.S. Supreme Court.

He was also the proud partner of Clarence Mitchell when the two served as co-chairmen of the Leadership Conference on Civil Rights. He treasured the day when Senator Harry Byrd Sr., the Virginia segregationist, gestured toward the gallery and cried, "There they are, the Gold Dust twins."

Generations of Washingtonians enjoyed the spectacle of the private Joe Rauh holding forth on a softball diamond on Sunday afternoons. When he chose up sides with Alan Barth, the Washington Post editorial writer, he did so shrewdly and competitively after scouting the day's array of talent.

Pitching for his side, he would hurl the ball past all batters, old and young, male and female, with equal speed and spin. Later, over lemonade, he'd savor the day's political developments and tell of his hopes and worries for a Supreme Court he had revered since his time as law clerk to Justices Benjamin Cardozo and Felix Frankfurter.

He continued to think about the Court until the end. A friend who saw him at lunch Thursday heard his guarded optimism about the election and hip prediction that Democratic appointees could help correct the Court's rightward course.

Mostly he pitched for democracy. His deep, craggy voice resonated through the halls and chambers of Congress. He demanded to be heard and he got his hearings through lean and fat years of his causes. Those who knew him will miss his attentiveness—and his pressure on others to be attentive—to human rights. Many who never knew him are the beneficiaries of that pressure and passion.

New York Times Editorial, September 5, 1992.

REMARKS OF SUZANNE RAUH

Most of you gathered here today, knew my grandfather, my Pawpaw, in a public way—through his never ending march for equal rights throughout his life time. Some of you may been a close friend, an all, you may have crossed paths, or you might have been an admirer from afar.

I had the distinct honor of being his only granddaughter.

The day I was born, my grandfather brought my mother a charm. It lit up and said "it's a girl". Pawpaw continued to light up my life for the following 30 years.

My grandfather always told me that I was one of the two other women in his life, excluding my grandmother, the other woman being Marilyn Monroe. Can you imagine being 8 years old and having to compete with those two blondes!

My grandfather was not a materialistic person, although I do recall several family occasions when he encouraged my two brothers to dance with my grandmother. I believe he offered then $5 for one dance and $15 for two.

My life has been filled with much family travel. We always spent birthdays, holidays, and anniversary together. In my growing up years our Sundays were spend at "Joe's office", that is poolside. We always ended the day with a family dinner, typically Chinese or at Arbaugh's.

It is these times that I became aware of my grandfathers contagious laughter and his keen ability to tell a story. He brought so much enthusiasm to the table, he gave us all so much pleasure. As I grew older, our Sunday's lead into tailgate parties at RFK Stadium and cheering for the Redskins.

I look back now, and I find it quite amazing that with all of his accomplishments, his interests, his battles, his dates for lunch at Duke's, Pawpaw always made time for me. No matter what the occasion, from my preschool, kindergarten, high school, college, equestrian competitions, he was always present. Never overshadowing an event, always letting me know how important I was and how much he loved me.

Pawpaw had a great love for people, for themselves, at their best and at their worst. He knew the faults of others and recognized his own. My grandfather loved his grandchildren very much. As I loved him.

I will never forget the many things in life he stood for, things which were so evident in the life he lived. I will try to keep as many of his virtues alive in me as I can, though there are a few that I cannot approach, for where my grandfather was good, he was very, very good.

I know that up there, some where, Pawpaw is sipping on his first martini of the day, sharing stories with Sachel Paige, Sammy Baugh, Mr. King, President Kennedy, Marilyn—of course, Dooyie and Carol, and a cast of thousands. So I would like to take this opportunity, to toast him for just a few of the many contributions he made to my life.

Pawpaw, I'd like to thank you for making better laws for our Nation, for caring and believing so much in your causes, for changing our country so that it would be a better place for me to live.

As my high school graduation speaker you taught my generation that it is not what you do in life but how you do it that leads to the fulfillment to which we all aspire. Thank you for being the finest example of this any person could have been.

Thanks for sharing so many nice times with me, and making so many special memories with me. For teaching me how to grow old gracefully, and with dignity. Most of all for not allowing any of us, especially yourself, to suffer from loneliness, indignities, or pain.

Thank you for teaching me how to make every minute of life count, how to keep the cup full, and live life to it's fullest. This is what you did until the very end.

Well Pawpaw, now you are gone, and I think of you, our friendship, our happiness, the love that we shared. I am trying very hard not to be sad. Instead, I smile at our memories, and I share with you the ultimate peace that I have found in knowing and loving you.

"Cheers to my Pawpaw."

REMARKS OF B. MICHAEL RAUH, JR.

I used to think I was a pretty special person because Joe Rauh was my grandfather. A couple of days after he died, a little less than a month ago, we had a small service for our family at the house and I spoke to that group, and as I stood there in front of fifteen or twenty of our closest relatives, I realized that we were all pretty special because we are all related to Joe. And as I stand here this morning and as I have seen people this morning, I realize that everybody here is very special. We are all special—not just me—not just the family—but all of us because we all knew Joe in one way or another.

I think as far back as I can remember, Joe was really a role model for me personally, and I know for probably just about everyone in this room in one way or another he was a role model as well. Probably one of the best role models you could have because every part of his life was spent in the same beliefs. He was truthful and self-true to his beliefs and so all of us were able to pick up on the things that he believed in simply by watching him live life. It really wasn't unfortunately until he died, that I started to think about many of the things that I learned from him personally and I'm sure most of you learned from him as well.

I think probably one of the most important things that we all learned from Joe was to use our personal resources for the good of other people—not for ourselves. Not just money, because anyone can give money, but what Joe gave of was himself. From his head to his toes, he gave everything he had, physically, emotionally and intellectually for the good of others.

I think most of us have respect for him because he was able to take the moral high ground on any issue that came before him. I remember whenever I was a little bit confused about things, life always seemed to be gray to me but to him it was black and white and I could always turn to him if I needed to know which way I should be going on a particular issue. One of the things that I really appreciated about him personally was that he was the kind of person who didn't believe in simply talking about the philosophy of things, he was the kind of person who believed in making things happen. He wanted to make a difference. And he made a difference in a lot of ways.

I think on a family level, he taught us all a lot about love; particularly his love for his wife, Olie. There was never a person who in my experience was more dedicated to his wife than Joe was, and I think we all learned a lot from that. Speaking of his love for his family, I remember one New Year's Eve when I was in college, I had gotten quite ill and was in the hospital, feeling pretty sorry for myself because it was about 9:00 o'clock on New Year's Eve and I was there by myself. No one was around, the family was all out celebrating—the nurses on New Year's Eve aren't the best looking nurses in the hospital—and I was lying there, watching television, waiting for the big ball to come down, and in comes Joe, in a tuxedo and an overcoat, with a bottle of champagne tucked under his arm. And my face obviously lit up, and I said, "This is fantastic. I can't believe that finally, someone remembered that I was here." Joe said, "Don't flatter yourself, kid. This was the best excuse I ever had to get out of the ballet with Olie."

He taught me a lot about many, many things. But one of the things I really appreciate the most is that he taught me to appreciate the finer points of a good, smooth Bourbon. I remember as a kid, he and I used to go to the Redskins games together—I think I was seven or eight when we started going together and I went for years and years. And on particularly cold Sundays in December Olie would pack a couple of thermoses—one for him one for me. I don't know how old I was, I must have been nine or ten probably and it was a particularly cold Sunday at RFK and I must have gone through my thermos of hot chocolate before the end of the third quarter and I started to get a little shivery. And he looked at me and said, "Here, try some of this." I can still remember that taste in my mouth. Once I got over the initial shock I thought, "Boy, this is pretty good." So I started dumping the hot chocolate in the parking lot after that—and going right for Joe's bullshot.

I think probably the thing I remember best about my grandfather is that he was the eternal optimist. You couldn't get him to say anything bad. You couldn't get him to say what was wrong. He always looked on the bright side of things. And of all the things that I appreciate about him the most, I think that's probably it. Joe's life touched a lot of people. He touched me—he touched our family—he touched all of you. He touched tens of thousands, countless people that we'll never even know about. But I think for his life to take the kind of meaning that is should, it is important that Suzanne, my brother, Terry, and I, the rest of our family, and all of you pledge to ourselves, but more importantly, pledge to Joe, that we will take the things he taught us as our role model and will apply them in the same way that he did, because in that way his life will have touched even more. Thank you.

REMARKS OF SENATOR THOMAS EAGLETON

If—God forbid—our country were someday hit with an ideological Hurricane Andrew, we could endure as free people if the Bill of Rights and the XIV Amendment were able to survive such an awesome ill wind. The Bill of Rights and the XIV Amendment constitute the bedrock of America's freedom now and forever more. This was the premise—and the promise—of Joe Rauh.

He was a lawyer who actually believed in the rule of law. He believed in the capacity of law to help fashion a more just society. To him, the law was the tool to be used affirmatively to remedy inequity. As he saw it, the Equal Protection Clause of the Constitution in practical application was quite obvious: Everyone—however situated, however tex-

tured—everyone was to be accepted and treated fairly—so Joe Rauh devoutly believed.

In my life, I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions—I repeat all occasions—put conscience ahead of all other considerations: Senator Mike Mansfield, Senator Phil Hart, and Joe Rauh. Whenever I needed a conscience, I knew where to turn—to Joe Rauh.

His last letter to me on May 16 of this year addressed the issue of school integration—specifically in the context of a hugely expensive and controversial high school that had been recently built in Kansas City. I had sent him an article from the Kansas City newspaper on the subject. He wrote back to me, "Yes, there seems to have been a hell of a lot of spending on the school building and the fancy athletic equipment. I can't pass judgment on that. I can pass judgment on equal educational opportunity. On that, we cannot turn back—no matter what."

In this time in which public decision-making is frozen in the end-justifies-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion.

"We" means the nation as a whole and the disadvantaged in particular. "We" means his friends and admirers here present. And "we", most of all, mean Olie, Michael and Carl. They, fortified with the moving, warm, and tender personal memories, know how fortunate we all were that the courage and conscience of Joe Rauh came America's way.

REMARKS OF ROGER WILKINS

A little more than thirty years ago, when I was preparing to come to Washington, my Uncle Roy gave me two pieces of advice: Never forget where you came from and get to know Clarence Mitchell and Joe Rauh. He didn't call them by their rightful name, "The Goldust Twins," but he made it clear that he thought they were the twin peaks of our side; the bulwarks in Washington of American decency.

It was the best advice my uncle ever gave me.

When I was young, I expected that America would solve her racial problems. I thought that the best white people in the country had internalized the nation's highest ideals and would fight for them until they were realized and that they would struggle and lead by example until the rest of white America had been brought along. It hasn't quite worked out that way.

But Joe lived up to every hope I ever had for white people. While others retreated to lower ground, Joe never gave up on the country's highest principles.

He also saw us blacks whole. He had no need to color us from the palate of his fantasy. If he encountered a black hero like A. Philip Randolph, the head of the Brotherhood of Sleeping Car Porters, (whom Joe always called "Mr. Randolph"), he saw a hero. If he encountered a black beloved colleague and friend, like Clarence Mitchell, he saw a beloved colleague and friend. And if he encountered a black bum, Joe saw a bum.

Shortly after Andy Young was fired for having had contact with a PLO representative, a leadership meeting was called at NAACP headquarters in New York. When I got there and was heading into the meeting room, I noticed Joe sitting alone in a small room just off the hallway.

"What're you doing sitting in here all by yourself, Joe?" I asked.

"Well, I got an invitation," he replied, "but now they say they don't want any white people in there."

"That's awful," I said. "I'll stay here with you."

"No," Joe said, "that's all right. Sometimes people need their privacy. Now you go on in there. That's where you ought to be."

And then there was Joe's spirit. The day after he died, Bill Taylor and I were talking about how Joe really was a happy warrior and I was dwelling on "happy" and Bill was emphasizing "warrior."

"Joe taught me a lot," Bill said. "Though he was more than twenty years older than I, there'd be times when I thought we'd been beaten and Joe would say, 'No, we've got to do something.'"

I remember sharing a platform with Joe one time in San Diego and making one of my gloomy speeches about how bad things are and how we're mired down and all that sour stuff.

Joe rushed to the microphone and said:

"Look! We've changed this nation. We used to have a legalized system of racial subordination. We've destroyed that. That's done. We may still have a lot to do, but we've changed this nation!"

A true warrior.

Joe was the full embodiment of the ideal citizen that Jefferson used to dream about. Joe gloried in his political freedom and never tired of working to keep America's promises whether they were embodied in some statute or in the Bill of Rights or in the great Civil War Amendments.

We who have lived in this town for a long time have seen a lot of puffed egos in expensive suits staggering around under big titles that were too heavy for them to carry. Joe didn't have a government title for almost fifty years and yet there was a title that he made and burnished. It grew with all his works. It was finally so large that only one man was big enough to carry it. It was the best title in town.

It was, simply, Joe Rauh.

REMARKS OF ARTHUR SCHLESINGER, JR.

Joe Rauh was a great American patriot. He believed profoundly and stubbornly and wholeheartedly in American democracy, in the Constitution, in the Bill of Rights, and he dedicated his life to making the promises of America real for all Americans. He fought for his country in wartime, and he fought for it in peacetime, and he fought always with brilliance and boundless energy and candor and joy.

Joe was the quintessential New Dealer. Yet, as an undergraduate at Harvard, he had been a football-watching, basketball-playing (Jimmy Wechsler used to say that Joe's experience playing center for losing Harvard basketball teams explained his later sympathy for the underdog), hipflask-carrying, generally roystering and rollicking fellow, who once helped tear down the goalposts in New Haven the night before The Game. His mother reproached him in later years: "I wish I had known you were going to turn out so well, because I wouldn't have worried so much about you when you were young."

His life changed at Harvard Law School when Felix Frankfurter brought the New Deal to Cambridge and found in Joe one of his most apt and devoted, if also one of his most irreverent, pupils. More than half a century ago Joe moved on to Washington and the New Deal—and never abandoned either.

He had the New Dealer's conviction that people mattered. He had an active, practical, indomitable faith in the right of free men and women to speak their minds and to use affirmative government for the general welfare and in their capacity to exercise these rights within the American constitutional order. He was anti-dogmatic and anti-sentimental; nor was he ever bothered by the prospect of power. He adored a good fight and much preferred winning to losing. He believed in the force of ideas, of reason, of debate, of persuasion. He was the conscience of liberalism in our time.

We first met in 1945 when we had both returned from the war. We both wanted to preserve the New Deal spirit from sabotage on the right and Stalinism on the left, and I gratefully followed Joe and Eleanor Roosevelt and Reinhold Niebuhr and Walter Reuther into Americans for Democratic Action. For many years Joe was the soul of ADA, the sagacious mentor, the tireless organizer, the animating and sustaining force. Liberalism, as Joe and ADA understood it, had nothing in common with communism, either as to means or as to ends. He therefore saw no role for communists in the liberal movement at home and no hope in the world beyond for a creed that murdered its dissenters and required a cruel police state to stay in power.

He was our great contemporary guardian of the Constitution. As clerk to two remarkable men, Justice Cardozo and Justice Frankfurter, he had learned both the resilience and the potentiality of the great charter of American democracy and the intricacy and precision of legal craftsmanship; and he became the foremost civil liberties and civil rights lawyer of our time. He battled for unions and for union democracy, condemned the abuses of congressional investigations and of the executive loyalty program, denounced Joe McCarthy and never hesitated to question the divinity of J. Edgar Hoover. He was the vigilant protector of the Supreme Court against improper and unqualified nominations. He was an unlimited source of aid and support to men and women in distress. I doubt that any lawyer in American history has had more impact on the Court and on Congress in the vindication of individual freedoms and in the defense of the Bill of Rights.

His passion for racial justice began early. At Harvard, when a New York hotel turned away a black basketball teammate, Joe led the whole team to another hotel. In 1941 he wrote FRD's executive order establishing the Fair Employment Practices Commission with the famous phrase mandating employment in defense industries for all "regardless of race, national origin, religion, or color." As counsel of the Leadership Conference on Civil Rights, he played a central role in the formulation and enactment of every piece of civil rights legislation.

And through it all, for all the passion of his commitment, he kept his humor and perspective. He was such a joyous man; there always remained that rollicking quality about him. He was the greatest fun to be with. He laughed a great deal, mostly at himself. Who's Who in America invites people to sum up their philosophy of life. Joe's entry concludes: "Do your best and don't take yourself too seriously."

He loved a good joke, a good softball game, a good tennis match, a good dry martini, a good barge trip through the canals of France. He loved FDR and Cardozo and Frankfurter and Ben Cohen and Ed Prichard and Phil Graham and Jimmy Wechsler and so many friends still alive and with us here this morning. He loved his children and grandchildren and, above all, he loved Olie, that enchanting blonde from St. Louis who, in one of his luckiest hours, agreed to marry him nearly sixty years ago. One has the picture of Olie through the years waiting sweet-

ly and patiently while Joe worked or argued late into the night, introducing a gentle skepticism at moments of undue fervor or tension and infusing Joe's life with a lovely tranquility.

The republic was lucky to have had him around for more than eighty years, and we are all lucky to have known him for even a portion of that time. Joe was high-spirited and great-hearted and tough-minded and brave and funny and wise. His strength, his optimism, his purity of leadership refreshed the liberal soul in bad times and held it to its highest standards in good. He was an unrepentant New Dealer to the end. He embodied the old, robust, realistic, exuberant American liberal tradition—liberalism without sentimentality, without self-pity, without illusion but with unquenchable hope for all humanity. That is the tradition that perennially recalls America to its best self and that will bring the America of the future ever closer to its professed ideals. Joe Rauh will go down in history as one of its heroes.

REMARKS OF ARTHUR MILLER

Joe Rauh can be summed up in five words—the truth was in him.

Joe was of course a deeply serious man but I have always associated him with laughter. The world—especially America—must have seemed a wonderfully ironical place to him. One afternoon during my trial in Federal Court for contempt of Congress the Prosecution managed for the third or fourth time to repeat in passing that I had misused a United States passport by travelling in Poland, then a country proscribed for Americans to enter without special authorization from God. Delighted with the opportunity to make monkeys out of the Justice Department, Joe sprang to his feet and told the judge, as he had two or three times before, that I had never set foot in Poland and that the charge was a deliberate fabrication.

The Judge thought—or seemed to think—about this for a full quarter of a minute and then said, "I think it falls under the four corners of the indictment," and continued the trial.

I turned to Joe beside me and whispered, "What does that mean?"

With a grin of overwhelming happiness he replied, "Not a damned thing."

He admired my work but I think what he really loved was a good musical. He was absolutely American. He did not particularly like sad endings. Life had enough misery without buying a ticket to more. Joe never wore his seriousness on his sleeve.

I know how futile a thought it is but I have never been able to accept that Joe Rauh was not appointed a justice of the Supreme Court. But of course he was too uncompromising, especially in his insistence upon the equality of all the races in this country, a cause to which he devoted so much of his life.

The poet Robert Burns wrote, "My father was an uncompromisingly honest and forthright man, and so we were poor." Joe's views and principles did not know seasons but kept blooming in the winter as well as in the enfolding warmth of summer. It is not a rhetorical excess to say that he lived the Law. Not just the laws that suited him but the Law as the embodiment of perhaps the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness.

If Joe was a reader of literature he certainly kept it a secret from me; but perhaps the law and the achievement of justice had all the intellectual beauty and majesty he required to nourish his soul. But I think he understood in his bones the deep underlying themes of great literature and lived them out; the immortal longing of humankind for freedom, the noble and endlessly repeated confrontations with arbitrary power and above all the struggle with hypocrisy and fake moralizing. These kept him busy through his long life—busy and laughing.

His standards of political morality could be daunting. When Bork was turned down and all opposing him were congratulating themselves with great sighs of relief, Joe was unable to forget that Mr. Kennedy, to whom there were practically no liberal objections, had a record quite as reactionary and insensitive and he could not quite celebrate Bork's defeat when the larger battle was not finished.

Joe Rauh was unusual among those who defy prevailing opinion—he had no guilt feelings about doing it. His object as a citizen and a lawyer was not to achieve some noble remorse for a lost cause, but to win. I recall the first day of my trail for contempt of the UnAmerican Committee; the judge leaned forward and said that the Government was going to need about an hour to present its case, and would Joe like to take about the same amount of time for the defense?—he saw no reason not to finish the whole thing by lunch.

"I'm afraid not before lunch," Joe replied, "I'd estimate four to five days to present our case." Days! Agony struck the judge's eyes and the Prosecution table went white. Joe resumed his seat, straightened his polka dot bow tie, and looked as contented as Mark Twain's proverbial Christian with five aces.

If at any particular time he found himself in a suspect minority he never stopped believing that fate was on his side and that this was by its very nature a liberal country whose fundamental principles were liberal ones. I think he was sure that his basic political positions were in a direct line with the Constitution and the Bill of Rights, which had made Conservatives nervous from the very beginning and still do. But that was their problem, not his. He seemed to have no intellectual roots in Europe and its class struggles; if in fact his attitudes were the inheritance from English political philosophers like John Stuart Mill and Jeremy Bentham and Adam Smith, his conscious sources were almost purely Middle West American.

By any standards Joe Rauh had a wonderful life. He had his beloved Olie to collaborate with him, and their children, and perhaps the rarest of all gifts—a sublime reason to live in his lifelong battle for freedom, a battle which has enriched and enlightened us all, and nation he so loved.

REMARKS OF KATHARINE GRAHAM

As I think back over Joe's long, fruitful, dynamic life, a central fact emerges: Joe never changed from the time Phil and I first knew him and Olie over fifty years ago, to the moment of his death. He was in the prime of his life from beginning to end. He never slowed down in his passionate zeal to improve the world for individuals and for society.

To very few people is it given to be brave, wise, embattled and funny, to enjoy life and to contribute, to have the same mind and verve and memory, and then to be taken one evening in a minute. It makes the loss seem greater for us because it seemed as though Joe would go on being Joe forever.

Joe and Phil first came to know each other as Frankurter's progeny and first law clerks. Along with Prich and Butch Fisher, Joe and Phil formed a remarkable group of young turks who were brash, brilliant, irreverent, argumentative and cut-ups.

Frankfurther treated them as equals, and they responded in kind. Joe said, "Frankfurter denounced us, but no more than we denounced him. We screamed at him to such an extent one night that Mrs. Frankfurter referred to us as the four barbarians."

The barbarians didn't wait long to get involved in national affairs. Joe said, "We had the gall to tell Felix what he had to tell Roosevelt about how to stop Hitler. We weren't at all bashful in making our proposals on how to help the allies. We had chutzpah."

Later, working together in Lend-Lease, Joe and his compatriots strove relentlessly to prepare for war when the country didn't want to. They cut corners and red tape. They manipulated the bureaucracy. And they leaked to the press with splendid regularity. The joke was that Don Nelson, chairman of the War Production Board, read his mail in the morning paper.

Somewhat to my surprise Joe later reflected that leaking raised serious ethical problems, but said: "We would never have gotten as much done in the pre-war period, if we had not engaged in that tactic. In plain English, we thought we knew more about converting to war than the people who were running it." I think they were right.

The day after Pearl Harbor, Joe and Phil tried to enlist, but the recruiting officer laughed. They both had wives and bad eyes, and Joe had children. Later, of course, both made it into the service. Phil and Joe met-up in the Philippines, from which Phil wrote me in early December 1944:

"Lunch with Joe was as much fun as you can imagine. He came bursting in, in typical bearlike attitude and embraced me heartily and noisily and then proceeded to shout all the local gossip in as Rauhlike and as unsoldierly a manner as you can imagine. We would walk along and bump into a chicken colonel and Joe would say to him you tell general so-and-so that if he doesn't turn over such-and-such a job to us, he'll get his throat cut. And the chicken would smile understandingly and call Joe a disrespectful sonofabitch. You can see the old goon has not lost his touch."

After the war, Joe started his own law firm. But the law for Joe was just a way of leading the life he wanted to lead. Joe always lived his beliefs more than anyone in our whole generation, or anyone I know. And Olie lived them with him. The two formed a unique and indissoluble union, with Olie bringing gentleness and stability, and her own humor and loyalty to their partnership. They worked together always and on everything.

In the early '50s several organizations each took a night to picket the segregated National Theatre. ADA had Friday night. Olie and Joe used to go and picket. Joe said, "It was kind of a nice social thing, you'd work off your dinner." In fact, it was dangerous.

Joe's role in the 1957 civil rights act, the first to be passed, illustrates his extraordinary ability to be mentally flexible in the way he chose to reach his goals. There was a lot of feeling on the part of the civil rights forces that this bill was less than nothing. Virtually everything had been taken out except the right to vote.

The liberals had the forces to kill the bill. Joe started out on the fence. But he understood that you had to show you could pass something, even something small, to go forward and pass something big. In an all-night meeting, Joe persuaded Roy Wilkins and the whole group to accept the bill.

Phil called Joe at 6:00 a.m. to relay a message from Johnson, who had told Phil, "That goddam sonofabitch friend of yours saved my bill."

Unlike Phil Joe was not a Johnson supporter. He not only was against Johnson for the vice presidential nomination in 1960, but Joe thought he had a promise from Kennedy that it would be either Humphrey or a midwestern liberal. When Johnson got the nod, very real anger broke out on the floor of the convention among many people. Phil and Joe were photographed there, with Phil—a soulful expression of his face—trying to calm Joe down.

Many years later, Joe told me he wished he could get a message to Phil that Johnson turned out to be the best civil rights president the country ever had. I like to think the message has been delivered.

As the years went on, Joe never lost his delight in a good argument and telling it like it is. He never lost his boundless optimism. He never lost his faith in the ultimate victory of liberal values. He never gave up the fight.

Fifty years ago, early in World War II, Joe wrote to Phil and me from overseas. Referring to Phil and himself, Joe said, "We've both got the same itch to see what it's really like up front. I wonder if either of us is going to satisfy the itch before it's over."

In a valiant life of noble battles, glorious victories and only temporary defeats, Joe did.

REMARKS OF CARL S. RAUH

I had the good fortune to have had Joe Rauh for my father. I loved him dearly and am very grateful for all he did for me. For as long ago as I can remember, we were the greatest of friends and had such wonderful times together.

My dad loved his family so very much. He brought his beautiful qualities of warmth, humor, caring for others, commitment to justice and enjoyment for life into our family. He totally abored Olie, and no wife could have been more devoted to a husband than she was to him. My dad would make the following statement after going to a political party:

"Everybody was chasing after celebrities. The only celebrity I chased was Olie."

My dad always made Debbie and me feel so special, too, as I know he did with many of you. He wrote us a note recently, saying:

"It's great to have such a lovely family. The older one gets, the more that means. Thanks from the bottom of my heart."

My dad would always welcome my friends into his home, and my close friends became his good friends.

My father was a wonderful teacher of what matters in life. He taught by example; he taught by his actions. No one ever worked harder or persevered more than he did to accomplish what was right. He devoted his life to fight intolerance and injustice in America and he usually succeeded. He was the best lawyer I ever knew, and his career will be a model for many young people for years to come.

He gave all the strength he had to the cause of freedom in this country. Yet he seemed to have plenty of time and energy left over for family, friends and fun.

As boys growing up in the fifties, he would take Michael and me to the ballpark to watch the Senators and Redskins. We would play tennis and softball together. He was a terrific athlete, enjoyed sports immensely and played tennis until he was 75, often with me as his doubles partner.

There were always memorable summer vacations at Cape Cod or elsewhere. In 1952, the family took a six-week station wagon tour of the Western United States, visiting Yellowstone and Yosemite, the Grand Canyon, San Francisco, the California coast, and more. In 1954, the family took an eight-week tour of Europe; this time in a Volkswagen Bus. What fun we had being together, eating at wonderful restaurants and seeing the great sites of England, Scotland, France, Belgium, Holland, Germany and Italy. Dad's sister Louise was always included in these travels. There were many other fabulous family trips in the 1960s and 1970s. These were great times. In 1985, the family had a week-long celebration of Olie and Joe's 50th wedding anniversary at Mallow Castle in Ireland. In January 1991, the whole family gathered for almost a week at the Breakers in Palm Beach to celebrate Dad's 80th birthday. We were all there with him—Olie, Michael, Maggie, Debbie, Michael, Jr., Annette, Suzanne, Tim, Terry and me—and he had a big smile for each of us.

My dad really enjoyed living, which frequently included two martinis at lunch and a bourbon on the rocks before dinner. His good nature and perpetual smile made him such fun to be around. He had such a good time just sitting around and talking with his family, friends and acquaintances. For the past 10 years or more I had lunch almost every Saturday with him and my Mom at their house. We would have a sandwich and talk about the week's events in their lives and in mine. It was something we all looked forward to and enjoyed immensely.

I could talk on and on. I have such vivid, wonderful memories of my father. I will end with simply this. My dad's courage and accomplishments have left the world a much better place. He was a beautiful person, and I am very proud to be his son.

REMARKS OF JOSEPH L. RAUH, III

My grandfather was the greatest man I'll ever know. My grandfather loved people. He loved my grandmother, he loved his family and friends but most of all, he loved life.

Because the name Joseph L. Rauh, Jr. may be synonymous with civil rights, not surprisingly, every aspect of his life embraced the advancement of the cause.

My earliest and fondest memories were of the family "sip 'n dips" in the backyard where national and local leaders, unbeknownst to me, spoke about civil rights around the pool-side bar.

I also enjoyed personal time with my grandfather. We would talk in the car on the way to baseball and football games. And, of course, in the Washington tradition, these discussions centered around law, and were always engaging. We played softball up the street from his house and that was another opportunity to have drink, (or two) and a good time. He eagerly looked forward to my 21st birthday so that we could drink together. And that time with him affected me in ways that I'm still discovering now.

I remember being too young to recognize the people in the pictures on his office walls—like Humphrey, McGovern, and Stevenson. I would take documents from his desk to form an elaborate paper fort, watching and listening as he defended the civil liberties of the United States. Although I was playing with his work, I remember seeing his enormous hands feeding me the needed pencils and pens to erect the door to my monumental playhouse. He had a great sense of humor and was always willing to aid in the construction of a dream.

In the twenty nine years that I was blessed to have known my grandfather, he instilled in me values, commitments and dreams that will last me my lifetime. He taught me the values of helping others and about the commitments and sacrifices that one must make to achieve these goals. He taught me that life is short. Do it now, make it happen, believe in yourself and others will believe in you. He gave me ambition, love and an appreciation and respect for the world and its people. But the most important thing he taught me was how to dream. My grandfather, like so many others, had many dreams. His dreams encompassed the unity and brotherhood of mankind.

Always eager to listen with such great intensity, my grandfather was always there for me. He answered historical questions for history and law classes, giving me first hand accounts on major civil liberties acts, guiding me through my adolescent years. He genuinely cared about what people had to say and would go out of his way to see things from their point of view. He would let you know how he felt about a situation, but would never infringe upon your rights to an opinion. His mannerisms and demeanor were governed by the laws of equality and justice for all.

My grandfather has influenced the lives of everyone here. His willingness to educate, write and speak out has given us all a foundation on which to grow, live and love. He has taught us to be thankful that we live in a Democratic society and that we have a constitutional right to speak out for what we believe. He has planted seeds in the minds of people of my generation, knowing that civil liberties for all is a never ending, uphill battle. He has given us strength and a belief that where there is a will, through perseverance, unity, and education, we can change the world. Joseph L. Rauh, Jr. was living proof that one person can make a difference, and he did.

I will greatly miss my grandfather. My grandfather was the greatest man I'll ever know.

REMARKS OF B. MICHAEL RAUH

Rabbi, thank you, Terry and Carl, your thoughts are beautiful.

Suzanne and Michael, you certainly have inherited your Grandfather's gift for public speaking.

Kay, Arthur, Roger, Arthur, and Tom, for Olie, Carl, myself and our entire family, thank you for sharing your remembrances with us today.

Dad lovest you. That may not be the best of grammar, but those three words speak volumes about my view of the life of Paw Paw, his advocacy, his commitments, his dedication, his enthusiasm, and his priorities.

Dad—Dad was a family person. Long before an about-to-be former President used words like "kinder, gentler," "thousand points of light," and "family values," Dad was that caring person, he lit the candles that gave hope for so many, and he set real values for honesty in government service, hard work, civic leadership, fairness and equality to all persons regardless of economic strata, and he spent lifetime dedicated to improving the opportunities for his fellow man and woman, so that their place in their lifetime could reach their highest goals. He fought to give rights and liberties that others tried to take away.

Dad taught us that in order to accomplish all that had to be done in a lifetime you had to do at least two things at once. Carl and I benefited from that lesson. I have fond memories of the old Washington Senators ball games with Dad and his friends Phil Graham, Ed Pritchard, Jimmy Wechler, Wilson Wyatt and Jim Loeb. Dad enjoyed the

game, an evening with this sons, and discussions with his contemporaries of the day's major issues. I learned the love of a father, sports and current events, all at the same time.

He rooted for the Redskins with a passion. Remember, they followed him from Boston. Eight Sundays (and more in the good/playoff years) each Fall you could find him before the game at the Tailgate parties prepared by Maggie, with deserts by Suzanne, and then in the stands with his friends Jim Reynolds, Bob Nathan, Wayne Horvitz, John Anderson, and so many others, betting that first bourbon on a Redskin touchdown, and in the not-so-good years on a field goal, or a first down, or a completed pass and in the really bad years on even a play without a fumble. He loved those competitive sporting events, with friends and family. And he never left before the last play, even sitting through the famous Bear trouncing of 73–0.

He loved holidays and trips with his family, they were lifetime highlights and remembrances for three generations, from across the Western States, to the Caribbean, through Europe, the castle in Ireland, and most memorable of all, seventeen days on a Kenyan safari. A perfect holiday for him and for us, history, geography, adventure, fun and family. His favorites, I believe, were to Ireland with Michael, to Russia with Suzanne, and back to Africa with Terry.

He was equally dedicated to his parents and siblings. During his mother's lifetime he called or wrote her every Sunday. And after death he continued that practice with his Sister, until her passing last year.

Dad was always there in time of need, always with sage fatherly advice, always firm, but always fair.

Two of life's most important goals are to be a good parent and leave this earth a little better than you found it. Dad, you succeeded in both magnificently.

Lovest—lovest tells us of his deep commitment to human rights and civil liberties for everyone. The superlative is how he lived his life. Everything was done to perfection, or at the very least to the best of his ability, from his efforts on the Harvard basketball court to his appearances before the United States Supreme Court. I was thrilled to be present on several of those occasions, and on one before the high court, he proudly moved my admission, an event I will always treasure.

He learned his love for the underdog as center on the Harvard basketball team. He became committed to civil rights and liberties when a Black teammate was refused a hotel room. And he learned his competitiveness at Camp Kennebec and the Harvard Law School.

The quest for good and challenge of victory were his motivating forces. Preparation and perseverance were his trademark and cause for success.

You—you are what his life was all about—other people—most of whom he never knew.

At times like these it is often said that the decedent "played the hand that he was dealt." In Dad's case, he found he did not like the game, the play, the deal, the table, in some cases the players, and usually the level of the field. So he changed them all, to his undying credit and to our benefit. And he has left us a playing field, game, rules and deal more equal to all who must endure some birth disadvantage.

He took on all causes, regardless of degree of difficulty so long as there was social advancement at issue, well almost all.

Amongst my favorite stories is the phone call he received, probably forty years ago, from I believe Stockholm, and a voice that said, "Mr. Rauh, my name is Christine Jorgenson, and the State Department has invalidated my passport. I need your help." Dad, remembering a recent news story of a person undergoing a sex change operation quickly responded with his marvelous wit and usual good sense of humor, "Mr. Jorgenson or Mrs. Jorgenson, or whatever you are, I have enough clients that are nuts, I don't need one who doesn't have any."

Dad would have been overjoyed with this crowd and place today—not just because of its integration by elder and young, rich and poor, Christians and Jews, blacks and whites, but because this was the site of the D.C. Law School's first graduation; an accomplishment of which he was very proud.

St. Peter, look out, for I have a feeling that as we sit here today he and Clarence Mitchell sit at the head of a table above, with their allies and friends (all of whose photographs are on Dad's office wall), including Mr. A. Philip Randolph, Walter Reuther, Bobby Kennedy, Jock Yablonski, Adlai Stevenson, Arron Henry, Hubert Humphrey, Roy Wilkins, Paul Douglas, Phil Hart, Eleanor Roosevelt, and scores of others, organizing those Heavenly workers.

He strongly believed that whatever you do, there must be an element of enjoyment, it must be fun.

Amongst his highest values was the continual search for knowledge and truth, honesty and fairness, love and affection for you and his family. And above all his 57 year marriage to and partnership with Mom.

It was not by irony or coincidence, but rather by what in hindsight would have been likely, that his last phone call was to a family member, his daughter-in-law, to seek her advice on an issue of women's rights. An hour later he was gone, and a family was devastated.

The only thing that might have made him a little sad today would be that with this tremendous gathering of good friends, and marvelously talented podium, no one has taken a "pitch" for any of his favorite organizations, any issue or cause dear to his heart, or any liberal Democratic candidate. And certainly I will not—but allow me, for him, to suggest, no urge, that as you remember him today, tomorrow and for years to come, that you dedicate a little time, a small check, a modicum of energy, or however you choose, to a cause for the benefit of others, that makes you happy, and for which he would have been proud.

And as we conclude this service, and I must say goodbye, but always remembered; Dad being part of your family has been fun.

We will miss you.

I lovest you.

REMARKS OF THE HONORABLE HENRY F. GREENE, ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, SEPTEMBER 8, 1992

Judge GREENE. Over the past weekend, after my wife and I had been out of the city for two weeks, I was distressed upon returning to learn of the death of an extraordinary distinguished member of the Bar, both of the District of Columbia and of the United States, Joseph L. Rauh, Jr.

Mr. Rauh died of a heart attack last Thursday evening at the age of 81. He lived as full and productive a life as any person with when I have ever had the honor of being acquainted during my life. He was a champion of racial integration, of the rights of minorities and labor unions, union reform, and the interests of citizens of the District of Columbia over many many years.

To meet Mr. Rauh personally was to meet a gentleman who was always optimistic, who always hoped for and expected the best from other human beings, who had a marvelous sense of humor and who believed passionately and fought courageously for the issues in which he was so involved. Joseph Rauh was one of my heroes.

In May 1979, Mr. Rauh lectured at the University of Minnesota Law School on Law Day. I had occasion to refer to his remarks once when I was addressing the Bar, and last night looked back on the speech he made. I think it reflects the standards to which we should hold our profession and how Mr. Rauh represented the very best in our profession. He thought—and I quote from him—that "the legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating then."

He alluded in his remarks to a statement by Mr. Justice Holmes, who said, "I always have thought that not place or power or popularity makes the success that one desires, but a trembling hope that one has come near to an ideal."

It is ironic, I thank that in quoting Mr. Justice Holmes, Mr. Rauh might have well written his own epitaph, for if there is anyone who in my life time has come nearest to the ideal of being what a lawyer in our society should be it is Joseph Rauh.

During his distinguished legal career, Mr. Rauh was more particular than most of his more financially productive colleagues of the Bar in terms of what he devoted his time and his enormous energy and his very substantial intellect to. As a lawyer, he took only those cases he believed in, and he suggested that no lawyer ever should do otherwise. He thought that our profession stands in a unique position, that it has a special duty to the people of this country, to the interests' of the public at large, and ultimately to the preservation of our Democratic system of government based on the law. He suspected, and I think accurately, that the basis of widespread public contempt for the legal profession is based on a widely held belief that lawyers are mercenaries, concerned only with making money and obtaining power, recklessly pleading their clients' cases without sight of the public good. And he observed—again, unfortunately, quite accurately—that the perception too often conforms to the reality.

In a wry but perceptive way, he said a lawyer should not do anything for a client that he would not do in a tennis match, at the bridge table or in any other walk of his own life. He should not do or say anything for a client he knows is wrong any more than he would do or say it on his own behalf. He thought that a lawyer should no more give an opinion which he could not believe to be correct than he would give such an opinion to his bank on his own behalf when seeking a personal loan. A lawyer, he stated, should no more knowingly miscall a legal opinion than a tennis player should deliberately miscall a line decision; a lawyer should no more assist a client in covering up misdeeds than a doubles player should allow his partner to cheat. In short, he asserted that the interests of a client—any client—are not sufficient to justify actions which a lawyer

would not take in other walks of life with a clear conscience. A conscientious lawyer does something because it is right, not only because the client wants him or her to do it. In essence, he did not feel that a lawyer should be a hired gun for any cause.

Mr. Rauh exemplified what he believed in by the actions he took. And, indeed, when we talk about a distinguished member of the Bar, if we mean by that a lawyer who over a long period of time acts as he professes to think lawyers should act, and does it with intellect and ability and energy and dedication and courage, it is fair to say that Joseph Rauh is the most distinguished lawyer that I have ever known.

Among his numerous accomplishments at the Bar, after he clerked for Mr. Justice Cardozo and Mr. Justice Frankfurter, was his representation of artists and government employees accused of being security risks during the red scares of the 1950's, his representation of the Brotherhood of the Sleeping Car Porters, and his founding of the Americans for Domestic Action with Eleanor Roosevelt, Walter Reuther and Reinhold Niebuhr.

In 1947, well before the Civil Rights movement became a national cause or, indeed, a popular cause, Mr. Rauh marched on picket lines outside the National Theatre to protest the exclusion of black persons from the audience, and over the years he became a leading figure in opposition to racial segregation in Washington. In the summer of 1964, he represented the Mississippi Freedom Democratic Party in a challenge to the seating of the all-white Mississippi Democratic Organization at the Democratic National Convention. And as counsel to the NAACP legal defense fund, he instituted a lawsuit in 1972 that during the next ten years brought about a series of federal ultimatums for dismantling racially segregated school systems throughout the southern and border states of the United States.

More recently, Mr. Rauh was eloquent in support of legislation requiring redress for Japanese Americans who had been interned during World War II. And during the relatively short period of his life I had the good fortune to be acquainted with him, I repeatedly was present on occasions in the District of Columbia when he was a forthright and articulate spokesman for the interests of its citizens.

Joseph Rauh stood out because, more than any man I have known, he spoke for things that were right at times that it took courage to do so; I believe that is among the highest tributes one can make to any member of our profession—or, indeed, to any citizen.

This court adjourns today in honor and memory of Joseph L. Rauh, Jr., and expresses on behalf of all of the judges of the Court its deepest condolences to his wife, Mrs. Olie W. Rauh, and his two sons, both themselves among the most distinguished members of our Bar, B. Michael Rauh and Carl S. Rauh.

Court stands adjourned.

[From the Washington Post, Sept. 12, 1992]

JOE RAUH AND THE CIVIL RIGHTS PLANK OF 1948

(By Chalmers M. Roberts)

In the spring of 1948, when President Harry S. Truman looked like a sure loser in that fall's election, Joseph L. Rauh Jr. found the way to carry forward his civil rights campaign. And I'm happy to say I helped him do so by the simple act of reporting the news.

At the time I was covering local news for the Washington Star, and my wife and I were irked to be voteless residents of the District of Columbia. I discovered that District Democrats (Republicans, too) were going to select national convention delegates by passing out their six seats to insiders with nary an opportunity for anyone else to participate.

My stories in the Star—the rival Washington Post essentially ignored all this—caught Rauh's eye and then that of his associates in the newly formed Americans for Democratic Action. Rauh asked me about the so-called party rules—there were no federal or District laws or regulations whatever—and he complained to me about the problems in advancing his civil rights agenda. I told him to stop complaining and run for office.

He did—for both delegate to the '48 convention in Philadelphia and for the local Democratic Central Committee. The District's organization Democratic chairman was a soft-spoken lawyer, Melvin D. Hildreth (whose true passion was the circus), and it didn't take much pressure from Rauh to break into the hitherto exclusive party machine.

Rauh organized an ADA slate with a strong labor component, including Tilford Dudley, Betty Lindley and Katie Louchheim. The slate was aided by a couple of restraining orders by a helpful District Court judge, T. Alan Goldsborough.

In the end, to avoid a contest, Hildreth offered to give Rauh, his slate and their allies half the convention seats—or, more precisely—to double the six allotted seats to 12, each with a half vote. And so on June 28, 1948, Joe Rauh was elected a delegate as well as a central committee member, the latter a post he was to hold for 20 years.

Exactly 471 votes were cast that day in the presidential preferences part of the primary ballot—236 for Truman, and 235 (write-ins all) for all the others. The runner-up was Gen. Dwight D. Eisenhower with 181, and next was Justice William O. Douglas with 31. The vote was a virtual Truman vs. the others tie in six of the seven voting places, but Truman triumphed by carrying, 92 to 24, the seventh at 16th and U Streets NW.

So rusty was the idea of a local election that two days earlier a worker for Veterans for Eisenhower was arrested for passing out handbills at 14th and F. His case was dismissed after an hour in jail, and he went back to the corner.

Rauh was chiefly motivated by his civil rights crusade; he was mostly negative about Truman, and the national ADA was strongly for Ike. When Rauh got to Philadelphia he joined with the young mayor of Minneapolis, then making his first run for the Senate, Hubert H. Humphrey. Rauh was a major contributor to Humphrey's minority civil rights plank. It was adopted by the convention, leading to the southern walkout by then-Democratic Sen. Strom Thurmond of South Carolina, who went on to run for president as the Dixiecrat candidate. Henry Wallace's left wing of the party became the Progressive Party.

By the time Truman defeated Thomas E. Dewey, Joe Rauh was deep in party politics. But it was never politics as politics; it always was politics as a way to advance civil rights and political liberalism. The rest, as the saying goes, is history.

[From the Washington Post, Sept. 15, 1992]

JOSEPH RAUH AND THE PUBLIC INTEREST

(By Colman McCarthy)

JOSEPH RAUH AND THE PUBLIC INTEREST

With George Bush on his hind legs barking at lawyers for wearing tasseled loafers and bringing "crazy lawsuits," it's worth a moment, in the cause of balance, to think about the life and ideals of Joseph L. Rauh, Jr. He died recently at 81, a Washington lawyer with a national caseload over a half-century involving civil rights and civil liberties. Few lawyers had as deep a passion for justice.

Rauh's taste was for representing clients whose claims were legally strong and morally sound, from antiwar Quakers and union auto workers to minorities kept on the margins because of race. He was among those lawyers—a few in the profession, for sure—who rejected the view that attorneys should be unconcerned about the ethics of those they represent. The public interest came before the private interest. Rauh was the opposite of the kind of hired-gun lawyer once instructed by J. P. Morgan, the buccaneer banker: "Your job is to help me do what I want to do."

In Washington, a city dense with one lawyer per 40 people, Rauh never stitched a loophole for a corporation, fronted for a bank or cut a corner for a trade association. No one bought him, in other words. Instead of billing his time out at $200 an hour, Rauh believed—with evidence on his side—that the monied clients could well get along without him but that the marginalized citizens could not.

Few were further on the political fringes than his own fellow District of Columbians. As general counsel for the Leadership Conference on Civil Rights, Rauh came early to the fight for D.C. home rule. In 1982, which was about halfway into the seven years Congress gave as a ratification period for states to approve the constitutional amendment to grant District citizens full voting rights, Rauh argued: "So why don't [we] have the right to vote? * * * Because we might send two black, liberal urban Democrats to the Senate. But that's an immoral argument, and everybody using it knows it is immoral to deny the franchise because of how it might be exercised."

Because of what Rauh called "the combination of racism, reaction and regionalism," the District's citizens have remained unrepresented.

Rauh had a briefcase full of other seemingly lost causes. In August 1980, he was the only major Democrat at the national convention to argue that the renomination of President Jimmy Carter was not worth it. Instead, Rauh, a founder of the liberal Americans for Democratic Action in the late 1940's, endorsed John B. Anderson, the Illinois independent. Rauh explained: "I am 70 years old and I have never voted for anyone but a Democrat in a presidential election. I'm a little tired of Democrats and Republicans. I think Anderson is simply the best candidate. I'd rather support a man who is moving to the left than a man who moves in circles."

Rauh, married for 57 years and the father of two lawyers, lived near a playground in Northwest Washington. For years, he and Alan Barth, a Washington Post editorial writer who died in 1979, presided over springtime Sunday afternoon softball games for neighborhood families. Women and girls were included at Rauh's insistence. Why else, he would ask, did we work so hard to get Title IX—the anti-sex-discrimination law—passed if the playground cannot be opened to all? Teammates of Rauh—male Cabinet secretaries, judges and politicians—often found themselves benched in favor of an 8-year-old girl who could peg it hard from the outfield.

My family and I played in those games for about 10 years. After the final out, it was

open house for lemonade, fruit and cookies at the Barths' across the street. Then the children, and a fair number of adults smart enough to listen, could learn something about current events, as well as charm and wit, from the stories and comments of Rauh and Barth. Had C-SPAN been around then, these back patio seminars, led by Rauh the activist and Barth the thinker, would have equaled any offering of public affairs programming.

Was Joe Rauh the last of the liberals, the breed said now to be nearing extinction? Hardly. Ask the clients and groups he served pro bono, or the powerless he stood with. They're firmly on the left, and as patient as Rauh always was in knowing that no liberal cause is lost as long as it is just. Few are not.

[From the Washington Post, Sept. 28, 1992]

A LIBERAL DOSE OF MEMORIES: CELEBRATING JOSEPH RAUH, LAWYER, ACTIVIST AND "FUN GUY"

(By Roxanne Roberts)

Considering that it was Sunday during football season, Joseph Rauh was probably at a celestial tailgate party—sipping bourbon and flirting with Marilyn Monroe.

At least, that was the speculation at yesterday's memorial service in his honor. Rauh, the legendary Washington lawyer who died earlier this month at age 81, loved his family, the Redskins, Wild Turkey and two blondes—his wife of 57 years, Olie, and Monroe (but just from afar).

But most of all he loved the law and used it to fight for his beliefs. For more than 50 years, from FDR's New Deal to this year's presidential race, he supported Democratic causes and fought for groundbreaking civil rights legislation. "He was a liberal with a capital L—first, last and always," said former Senator Thomas Eagleton.

"Long before an about-to-be former president used words like 'kinder, gentler,' 'thousand points of light' and 'family values,' Dad was that caring person," Rauh's son Michael told the audience. "He lit the candle that gave hope for so many."

Yesterday, more than 700 relatives, friends admirers packed into the University of the District of Columbia's auditorium for one last thank-you. Young and old, obscure and famous—including retired Supreme Court Justice William Brennan, 1980 presidential candidate John Anderson, Eagleton, historian Arthur Schlesinger, Jr., Washington Post Co., Chairman Katharine Graham, playwright Arthur Miller and civil rights activist and professor Roger Wilkins—came to praise one of the country's truest liberals.

"He represents the great continuity between the New Deal and today," said Schlesinger, who called Rauh one of his generation's leading guardians of the Constitution. "I doubt that any lawyer in American history has had more impact on the Court and on the Congress in the vindication of individual freedoms and in the defense of the Bill of Rights."

"It's not an exaggeration to say that Joe Rauh had a penetrating effect on every important struggle for freedom in his lifetime," said Del. Eleanor Holmes Norton (D-D.C.).

If Joe Rauh was even half as good as he is remembered, he still puts mere mortals to shame—at least liberal Democratic mortals.

An ardent New Dealer, Rauh helped found Americans for Democratic Action, served on the board of the NAACP, wrote the civil rights plank for the 1948 Democratic convention, fought for D.C. home rule, battled Joe McCarthy and pushed for equal rights and liberties for everybody. He used to say he learned about being the underdog as a member of Harvard's losing basketball team and never believed you had to play the hand life dealt.

"In Dad's case, he found he did not like the game, the deal, the table, in some cases the players, and usually the level of the field," said Michael Rauh. "So he changed them all."

After graduating from Harvard Law School in the 1930s, Rauh clerked for Supreme Court Justices Benjamin Cardozo and Felix Frankfurter, then founded his own law firm after serving in World War II.

"The law for Joe was just a way of leading the life he wanted to lead," Graham told the audience. "Joe always lived his beliefs more than anyone in our whole generation or anyone I ever knew."

Rauh, said Wilkins, "lived up to every hope I ever had for good white people."

But that's not to say Rauh was one of those painfully earnest liberal types. "I don't want to make it sound too heavy," said Sen. Paul Simon (D-Ill.), "because he was also a fun guy. He was very serious about his battles, but he didn't take himself that seriously."

So there were his weekly softball games, a crush on Marilyn Monroe—and laughter. More than once, family members remember how he enjoyed a good Redskin game and a good bourbon—often at the same time.

In a winning season, Michael Rauh explained, his father would down his first bourbon "on a Redskins touchdown. In the not-so-good years, on a field goal. Or a first down. Or on a completed pass. And in the really bad years, on a play without a fumble."

The photo on the front of yesterday's program showed a smiling Rauh surrounded by 50 years of "liberal mementos" and his quotation inside: "Others made all the money but we had all the fun."

"By any standards," said Arthur Miller, "Joe Rauh had a wonderful life."

[From the Washington Post, Sept. 29, 1992]

HAIL THE LAUGHING REFORMER

(By Mary McGrory)

The last time I saw Joe Rauh in public he was, despite his age and infirmities, standing on the unforgiving marble floor of the U.S. Senate behind a red velvet rope. He was doing what he did best, lobbying for a cause, this time collaring senators to vote against the confirmation of Clarence Thomas. "I think we can stop him," he told me. "When they see . . ."

That was Joe. He never excused himself from any exertion on behalf of right. He never tired. And he believed all his long life (he died at 81 on Sept. 3) that if people were shown the facts and the reason, they would of course, choose to do the rational and progressive thing.

Sixty years in public life, with powerful evidence to the contrary, did not change his mind. He was highhearted to the end.

Almost everyone in Washington has memories of Joseph L. Rauh Jr. He was a synonym for courage and good cheer. He was a big, smiling, rugged, athletic type who loved life, the law, martinis, blondes—especially Olie, his wife of 57 years, and, like a teenager, Marilyn Monroe, the onetime wife of one of his most distinguished clients, playwright Arthur Miller. Rauh shattered the conservatives' stereotype of a liberal, a word that the Republicans have transformed into an epithet, although never for him.

On Sunday, Arthur Miller spoke at a memorial service for Rauh at the University of the District of Columbia, one of the innumerable institutions and causes that engaged Rauh's strenuous attentions.

"He lived the law," said Miller, "the law as the embodiment of the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness."

Rauh successfully defended Miller against charges of contempt of Congress, during the McCarthy era, when Rauh was the boldest critic of the great defamer. He didn't scare easily, and perhaps more importantly, given the high concentration of posturers and stuffed shirts in town, he made light of his almost reflexive valor. He was a laughing reformer.

Katharine Graham, chairman of The Washington Post Co., told of Rauh's picketing of a local theater that excluded blacks in the '50s. She said it was dangerous; he said it was "a good way to walk off your dinner."

Another old friend, historian Arthur M. Schlesinger Jr., called him "the soul of the great contemporary guardian of the Constitution," and told of the conversion from college playboy to crusader. As a member of the Harvard basketball team, he encountered racism firsthand when a black team member was turned away at a New York hotel. Rauh led an exodus from the hotel—and spent the rest of his life in the vanguard of civil rights advocates and agitators.

Rauh was a passionate believer in the endless uses of democracy. All is possible was his unspoken motto. After the Senate Judiciary Committee rejected Richard Nixon's first Supreme Court choice, Clement F. Haynsworth Jr., they were extremely nervous about turning down his second, G. Harrold Carswell, and making it two in a row. But goaded by Joe—apostle of "why not?"—they sent him packing, too.

He also was involved in fighting union crime, the war in Vietnam, civil liberties abuses, and worked for District home rule. But tearful children and grandchildren testified that, miraculously, he always had time for them.

He never held back. In 1960, at the Democratic convention, much consternation on the left attended John Kennedy's choice of Lyndon Johnson. Only Joe grabbed his delegation's mike and roared into it—"Jack, Jack, don't do it." But in the White House, Johnson proved as fierce a civil rights advocate as himself; they worked hand in glove on the great rights bills of the '60s.

In 1982, he found another unexpected ally in the fight for equality, when voting rights renewal was up for a vote and Ronald Reagan outdid himself in circumvention: Reagan came up with a novel requirement, to prove "intent." For there to be no federal offense, the registrar had only to say he had no intention of depriving minorities as he moved polling places out of their reach.

Senate Republican leader Robert J. Dole (Kan.), without saying much about it, made common cause with his generation's most vociferous liberal to avert the travesty. Together, they worked out a bill that was beyond Rauh's wildest dreams. Dole drove it through the Senate. Rauh called Dole "superb," and said he could think of voting for him for president.

It was one more proof of what his whole life had proved: that to be liberal as the dictionary says, is to be "open to new ideas."

[From the St. Louis Post-Dispatch, Sept. 11, 1992]

LABOR'S RAUH GAVE MOVEMENT WISE COUNSEL

(By Philip Dine)

Just last month, at one of his Sunday afternoon poolside gatherings that had become a Washington institution, Joe Rauh was eagerly anticipating the results of the presidential election, telling his guests that he would relish a post-election chance to revisit the discussion.

Sadly, that is no longer possible. Rauh died a week ago at the age of 81 from a heart attack in his home in northwest Washington.

The wire obit called him "a prominent lawyer," an understatement for a man who probably was the most important civil rights and labor attorney of the past half-century.

As counsel to the United Auto Workers from the 1940s to the 1980s, Rauh exerted a key influence on Walter Reuther, helping promote an open, vibrant union. He also represented reform movements in the miners, steelworkers and maritime unions.

Rauh's hand was visible on the nation's civil rights bills of the 1960s, legislation he had persaged with his work at the 1948 Democratic convention. He was the trusted counsel to a wide array of civil rights activists and groups across the country for much of the post-World War II era.

But Rauh was more than a lofty historical figure to those who knew him, such as Chip Yablonski, a Washington lawyer and the son of Jock Yablonski. The elder Yablonski was murdered on New Year's Eve 1969 for his efforts to reform the United Mine Workers of America.

Chip Yablonski later served as general counsel for the UMWA and, for the last decade, has represented the National Football League Players Association.

"He was a colleague, he was a friend, he was a mentor. He was a substitute father," Chip Yablonski said this week.

"What do you say about somebody who puts his life on the line? The time my folks were murdered, Joe helped me to pick up the pieces and put my life together and dedicate myself to fighting the battle to see the murderers were caught and prosecuted—and to see that my father's dream for democracy in the UMWA was realized.

"He was my father's attorney and after my dad's death he stood up in front of those miners at a time when no one knew who had perpetrated the murders, and a lot of my father's supporters were quite leery of doing anything. Joe announced to that group. 'The fight will go on, if that's what you guys want to do.' And, of course, they did."

Rauh's labor career shifted over the years. Yablonski noted: "He was the pre-eminent spokesman for labor before the Supreme Court of the '50s and '60s, until he decided to do union democracy work, which I think is a red badge of courage," because Rauh was treated unkindly by certain entrenched union leaders.

Rauh's Sunday poolside sessions were replete with Missourians, reflecting Rauh's St. Louis-area ties. His wife, Olie (Westheimer) Rauh, was raised in St. Louis and the couple was married here in the Park Plaza Hotel.

One frequent guest was David Wigdor, a native of Charleston in Missouri's Bootheel and the custodian of Rauh's papers at the Library of Congress. "His life covered a lot of things and people have been using the papers for almost every aspect of what he did: the union reform movement, development of liberalism, civil liberties work," Wigdor said.

Victor Reuther, who grew up in Southern Illinois, co-founded the UAW 55 years ago. At 80, he is just a year younger than Rauh, and for many years the two men lived near one another in northwest Washington.

Rauh and Reuther were close friends and allies since the late 1940s.

"In my personal, family and organizational involvements," said Reuther, "there were numerous crises, and Joe was always there with wise counsel, a steady hand and wise compassion. When the hired thugs of corporate America sought to snuff out my life and that of my brother, Joe bore down on the Justice Department.

"Since the inception of the modern labor movement, Joe was on the side of the workers, and I mean rank-and-file workers and union members. Joe's leadership in civil rights and in strengthening the quality of our judicial system is legendary. American democracy has been enriched by his life."

Tom Eagleton—former senator from Missouri and now a lawyer in St. Louis—and his wife traveled regularly with the Rauhs. In remarks Eagleton plans to deliver at a eulogy in Washington on Sept. 27, he writes:

"In my life I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions put conscience ahead of all other considerations: Sen. Mike Mansfield, Sen. Phil Hart and Joe Rauh.

"In this time in which public decision-making is frozen in the end-justified-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion. . . . We know how fortunate we all were that the courage and conscience of Joe Rauh came America's way."

Mr. WOFFORD. Mr. President, on September 3, 1992, the country lost a great citizen and the legal profession lost an unparalleled advocate for justice. Joseph L. Rauh, Jr., left behind over a half century of constitutional vigilance and an inexhaustible pursuit of equality.

A passionate believer in the Bill of Rights and the freedoms it embodies for all citizens, Joe Rauh represented a continuum of democratic struggle from the New Deal to the present. In 1947, after graduating first in his class at Harvard Law School, clerking for Justices Benjamin N. Cardozo and Felix Frankfurter, and service in the army during World War II, Joe Rauh along with Eleanor Roosevelt and other notable liberals founded the Americans for Democratic Action. In that same year before the civil rights movement came to the nation's consciousness, he marched on picket lines outside National Theater in protest of its exclusion of African-Americans.

At the 1948 Democratic Convention Joe Rauh played a leading role in drafting the party's first civil rights plank which became the foundation for future federal civil rights legislation. In 1964 he continued his convention action by representing the Mississippi Freedom Democratic Party in its challenge to the all-white Mississippi delegation to the Democratic Convention.

Through the 1960's he was a major force in the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. He was general counsel for the Leadership Conference on Civil Rights and served on the board of the NAACP. Joe Rauh was also a prominent civil liberties lawyer representing playwrights Lillian Hellman and Arthur Miller before the House Committee on Un-American Activities in the 1950's.

Joe Rauh was in his element organizing opposition to President Nixon's Supreme Court nominees G. Harold Carswell and Clement F. Haynsworth, Jr., President Reagan's nomination of Robert H. Bork, and in the end President Bush's nomination of Clarence Thomas. It was Joe Rauh's profound belief that protection of the Court was paramount to the pursuit of justice.

With his zest for life and unbounded conviction that all was possible, Joe Rauh left an indelible mark on all of us who worked with him. Thirty-five years ago he asked me to join his three-person law firm. I went a different course but like to think that wherever I worked I was a member of the larger firm without walls in which he was the senior partner. It is his extraordinary legacy that I memorialize today. But it is the man that I will miss.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,064,620,655,521.66, as of the close of business on Wednesday, September 30.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the fiscal year which ended on September 30, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,824.33—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127,85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

THIS MAN OF MANY FACETS—SENATOR ALAN CRANSTON

Mr. PRYOR. Mr. President, the Senate will lose one of its giants with the

retirement of Senator ALAN CRANSTON of California at the end of this Congress.

This man of many facets—athlete, artist, writer, reporter, businessman, lobbyist, and public servant—came to the Senate in 1969.

ALAN CRANSTON's hand has been in the making of a number of the most important bills to become law in the past 20 years. A student of international law, ALAN CRANSTON has been a key player in almost all of this Nation's foreign policy initiatives. On the domestic front, ALAN CRANSTON is recognized as the undisputed authority on housing in the Congress. The Cranston-Gonzalez National Affordable Housing Act is a testament to his expertise and dedication to meeting the housing needs of our population.

Our Nation's veterans have looked to ALAN CRANSTON for leadership in the Senate on issues of compensation and health care. He has been an effective advocate for our men and women in uniform.

Mr. President, if there is any single trait that I can cite about ALAN CRANSTON, it would be his compassion. Whether the issue was a Bill of Rights for the disabled, or protecting abortion rights, or prevention of crime and drug abuse, wildlife protection, or immigration reform, ALAN CRANSTON has always sought solutions that were kind and compassionate and which addressed the real needs of hardworking people.

We will miss ALAN CRANSTON. He has certainly earned a long and fulfilling retirement. I know I join a State full of grateful Californians in wishing him all the best.

THE LEGACY OF SENATOR BROCK ADAMS

Mr. PRYOR. Mr. President, Senator BROCK ADAMS will leave this body at the end of the 102d Congress. He will leave behind a legacy of constant and dedicated service to the people of his native Washington State that will be hard to match.

BROCK ADAMS came to Washington in 1965. When Congress passed the Budget Act of 1974, the House of Representatives looked to BROCK ADAMS as its first chairman of the Budget Committee.

When Jimmy Carter was assembling his Cabinet, he looked to BROCK ADAMS to be his Secretary of Transportation.

BROCK ADAMS has always been true to his convictions. Not worrying about whether he would win a popularity contest for his stand, he nevertheless has always spoken his mind.

Among his many legislative accomplishments are his bill to strengthen truck safety laws and a bill to improve medical testing standards.

Last spring, I had the pleasure of working with Senator ADAMS on the Defense/Economic Transition Task Force. He was an active Member of that group of Senators and made a large contribution to the eventual recommendations that we made to the full Senate.

Mr. President, it has been a distinct pleasure to serve with BROCK ADAMS in this great body and I wish him all the best in his future endeavors.

THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. DIXON. Mr. President, I would like to join my colleagues on both sides of the aisle in honoring the distinguished gentleman from Illinois, FRANK ANNUNZIO and congratulate him on his forthcoming retirement. After 28 years of exemplary public service, FRANK is entitled to sit back, relax and enjoy an occasional Chicago Cubs game.

Many men and women come to this great legislative body and, due to the allure of national policy or dreams of higher office, tend to lose sight of their constituents. Not FRANK ANNUNZIO. FRANK never lost sight of his roots and the people who elected him to office 14 times. He was a never-ending warrior on behalf of the little guy, and always had a special place in his heart for the elderly, the infirm, and working men and women everywhere.

On his many trips home, he could almost always be found talking to local officials or chatting with his constituents. He was also a regular at church services, retirement homes, union meetings, and party caucuses. In short, FRANK could be found with an available ear almost everywhere there were concerned citizens in Chicago and Illinois. And those citizens knew that their Congressman—FRANK ANNUNZIO—would go to great lengths to represent their views in Washington, and would never roll over to special interest groups or high-powered lobbyists.

In addition to his diligent representation and constituent service, FRANK was also very successful on the legislative front. In his 15 years as chairman of the Subcommittee on Consumer Affairs and Coinage, and his 4 years as chairman of the Subcommittee on Financial Institutions, he was responsible for such monumental bills as the Truth in Lending Act, the Electronic Funds Transfer Act, the Financial Institutions Reform, Recovery and Enforcement Act, and the FDIC Improvement Act. All of these laws made banking either safer or easier to understand for FRANK'S number one constituent—the common man.

As a former history teacher at Chicago's Harper High School, union official with the United Steelworkers of America, and small businessman, FRANK brought a wealth of knowledge and experience with him to Congress. He is leaving behind far more—a legacy of fairness and doing the right thing with an ever-present eye on the ordinary citizen. Congress is losing a great leader, but Illinois is fortunate to have one of its great citizens returning full time. I was honored to serve as his colleague and I wish him and Angie the best of luck in retirement.

ON THE PAYMENT-IN-LIEU-OF-TAXES PROGRAM

Mr. HATFIELD. I know my good colleague from the great State of West Virginia is aware of an issue that has arisen with county governments over the payment-in-lieu-of-taxes [PILT] program, a program funded through the Senate Appropriations Subcommittee on Interior. To put it simply, the PILT Program enacted in 1976, which compensates counties for the presence of Federal tax exempt lands in their jurisdictions, has not received an increase in the authorization level in 16 years. Today, the value of the program is less than half of when it was originally enacted.

County governments provide vital search and rescue, law enforcement, fire and emergency services, and road maintenance and construction to national parks, national forests and wildlife refuges. Though the costs of providing these services has risen, the PILT payments which assist the counties in providing these services have remained static. We are fond of saying that the Nation's public lands belong to all of us. We should also recognize the responsibility of the Federal Government to financially assist the local units of government expected to provide services to these areas.

Today, PILT payments are distributed to 1,789 counties in 49 States. Contrary to a perception by some, PILT is not simply a western program.

Mr. BYRD. I understand that, Senator HATFIELD. PILT payments are critical to the local budgets of counties located within or adjacent to national parks or forests in the east, and throughout the country.

Mr. HATFIELD. That is an excellent point. Other States whose counties receive at least $1 million through the PILT Program are Arkansas, Florida, Michigan, North Carolina, Texas, and Virginia. My own State of Oregon receives about $2.9 million per year under the PILT Program.

In order to adjust these current PILT levels for inflation, however, legislation is necessary. Senate bill 140, currently before the Congress, attempts to make an inflationary adjustment for the PILT Program. The bill received broad bipartisan support in the Senate, as indicated by the cosponsorship of 64 Senators.

Mr. BYRD. I understand the popular support for S. 140, but am concerned about how an increased authorization will impact many of the other critical

programs contained in the Department of Interior appropriations bill. The Federal budget outlook for next year is less than optimistic at this time and thus the increase in the PILT Program called for under S. 140 is simply unworkable in today's fiscally limited climate.

Next year the rules of the budget process will allow us to review domestic versus defense programs and to assess our spending priorities. I will be glad to work with the ranking member at that time to consider a solution that seeks to address the concerns raised by the Nation's counties while also being fiscally responsible and sensitive to the constraints on our Federal budget and the Interior appropriations bill. We are unable at this time to fund many existing authorizations, let alone providing for the significant increases contemplated in S. 140, as well as other legislation.

Mr. HATFIELD. I appreciate the Senator's expression of support for finding an equitable solution in the next Congress, and I look forward to working closely with him on the PILT issue next year.

IN MEMORY OF MORTIMER WRIGHT

Mr. DODD. Mr. President, I rise today to salute Mortimer Dickinson Wright who passed away on September 26, 1992 at the age of 72. Throughout his life, Mortimer's accomplishments were illustrative of his love for his community and affection for democracy. Those that had the opportunity to know and work with him remember him for his integrity, strength of character, and understanding.

Mortimer has left an indelible mark on the Groton community. Beginning in 1968 he served as the chairman of the Groton Democratic Town Committee and was chairman emeritus of the town committee. In 1971, he was elected as a State Representative from the former 66th Connecticut Assembly District. Quite an impressive victory considering that he was the first Democrat elected since the Civil War.

As an advocate for the environment, Mortimer has achieved a number of successes. He provided pioneer work and support for the preservation of the 200-acre Haley Farm in Groton as open space. He was a leader in the successful citizens' movement to prevent the rezoning of the Haley Farm to support intensive multifamily residential development and was a leader of the subsequent drive to designate the land as a State park. He is also responsible for the preservation of, and public access to, the Branford House Mansion at Avery Point.

More recently, in recognition of his many contributions to environmental quality and planning, the Groton Town Council dedicated a 76-acre parcel in the Eccleston Brook watershed area as the Mortimer D. Wright Nature Reserve.

In business, Mortimer was equally successful. In 1947 he founded an insurance and real estate company called The Wright Agency that still thrives today in Mystic.

In 1986 Mortimer was diagnosed to have Kugelber-Welander syndrome and in recent years was confined to a wheelchair. During this time he remained active in the community through his wife, Eva, and two daughters, Elissa and Hansina. To them I would like to extend my sincere condolences for their loss.

It is often difficult to capture in words the energy and enthusiasm of a man like Mortimer Wright. His career was driven not by personal gain but the desire to make this world a better place for this generation and the next. Today, Groton and the State of Connecticut are a better place as a result of his dedication and commitment.

IN HONOR OF STUART HAINES

Mr. SEYMOUR. Mr. President, it is always a pleasure to come before my distinguished colleagues in the Senate to honor my fellow Californians who have demonstrated a selfless commitment to the public good.

In this regard, I want to bring your attention to Mr. Stuart Haines, president and chairman of Textured Coatings of America [TCA] of Los Angeles, CA. Since 1984, Mr. Haines and his company have continued to play a leading role in the effort to combat graffiti vandalism.

Like many of our cities, Los Angeles is afflicted with its share of unsightly graffiti and property damage. The vandals who practice their craft on buildings, walls, bridges, signs, and other private and public property, do so with little thought or respect for their community. Their illegal actions, much of it sponsored by violent criminal gangs, have resulted in reduced property values and weakened community pride. Indeed, they are ominous symbols of neighborhoods under siege.

However, as the manufacturer of Tex-Cote Graffiti-Card, a graffiti repellant, TCA has enabled the citizens of Los Angeles to fight back.

In 1984, TCA was called on by the city of Los Angeles to apply its Tex-Cote Graffiti-Card to protect the Olympic murals. Donating its product and manpower, this marked the beginning of TCA's efforts to rid Los Angeles of the graffiti epidemic. In 1985, with the assistance of reformed gang members, TCA was recruited to protect another Los Angeles landmark, the Hollywood sign.

For his leadership in the war on graffiti, Stuart Haines was named by Mayor Bradley to chair the Mayor's Committee for Graffiti Removal and Prevention in 1986. The committee, in coordination with the Southern California Paint and Coatings Association [SCPCA], established the first paint bank in Los Angeles, providing over 65,000 gallons of free paint to concerned citizens.

The State of California and the Los Angeles City Council aided the committee's mission when they imposed stiff penalties for graffiti vandalism and adopted a new "no graffiti" sign for display in California neighborhoods and communities. Sure enough, this new sign was designed by Mr. Haines and his committee.

Over the past few years, the committee has worked with the SCPCA, TCA and thousands of concerned volunteers to paint out specific neighborhoods and streets in the Los Angeles area. For example, in 1988, they painted out Sunset and Hollywood Boulevards. In 1991, coordinating their efforts with the San Fernando West Valley Police Department, the dedicated group painted out 240 miles of defaced property.

It may interest my colleagues to know that the committee has scheduled another paint out for the near future. And, I am pleased to report that TCA intends to continue its tradition of generosity. The company plans to donate the equipment and manpower necessary to maintain the new graffiti-free zone for 1 year.

Mr. President, TCA is now celebrating its 32d anniversary. With this in mind, it is my pleasure to congratulate the TCA organization, as well as commend Mr. Haines for the years of hard work and commitment to renewing the city of Angels. Indeed, the citizens of Los Angeles have set the standard for graffiti removal and prevention. "Take back our streets" is a phrase I use often to describe empowerment efforts by community leaders. In this case, Stuart Haines' empowerment efforts have helped Angelenos paint back their community.

Keep up the good work.

IN TRIBUTE TO GEORGE F. CUDWORTH

Mr. CHAFEE. Mr. President, I rise today to pay tribute to Mr. George F. Cudworth of Newport, RI. Mr. Cudworth is this years's recipient of the Veteran of the Year Award presented by the Benevolent and Protective Order of Elks, Newport Lodge 104.

The Newport Elks have been active since 1888. Their organization has a distinguished record of involvement in numerous charitable activities that have benefited veterans, children, the handicapped, and the sick and aged. Each year, the lodge presents its Veteran of the Year Award to a local veteran, in recognition of that person's outstanding service to the country and fellow citizens.

George Cudworth's long and distinguished Naval career spanned over 20

years and included duty in many distant lands. After joining the Navy in 1945, Petty Officer Cudworth served aboard seven ships and six shore activities, including duty in Saigon and Danang, Vietnam.

Mr. Cudworth's service was outstanding, as evidenced by the many decorations he received: The World War II Victory Medal, American Theater Medal, United Nations Service Medal, Good Conduct Medal with four Bronze Stars, National Defense Service Medal with one Bronze Star, Korean Presidential Unit Citation, Korean Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, and the Navy Expeditionary Medal.

Since his retirement from the Navy, Mr. Cudworth has continued to serve others through his activity in numerous civic organizations. He is an active lifetime member of the Veterans of Foreign Wars, Post 4487, Middletown, and the Fleet Reserve Association, Branch 19, Newport. He served as exalted ruler of the Newport Elks from 1980–81 and past district deputy of R.I. East from 1990–91. He is presently the chairperson of the Elks indoctrination committee and is a member of the Elks National Foundation.

Through his distinguished service to country and community, George Cudworth has provided an outstanding example for others, and I applaud the Newport Lodge of Elks for selecting him as Veteran of the Year. I ask my colleagues in the U.S. Senate to join me in extending to him our heartiest congratulations and best wishes for the future.

A NEW VISION FOR COMSAT

Mr. INOUYE. Mr. President, on February 21, 1992, Bruce L. Crockett became the new chief executive officer of COMSAT Corp., succeeding Irving Goldstein, who was elected director general of INTELSAT. Let me take a few moments to introduce my colleagues to Mr. Crockett and his vision for COMSAT and the role it will play in the future of global telecommunications.

Mr. Crockett joined COMSAT in 1980 and has served in a number of key positions, most recently as president and chief operating officer. From February 1987 to April 1991, he served as president of COMSAT World Systems Division, which has since grown to become COMSAT World Systems and COMSAT Mobile Communications. As head of these two major business units, he directed the corporation's role in the International Telecommunications Satellite Organization [INTELSAT] and its counterpart for mobile communications, the London-based INMARSAT consortium. From June 1990 to June 1991, he served as chairman of INTELSAT's board of governors.

In addition to his COMSAT responsibilities, Mr. Crockett also serves as a member of the Presidentially appointed National Security Telecommunications Advisory Committee as well as NASA's Commercial Program Advisory Committee.

Mr. Crockett is the first person with an MBA to serve as CEO of COMSAT. His business acumen, combined with his strong leadership ability and compelling vision will serve him well as he steers the company toward an exciting future, one of solid growth and increasing competition.

Mr. Crockett outlined his vision for COMSAT's success in remarks directed at the corporation's recently held annual shareholders meeting. I ask unanimous consent to insert those remarks into the RECORD.

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

REMARKS OF BRUCE L. CROCKETT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, 1992 COMSAT SHAREHOLDERS MEETING, MAY 16, 1992

Competition in its current form has been something new for us. We've had to learn to make competition be an ally. We've learned that you can't fight the irresistible force of the marketplace; and, quite frankly, we did resist it for a while. So it took us some time to get our act together. We also, in the process, learned to focus on our customers, providing quality service at the best price possible. In fact, saying we have a focus on customers is really an understatement. It's more a fixation! Moreover, in the process of learning to respond to the competitive marketplace and our customers' requirements, we've had to change: Change our culture and how we look at ourselves. And we've had to get others to change how they look at us. I'd like to go into a little more detail on what I like to call the three C's: Competition, customers and culture.

Number one, Competition. We've always had a lot of competition in the form of fiber optic cables, but we've also been blessed because we've had a dominant position in international satellite communications. On both fronts, the ante is going up. With respect to cables, the proliferation of fiber optic cables is increasing at a seemingly exponential rate. I'm sure you saw in this week's newspaper that Nynex is now considering a billion dollar cable connecting Southeast Asia, Japan and the United Kingdom. This is just another in a whole series of attempts by major carriers to blanket the earth with cables. On the satellite side, changes are coming at an equally rapid pace. The policy that has come out of the Government says that, by 1997, international communications from a satellite perspective essentially will be deregulated, and there will be total interconnection with the switched voice network. That means totally unfettered competition for us. But, I don't think it's really a problem. I view it somewhat analogously to what happened when AT&T was broken up. Rates came down, the traffic responded because of the price elasticity of the marketplace and the applications proliferated; and I expect to see the same thing happen in terms of international communications.

In this process of the globalization of markets and new competition and what COMSAT will face, you really don't have to worry very much, for we still have many strengths. The global connectivity of our systems really can't be matched by anybody for a long time to come. Our global reach exceeds 180 countries, and satellites are still the quickest and most cost-effective way to jump-start the creation of communications systems for very large portions of the world, developing and otherwise. That means there are plenty of opportunities for us, and we're really taking advantage of them. For example, our establishing COMSAT International Ventures was just a recognition that the foreign end of the INTELSAT system link, or the vertical integration of services to end customers, offers a very attractive business opportunity. We're pursing that through private line services throughout Latin America and other parts of the world. And those markets will continue to proliferate as privatization and deregulation become even more pervasive than they are already.

Worldwide video is a tremendously growing market. I know you're all in as much awe as I am of the events that took place this week concerning the recovery of the INTELSAT VI, F-3. Next Wednesday, the 20th, we have another launch scheduled, the INTELSAT K satellite, which will be our first in the INTELSAT constellation dedicated to a specialized service, i.e., video. Since this new satellite will permit us to go into very-small-aperture earth stations, we will begin to pepper the rest of the world with the proliferation of television channels we have here in this country. There is tremendous pent-up demand for this, and the market is going to grow very rapidly.

We've demonstrated over the last several years, without too much fanfare, that we in fact can deal with competition. COMSAT Mobile Communications provides a good example. We compete against other signatories, we compete against cellular, we compete against other coast earth station operators, and, notwithstanding all of that competition over the last decade, we're still the largest provider of mobile communications services in the world. We also have more customers than any other providers of such services, and have that business growing at close to 30% a year. We are building a new earth station in the country of Turkey. Once that station is in, we'll be the only signatory in the world providing true global communications—service in all four ocean regions. So, I'm very much convinced that we understand how, where and when we have to compete.

Number two, Customers. Listen to my words carefully. Competitive forces have taught us how to understand our customers better. I have to admit that the vicissitudes of the competitive marketplace have made us a better company. That's a pretty bold statement, but in fact it's true. Understanding customers has been an arrow in our quiver of capabilities, allowing COMSAT to make the systematic changes necessary to be successful. And that's kind of exciting. To the extent we've been successful, it's because we have discovered who the customers are and how to make them happy and satisfied.

I remember back in 1986 when I had just taken over the international business, I flew up to New Jersey with the then management team. We got in a rental car in Newark and headed out. And we got lost! We, the management team of the business, didn't know where our largest customer lived. I didn't quite understand the symbolism of that then as much as I do today, but that embarrassment was the catalyst that really forced a re-orchestration of the business and a focus

on our customers. It was the beginning of the change for our new general managers and a whole new management team. Just four years later, in a survey of its customers by Sales and Marketing Management magazine, the World Systems organization was named as the single best selling force in communications in the United States. That same magazine surveyed five other industries that year and the winners were, in their respective categories, Knight Ridder News, Procter and Gamble, RJR Nabisco, Reynolds Metals and United Parcel Service. COMSAT's in good company!

Number three, Culture. In order to be responsive to the competitive marketplace and to our customers, it was important that we change who we thought we were, how we perceived ourselves, and how other people perceived us. And a couple of subtle changes have been happening here that are very symbolic. Over the last several years we've begun to emphasize the word Corporation in our name. This is both to convince ourselves that we're not an inside-the-beltway government agency, and to convince others we are in fact a pragmatic company, operating for the benefit of our shareholders. The second thing we've done more recently is deemphasize the word satellite. The idea is that sometimes a little broader perspective in terms of satisfying customers' communications requirements makes sense, rather than too narrow a focus on satellite-only applications.

Culturally speaking, we're also empowering our employees. You've heard that expression before—it's kind of a chic phrase these days. What it really means at COMSAT is we are instituting more decentralization. The customer meets COMSAT in the marketplace at the division level. Therefore, it is important that our customers have access to people who have decision-making responsibility and the authority that goes along with such responsibility. Since that's at the division level, that's where the empowerment takes place. We're being run less by a central staff, and a lot more where the "rubber meets the road," i.e. where the customers meet COMSAT.

We're also going to avoid leading with our technological chin. We won't force-fit satellites to solutions where they aren't necessary or don't fit. While it was comforting and exciting over the last couple of days to stay up and watch the Endeavour's crew rescue the INTELSAT satellite, it was to a certain extent disconcerting to think that $400+ million rode on three individuals saying, "One, two, three, grab." You don't want to have all your eggs in one basket. That doesn't mean we're going to abandon satellites; rather we will continue to build on our strengths and our heritage. But we're not going to be blind to other opportunities, if and where and when they present themselves and make sense.

The industry doesn't even have a name yet for the business that we're in, in the sense that computers, telecommunications and entertainment are all merging into one business. It's happening because of satellites, it's happening because of digitization, and because of where technology is pushing things. The best words I've heard yet to describe the business, although I don't think this ultimately will be its name, is the digital transportation of information—or information transportation. Whatever it is called, COMSAT will be agile, pragmatic, and niche player. The reason I say niche is that these markets are going to be global and they're going to be consumer-based, and we're just not that big a company to go out and compete on all levels, on all fronts, in all ways and fashions on a global basis. But, there are opportunities, because of the rapid change and because of our nimbleness, where we will be able to participate, and we will be in the thick of this change and take advantage of this change.

There really isn't any magic involved in what we're attempting to do. We're sticking to the basics, we're going to work hard and work smart, we're going to out-hustle our competition, and we're going to have happy, satisfied customers.

CONFERENCE REPORT FOR FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS

Mr. HATFIELD. I would like to take this opportunity to thank the chairman and ranking member of the Transportation Subcommittee and clarify the conferees intent with regard to section 373 of the bill so there is no confusion as to the intent of the provision.

Section 373 was agreed to by the conferees in order to clarify the terms and conditions of interstate maintenance discretionary funds that the State of Oregon receives subject to Section 1069(t) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. LAUTENBERG. It is clearly the intent of this chairman and of the conference committee that interstate maintenance discretionary grant funds received by the State of Oregon should be provided in addition to the State's annual obligation limitation. In addition, the conferees intend that section 373 will exempt any funds the State receives for the I-5 corridor in fiscal year 1992 through fiscal year 1997 under section 118(c)(2) of title 23, U.S.C., from being treated as allocations for interstate maintenance under section 157(a)(4) of title 23, U.S.C., and sections 1013(c), 1015(a)(1), and 1015(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. HATFIELD. Thank you for the clarification. I also note that the conferees have made clear in the Statement of Managers that the North Santiam River Bridge on I-5 is an extremely high priority and that FHWA should fund this project in fiscal year 1993 pursuant to section 1069(t) of ISTEA.

Mr. LAUTENBERG. The Senator from Oregon is correct.

Mr. HATFIELD. I thank the Senator.

LEAVE OF ABSENCE

Mr. MURKOWSKI. Mr. President, I wish to inform the Senate that due to prior commitments in my home State this weekend, I will be departing later this evening for Alaska. I plan to return on Monday, if after consultation with the Republican leader Senator DOLE, it is determined that the Senate's schedule requires my presence.

In my absence, my able senior colleague from Alaska, Senator TED STEVENS, will remain in Washington to represent Alaska's interests.

TRIBUTE TO SENATOR TIM WIRTH

Mr. CRANSTON. Mr. President, I rise today to pay tribute to a friend and colleague, Senator TIM WIRTH.

TIM WIRTH will be retiring from the Senate at the end of this session, but hopefully not from public life.

TIM's distinguished career in public service spans 25 years, starting with his White House fellowship in 1967. Elected to the Senate in 1986 after posts at the Department of Health, Education and Welfare and 12 years in the House, TIM is leaving the Senate after only one term. But he leaves with an exceptional record of accomplishments.

TIM has been extraordinarily active and effective on the great issues of our time, especially those relating to the environment and the future of our planet.

Perhaps best noted for his comprehensive approach to global environmental problems and championing of a world-wide view, TIM has provided critical leadership on global warming, ozone depletion, and protection of rainforests around the world, including our own Tongass National Forest.

TIM has worked hard on international population issues, seeking to bring back rational policies in a critical area where America's leadership has deteriorated.

As a member of the Banking, Housing, and Urban Affairs Committee on which we both served, TIM WIRTH has been a leader in helping make America's homes more energy efficient, using both the Federal housing programs and mortgage programs to bring energy efficiency standards into the mainstream housing market.

In his work on the Energy and Natural Resources Committee, TIM has been a champion of measures to improve energy efficiency and promote the use of natural gas.

TIM and I worked very closely together when the Senate considered reauthorization of the Clean Air Act, fighting for stricter air pollution control standards for cars and trucks and pushing for the introduction of alternatively fueled vehicles. He was a great ally, diligent in his efforts.

In fact, TIM has been an invaluable ally on many fronts.

TIM was an early supporter of my California desert protection bill.

He has fought persistently for reproductive rights for women, particularly to restore access to abortion services for American women serving overseas in our military.

He has been a steadfast partner in the battle for civil rights and opportunities for women and minorities, including indigenous peoples abroad.

And as a Deputy Whip when I served as Democratic Whip, TIM was an able vote counter and helpmate.

The Senate will miss TIM WIRTH. But I know he will continue to be personally engaged in the issues of our day and continue to be source of wisdom and strength.

TIM, my friend, I join our colleagues in wishing you well.

ALAN DIXON

Mr. CRANSTON. Mr. President, few States combine the varieties of life that Illinois does. As the home of Chicago, our Nation's third largest city, Illinois faces the complex challenges posed by a major urban environment. But that is only part of the State. There is another side of Illinois, an equally important component that makes the State so special—and that is rural Illinois, where agricultural concerns are at issue.

These two features, the urban and the rural, give Illinois a unique character—it does not fit into one niche. A diverse State needs a multi-faceted representative and the senior Senator from Illinois, ALAN DIXON, has proven a versatile legislator. He has found many niches.

ALAN DIXON is neither an ardent liberal nor a staunch conservative. Rather, he has given voice to causes near to the hearts of constituents from all walks of life. They asked him to go to Washington, to go to work for them and he did exactly that.

As a member of the Agricultural Committee, ALAN DIXON worked diligently to provide farm credit relief for his rural constituents. He was also the founder and cochairman of the Senate corn caucus. This group acted to promote the utility of corn—particularly its use in ethanol—and ALAN DIXON was its driving force. I cannot think of two more worthy causes than working for the interests of constituents and working for a cleaner environment.

He has also served his urban constituents well. I say this having seen the work he accomplished during our time together on the Banking Committee. As chairman of the Subcommittee on Consumer Affairs, he proved a vigorous leader in fighting consumer discrimination, red-lining, and mortgage discrimination. He also showed fervor in improving the plight of inner cities and increasing spending for mass transit. These are the achievements of a committed public servant.

And it is to public service that ALAN DIXON has devoted the majority of his life—for 40 years he has served the people of Illinois admirably. He began his service as Police Magistrate in his hometown of Belleville, continued it in both houses of the Illinois State legislature, and then extended it to statewide offices, serving as treasurer and secretary of state. In 1981, ALAN DIXON brought that service to the U.S. Senate, committing himself to making tangible improvements in the lives of all Illinoisans.

ALAN DIXON did not only serve the people of Illinois during his time in this Chamber, he served his colleagues well too. As chief deputy Democratic Whip, he provided insight and support that was invaluable to the Democratic Party and to me during my service as Democratic Whip. And I was not alone in this view. The fact that his peers twice elected him unanimously to that post attests to our great confidence in him.

Though ALAN DIXON served our party well, his passion was strongest in his commitment to serve the people of Illinois—and he did that with distinction. He brought energy and enthusiasm to his work and this body will miss his presence. ALAN DIXON can take pride in his tenure here—there is much he has accomplished, much to be proud of. I thank him for all he has done and wish him well in his future endeavors.

JAKE GARN

Mr. CRANSTON. Mr. President, as each of us knows, the individuals who comprise this body represent a wide range of backgrounds and experiences. Of course, that's as it should be. We've had war heroes and business leaders, movie stars and college professors, journalists and judges. Not surprisingly, the more daring type of physical exploits of Members usually precede one's tenure here. Usually, but not always.

The senior Senator from Utah has one up on his Senate colleagues. Or perhaps I should say he has 109 up. JAKE GARN will be remembered for many things, I'm sure. But at the top of the list will always be his distinction as the first Member of Congress to orbit the Earth while serving in Congress. Taking to new heights, literally, his responsibility to learn as much as possible about the programs Congress funds, Senator GARN spent 7 days in 1985 as a payload specialist on flight 51-D of the space shuttle Discovery. I, for one, will be eternally envious.

I'm sure, too, that the men and women who make America's space program great will be eternally thankful for Senator GARN's enthusiastic support for their work. He shares their dreams and his commitment to their efforts has been total. The space station, a manned mission to Mars, and a permanent colony on the Moon are just a few of the goals toward which he has worked.

Senator GARN has covered a lot of ground here on Earth as well. He served for 6 years as chairman of a committee on which I also serve, the Committee on Banking, Housing, and Urban Affairs. His efforts and input were invaluable to me in 1989 as we worked together to improve the Community Reinvestment Act. In addition to the full committee, we both also serve on the Subcommittee on Housing and Urban Affairs. Although our States are very different, as are our ideas of the best use of Government, I believe we complemented each other well over the years.

We always found we could work together in a friendly, trusting, straightforward and effective way—often working out compromises that bridged wide gaps between the Democratic and the Republican sides.

Senator GARN's work here has obviously been to the liking of his constituents, who chose to return him to the Senate in 1980 and 1986 by overwhelming majorities of 74 percent and 72 percent. I know they'll miss him and his commitment to their concerns.

I don't know what all of his plans for the future include, but I hope that if he makes it on that mission to Mars he remembers how much I'd love to see the pictures he brings back.

THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. D'AMATO. Mr. President, I rise today to pay tribute to one of my close friends and esteemed colleagues, FRANK ANNUNZIO, who will be retiring from the House of Representatives in a few short months after 28 years of distinguished service.

FRANK was always accessible to his constituents and his colleagues, and his easygoing personality made it much easier to extend a hand across bipartisan lines and legislative aisles. When a sticky problem had to be worked out, or a difficult compromise had to reached, FRANK was always ready to roll up his sleeves and get to the task at hand. This attitude helped him craft many significant pieces of banking legislation which I was fortunate enough to work with him on over the years.

FRANK's banking philosophy was premised on two fundamental principles: safety and accessibility. He strived to make the Federal deposit insurance system fiscally responsible and financially safe, while making banking services readily available and easily accessible to all consumers. The pieces of banking legislation he helped pass were constantly guided by these principles. Some of these measures included: the Truth in Lending Act, the Consumer Leasing Act, the Electronic Funds Transfer Act, the Financial Institutions Reform Recovery and Enforcement Act, and the FDIC Improvement Act.

In handling his legislative duties, FRANK had a definite flair and style about him. As chairman of the House Administration Committee and the Subcommittees on Consumer Affairs and Financial Institutions, his hearings and witness lists were legendary. Who could ever forget the time he chaired hearings on the Fair Debt Collection Practices Act and brought in a

former debt collector in a black hood and dark sunglasses to underscore the abusive practices that consumers were then subject to from debt collectors.

Who could also forget his tireless pursuit of financial institution criminals. FRANK passed out "Put the S&L Crooks in Jail" buttons everywhere he went, and oversaw a subcommittee study which uncovered that convicted bank criminals were only paying pennies on every dollar of restitution and fines owned to the Federal Government despite still living lavish lifestyles.

FRANK also exposed waste and abuse in the lifestyles of Federal regulators as well. For example, his subcommittee issued a report showing lavish expenses by the Federal bank regulators including the purchase of 3,000 Asian cookbooks by the Federal Deposit Insurance Corporation at a cost of over $7,000, and the purchase of 36 coffee mugs and 12 golf shirts by the Resolution Trust Corporation for a total cost of over $3,000.

In addition to being a great legislator, FRANK has also been a tremendous leader and role model to Italian-Americans throughout this country. He was one of the founders of the National Italian American Foundation and has served on numerous advisory boards and panels, all to promote the exchange of ideas and better relations between Italy, the United States, and its citizens.

FRANK's impact will be felt for a long time around here, but his presence will be sorely missed when the 103d Congress convenes. I wish him and his lovely wife Angie much health and happiness in their retirement years.

METALS RECOVERY STUDY

Mr. SPECTER. Mr. President, on Friday, September 25, 1992, the Senate approved the conference report to H.R. 5679, the HUD/VA appropriations bill. The bill included an amendment authored by Senators GARN and CHAFEE, with a section authored by me calling for a metals recovery study. At that time I submitted no remarks as the content of the amendment was clearly understood between all drafting parties and appeared unambiguous. At this time, however, I would like to submit comments pertaining to the metals recovery study portion of the amendment which I authored.

I am advised that there is significant uncertainty within EPA's regulatory programs as to whether recovered, or partially recovered, materials—whether an interim metals compound or refined metals—remain wastes or are in fact products. It has also been represented to me that there is some confusion within the agency's regulatory programs as to whether these metal recovery facilities are industrial operations, because they manufacture products or are waste treatment operations under EPA's broad regulatory definitions.

The study provision requires the EPA to conduct a study of the effect of existing regulations on attempts to recover metals from our Nation's wastes, and to report to the Congress by April 28, 1993. This will help us better understand why many interim industrial materials—although designated as hazardous due to the presence of heavy metals—may in fact be significant resources which could be recovered so as to reduce the massive quantities of waste now landfilled in our country. Another advantage in recovering these materials would be a reduction in our dependence on mining and/or importing of vital virgin materials. While scrap metal has been adequately addressed in the past, this amendment focuses on resource-rich wastes deemed hazardous.

Mr. GARN. I rise in agreement with the gentleman from Pennsylvania. Metals recovery is not only extraordinarily important to his State, one of the largest steel-producing States which therefore contributes to the generation of hundreds and hundreds of thousands of tons of metals-rich waste annually, but also similarly vital to other steel producting States such as Texas, Ohio, and Indiana, and my own. Indeed, it is vital to the Nation, with heightened concerns for environmentally sound materials management practices and diminishing space for land disposal, that we reclaim as many resources as we safely can from what would otherwise be considered waste.

The metals industry is unique among the activities which we addressed in the hazardous waste amendment, and the metals recovery study amendment recognizes that there may be great potential in safely assisting and increasing our capacity for recovering metals from hazardous waste materials.

Mr. NICKLES. I, too, agree with my colleague from Pennsylvania. This provision will enable Congress to benefit from a comprehensive review of the metals recovery industry in time for hearings on the controversial revisions to the mixture and derived-from rules. These very important hearings, which are expected to occur early next session, will be enhanced by the agency's presentation of the effect of existing regulations on efforts to recover metals from the Nation's wastes, and how the materials should be regulated to be consistent with the objectives of the Resource Conservation and Recovery Act.

FLSA AND PRISON LABOR

Mr. REID. Senator KENNEDY, I would like to express my concern over the recent ninth circuit court decision holding that prisoners are entitled to minimum wages for work performed in a prison. I have heard from many State governments and prison directors that they cannot possibly afford to pay minimum wages to prisoners and that they would have to discontinue their prison work programs. I think this would be tragic. These prisoners gain valuable job training and work experience, and the prisons gain by occupying the otherwise idle time of their inmates. Given these concerns, do you think the Committee on Labor and Human Resources should hold hearings as soon as we convene in the new year to investigate this subject and invite prison directors and officials to testify?

Mr. KENNEDY. I am aware of the ninth circuit decision, and I know that it has prompted concerns among prison officials who are involved in the operation of prison industries programs.

Prison work programs that give inmates opportunities to learn new skills and acquire work experience that will help them find productive employment when they are released can be of great social benefit, provided that they are carefully structured so as not to take away jobs or drive down the wages of workers on the outside. Since legitimate questions have been raised about the impact the ninth circuit's decision might have on the continued viability of various prison labor programs, I am certainly willing to have hearings on this issue in the Labor and Human Resources Committee early in the next Congress, and I look forward to working with the Senator from Nevada to achieve a satisfactory resolution.

FLSA AND PRISON LABOR

Mr. REID. Mr. President, on August 10, I offered legislation along with Senators BRYAN, DOLE, GRAHAM, MCCAIN, COHEN, and D'AMATO, to clarify the status of prisoners under the Fair Labor Standards Act. This is necessary because State governments in the ninth circuit, which includes my home State of Nevada, are in a quandary. The circuit court has reversed a decision delivered a year earlier which denied prisoners minimum wage protections afforded by the Fair Labor Standards Act—an act fought hard for by the labor unions of this country to protect our average, blue collar workers from the evils of big business. If this aberration of a court decision is allowed to stand, the work programs in prisons will discontinue. That means every work project: including the small amount of sophisticated manufacturing to the menial sweeping up of the grounds.

The State governments simply cannot afford to pay minimum wage for maintenance services. Mr. President, I am not saying that prisoners should not be paid. In fact, I encourage some type of compensation. Some of these wages go to child support, victim restitution and other valuable programs.

The seventh circuit last month, in Vanskike versus Peters, expressly rejected the ninth circuit Hale decision,

by finding the twin aims of the FLSA inapplicable to prison labor. The first FLSA purpose, ensuring a minimum standard of living for workers, has no application to prisoners because their basic needs, food and shelter, are already constitutionally provided. The second purpose, preventing unfair competition, has received extensive congressional attention in the context of prison labor.

Congress assumed the responsibility of regulating prison labor 3 years before enacting the FLSA, in the Ashurst-Sumners Act. If the FLSA was intended to cover prisoners, the Ashurst-Sumners Act would have been rendered superfluous. Yet Congress has since amended and recodified the Ashurst-Sumners Act, providing authority for certain prison work programs and the wages to be paid prisoners, thereby clearly expressing intent to keep prison labor under laws other than the FLSA.

The Ashurst-Sumners Act requires that the prison pay the prevailing wage of the locality so as not to dilute any wages of nonincarcerated individuals. Here is the law that regulates prison wages. Why bring in the Fair Labor Standards Act in 1992? If there is a problem with what prisoners are paid under work programs, change these governing and authorizing statutes in the State and Federal law. But do not bring in the FLSA in 1992 to protect hardened criminals.

If we allow this decision to stand, we open ourselves to a whole host of decisions from this circuit court regarding other protections intended only for our hard-working laborers. What should we expect next? Unemployment compensation for prisoners? Holidays and vacation time for prisoners? Job security? Collective Bargaining? Mr. President, I urge my colleagues to send a message to this circuit court to allow the Fair Labor Standards Act to protect those it was intended to protect and not to bust the budgets of our State governments.

Mr. President, I will file legislation to correct this situation as soon as the 103d Congress convenes. Senator KENNEDY has agreed to hold hearings in the Labor and Human Resources Committee to study this matter. Mr. President, I would like to enter into the record the numerous letters of support I have received from across the country so that the committee may invite these individuals to submit data and testify at the hearings.

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

ARIZONA DEPARTMENT OF CORRECTIONS,
Phoenix, AZ, September 15, 1992.

Hon. ED. PASTOR,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE PASTOR: On June 24, 1992, the 9th Circuit Court of Appeals ruled, in *Hale and Fuller v. Arizona*, that working Arizona inmates come under the Fair Labor Standards Act and should be paid minimum wages for work performed in prison. The effect of this court ruling, if allowed to stand, will be to create serious financial problems for our state in paying for the programs in our prison system.

I strongly object to this course of action and have asked our Attorney General to file an appeal to this case.

We have been informed that Senate Bill 3160 has been initiated by two Nevada senators designed to overturn this nonsense.

I invite your attention to the comments expressed in the attached newspaper article and agree with them wholeheartedly-inmates are not entitled to the minimum wage, even the idea is repugnant.

I encourage your proactive support.

SAMUEL A. LEWIS,
Director.

DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
Topeka, KS, September 24, 1992.

Senator BOB DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: This letter is to urge your support for S 3160 which was recently introduced in the Senate. This legislation amends the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of the Act.

This legislation was proposed because of a recent decision of the Ninth Circuit Court of Appeals which held that the Fair Labor Standards Act is applicable to inmate labor in correctional facilities. This would mean that inmates would have to be paid minimum wage as compensation for the labor they perform while incarcerated. Obvious and significant financial implications to state and local governments would result from extension of the Act to cover inmates. We do not believe the Fair Labor Standards Act was intended to be applied in this manner and urge that legislation be enacted to ensure that it will not be interpreted by other courts as applying to prison inmates. I have read the comments of Senators Reid and Bryan in the Congressional Record of August 10, 1992 and believe they present a sound justification for S. 3160.

I urge you to support enactment of this legislation.

Sincerely,

GARY STOTTS,
Secretary of Corrections.

DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
Topeka, KS, September 25, 1992.

Senator HARRY REID,
Hart Building, Washington, DC.

DEAR SENATOR REID: This letter is to inform you of our support for S 3160 which you have introduced. I have enclosed copies of letters which we have mailed to Senators Dole and Kassebaum urging them to support this legislation as well.

Place let me know if we may be of any assistance to you in this matter.

Sincerely,

GARY STOTTS,
Secretary of Corrections.

AMERICAN CORRECTIONAL
INDUSTRIES ASSOCIATION, INC.,
St. Petersburg, FL, September 24, 1992.

Re Hale versus Arizona

Hon. HARRY REID,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR REID: Support your objective to amend the Fair Labor Standards Act to exempt inmates from the "employees purposes of the legislation." My company agrees with your closing statement so adequately expressed, "is ridiculous and. I think we as a Congress should rectify it and do it quickly."

I am sure you are aware that in Senator Graham, you have an individual who is perhaps more knowledgeable than most political leaders concerning Prison Industries. The Senator was Governor of Florida at the time the Florida Legislature created PRIDE, a private, not for profit company to take over and manage Florida's Prison Industry Program. It was through Governor Graham's bold and progressive leadership that PRIDE was recognized as a national role model for Prison Industries.

Please advise me if there is anything I might do to assist you.

Sincerely yours,

J. FLOYD GLISSON,
President.

CORRECTIONAL INDUSTRIES
ASSOCIATION, INC.,
Waterbury, VT, September 15, 1992.

Re Senate bill 3160.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities;

and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT M. MARTINEAU,
President.

CORCRAFT,
Menands, NY, September 21, 1992.

Mr. ROBERT M. MARTINEAU,
Director, Correctional Industries, Waterbury, VT.

DEAR BOB: Larry Kyle asked me to provide you with some financial information regarding what's going on in Arizona and the Fair Labor Standards Act. We did some quick calculations and our figures show that if we paid inmates in our facilities the current minimum wage, we would increase our inmate wage costs seven (7) fold. That would translate to an additional cost to us of $12,360,000. Right now, we pay inmates an average of $.60 per hour.

Last year our income before covering non-operating expenses was $1.8 million. As you and I have discussed, we cover the costs of the security officers in our shops and 15 vocational instructors associated with our program. By the time we cover the $5.5 million associated with these non-operating expenses, we showed a loss of $3.7 million. If we were required to pay the inmates in the program minimum wage, we would have shown a loss of $10.6 million, before including non-operating expenses, and a total loss of $16 million, after covering non-operating expenses. Obviously, any requirement that we pay inmates minimum wage, which is not offset by some other factor, would devastate us.

Sincerely,

JOHN W. CONROY,
Director of Correctional Industries.

PHILADELPHIA CORRECTIONAL INDUSTRIES,
Philadelphia, PA, September 17, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.
Re: Senate bill 3160.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs. Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purpose stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections population in our state and federal systems has virtually doubled in the last decade and approaches one million offenders, at an operating cost along of some $25,000,000,000.00 annually.

Unless greater attention is given to cost reductions the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT J. GORSKI, PH.D.,
Director.

STATE OF NEVADA,
DEPARTMENT OF PRISONS,
Carson City, NV, September 15, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: Thank you for your efforts on behalf of Prison Industries as evidenced in the Reid Amendment to the Labor Appropriation Bill. Although most of the inmates working in Prison Industries in Nevada are being paid minimum or near minimum wage, the impact of protecting inmates under the Fair Labor Standards Act would be devastating. We anticipate a weekly cost of $5,000 to $12,000 in wages alone. More importantly are the potential implications in creating employee status for inmates.

It is this status which can and probably will severely limit our ability to function effectively. Having inmates covered as employees opens the door to a number of problems which will severely limit our ability to control our institutions.

If there is anything else that can be done by us to assist you please let me know.

Very truly yours,

HOWARD L. SKOLNIK,
Assistant Director.

NEVADA LEGISLATURE,
September 15, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: As Chairman of the Prison Industry Advisory Board in Nevada, I am deeply concerned with the implications of the recent decision by the 9th Circuit Federal Court of Appeals in Hale v. Arizona. It is my understanding that this court decision determined that all inmates working for Arizona correctional industries programs (ARCOR) are covered by the Fair Labor Standards Act (FLSA); are to be considered employees of the State of Arizona; and are, thereby, entitled to minimum wage as well as other protections of the FLSA. It is also my understanding Arizona is appealing this decision to the 9th Circuit en banc review and anticipates that if the decision is affirmed, the state will seek review by the U.S. Supreme Court.

The decision determined that the inmates laboring for ARCOR in the manufacturing of license plates, prison beds, mattresses and other in-house industries in Arizona were specifically covered by the FLSA. While the full implications of the decision are not yet known, the creation of an employee status for inmates may open the door to entitlement to unemployment compensation, workmens' compensation, minimum wage and overtime for all inmates working within correctional settings. The potential cost of this benefit for inmates is staggering.

As Chairman of the Prison Industry Advisory Board in Nevada, I would like to go on record in support of your amendment to the Fair Labor Standards Act of 1938 which would define the term, "employee," to not include any inmate of a penal or correctional institution of a state or political subdivision of a state.

With best regards,

Assemblyman JOHN MARVEL,
Chairman, Nevada's Prison Industry Advisory Board.

CRIMINAL JUSTICE ASSOCIATES,
Philadelphia, PA, September 15, 1992.

Senator HARRY REID,
U.S. Senate Office Bldg., Washington, DC.

DEAR SENATOR REID: As a consulting firm doing work with state and county prison industries, Criminal Justice Associates is writing to support your efforts to prevent certain classes of prison inmates from attaining employee status under the FLSA. We are particularly concerned that institutional maintenance workers not be included in definitions of employee under the legislation.

We wish to point out, however, that under P.L. 96-157, Sec. 128, now codified at 18 U.S.C. 1761(c), inmates participating in the U.S. Department of Justice's Private Sector Prison Industries Enhancement Program—including those in Nevada—are now considered to be employees and thus should be exempted from your proposed amendment.

Sincerely,

BARBARA J. AUERBACH,
Partner.

MISSOURI DEPARTMENT OF CORRECTIONS, DIVISION OF ADMINISTRATION,

Jefferson City, MO, September 16, 1992.
Re Senate bill 3160.
Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, could impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

Sincerely,

WILBUR W. GOOCH, Jr.,
Administrator,
Missouri Correctional Enterprises.

STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
Madison, WI, September 24, 1992.
Hon. ROBERT W. KASTEN,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

The Ninth Circuit Court has decided that FLSA rights and compensation should be provided to inmates in prison industries. Full implementation of this decision on a national scale would impose a substantial financial burden on the State of Wisconsin. The result will be either increased inmate idleness in overcrowded prisons or the appropriation of substantially more tax dollars for higher inmate wages.

I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
Secretary.

STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
Madison, WI, September 24, 1992.
Hon. HERBERT H. KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

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I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
Secretary.

ILLINOIS DEPARTMENT OF CORRECTIONS,
Springfield, IL, September 16, 1992.
Hon. HARRY REID,
U.S. Senator, Washington, DC.

DEAR SENATOR REID: It is my understanding that you have introduced an amendment to the Labor appropriations bill which will ensure that incarcerated individuals are not covered by the Fair Labor Standards Act.

This letter is to support your amendment. If inmates were to be covered, it would render Departments of Corrections substantially unable to utilize inmate labor in ways that are consistent with good corrections practice and with needs of inmates to learn and develop work skills and habits. It would be most inappropriate under such conditions for incarcerated individuals to receive prevailing wage. Inclusion of incarcerated people in the Fair Labor Standards Act would therefore be a substantial cost burden to the taxpayers and the system of incarceration.

We encourage your effort to see your amendment pass.

Sincerely,

HOWARD A. PETTERS III,
Director.

ASSOCIATION OF STATE
CORRECTIONAL ADMINISTRATIONS,
South Salem, NY, September 16, 1992.
Senator HARRY REID,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR REID: The Association of State Correctional Administrators is a national professional association whose membership consists of the Directors of the 50 state prison systems as well as several other major correctional agencies. As the leaders of the nation's correctional agencies, they are responsible for the care and control of more than 800,000 inmates and lead a work force of more than 250,000.

I am writing to express our strong support for the amendment you are proposing to the Labor Appropriations bill, which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions. As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the Act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems, all of which are already seriously financially overburdened. If the Act is not amended, the very real risk is run of having to terminate state prison employees in order to find the funds to pay inmates wages and benefits comparable to those received by ordinary citizens. That situation would be intolerable.

Further, as a consequence of the court's decision, an employer-employee relationship between staff and inmates would be created. Such a relationship would make the operation of every prison in the country very problematic. It is an unnecessary burden to place on our prison systems and the people who operate them.

We hope that your colleagues will support your amendment with the same level of intensity and unanimous commitment as our membership. If you have any questions, please call.

Thank you very much.

Sincerely,

GEORGE M. CAMP,
Executive Director.

IOWA PRISON INDUSTRIES,
Des Moines, IA, September 16, 1992.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

Reference: Senate Bill 3160.

DEAR SENATOR HARKIN: May I urge your support of the amendment to the Appropriations Bill being offered by Senator Harry Reid of Nevada.

This amendment seeks to clarify the intent of Congress that the FLSA was not intended to apply to incarcerated offenders, as the U.S. 9th Circuit Court of Appeals has recently held in Hale vs. Arizona.

This amendment is vital to Iowa Prison Industries. If minimum wage is applied to inmates who participate in the programs of our workshops those shops will be forced to close, due to paying productive labor rates for what is essentially a training enterprise.

The average Iowa inmate has never held a long term, economically productive job, has dropped out of school before finishing the twelfth grade, has received no vocational/technical or apprenticeship training, and consequently reads at the ninth grade level and uses math at the fourth grade level.

Iowa Prison Industries provides over 500,000 hours of training annually to such inmates. Research has shown that inmates who work in Iowa Prison Industries have the lowest recidivism rate of any treatment group, and that they also commit sixty percent fewer rules infractions than the general population. We believe this is because in our workshops we address some of the major problems which caused our inmates to fail in society.

We urge your support of an amendment which will protect this vital program, which has a record of successful rehabilitation of the inmates in our care.

Sincerely,

HARRY CANNON, PH.D.,
Deputy Director for Industries,
Department of Corrections.

STATE OF UTAH,
DEPARTMENT OF CORRECTIONS,
Draper, UT, September 16, 1992.

Hon. E.J. "JAKE" GARN,
U.S. Senate, Washington, DC.

DEAR SENATOR GARN: I am writing to encourage your support of this bill sponsored by Senator Harry Reid of Nevada. The bill is intended to clarify the intent of the Congress, which has been that the FLSA was not intended to apply to incarcerated offenders.

This clarification is necessitated by recent decisions by the Ninth Circuit Court in "Hale vs Arizona." In these decisions the court held that an employee/employer relationship existed between Arizona Correctional Industries and inmate workers. This decision appears to mean that inmates working in certain Arizona Correctional Industries programs must be paid Federal minimum wages for their labor.

The Fair Labor Standard Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Federal Private Sector/Prison Industries Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance food service, laundry services and industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and the Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of the other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your support and the support of your colleagues, for Senate Bill 3160.

Sincerely,

RICHARD A. CLASBY,
Director, Utah Correctional Industries.

DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
Bismarck, ND.

To: Senator Harry M. Reid, United States Senator—Nevada.

From: Elaine Little, Director.

Date: September 17, 1992.

Re: Amendment to Fair Labor Standards Act to exclude inmates from its provisions.

I am writing to express my strong support for your proposed amendment to exclude inmates from the provisions of the Fair Labor Standards Act. The applicability of the Act to inmates has been a question and concern to us for some time. Including inmates under the provisions of the Fair Labor Standards Act would place an extreme hardship on the North Dakota corrections system. This would not only be very detrimental to our department, but since our system could not afford to meet the provisions of the Fair Labor Standards Act for inmates, there would be many fewer inmates who could benefit from work programs, etc. Therefore, we strongly endorse your amendment to exclude inmates from the provisions of the Fair Labor Standards Act.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION,
Columbus, OH, September 17, 1992.

Hon. HARRY REID,
U.S. Senator, Washington, DC.

DEAR SENATOR REID: I would like to express my strong support for passage of your proposed amendment to the Fair Labor Standards Act which I believe is of critical importance to the State of Ohio.

As you are aware, the Correctional Industries Association has expressed concern with the implications of the recent 9th circuit federal appeals court decision *Hale* v. *Arizona*. Should this decision stand, it could open the door to states paying for unemployment, worker's compensation, minimum wage and overtime for all inmates working within prisons. The cost implications for Ohio are staggering.

I would like to offer my support and assistance to your prepared legislation. Should you need additional information regarding the potential impact of the court's decision on Ohio or assistance from my office in your efforts to obtain passage of this critical legislation, please contact me or my Legislative Liaison, Scott Neely, at (614) 431-2762.

Sincerely,

REGINALD A. WILKINSON,
Director.

STATE OF WASHINGTON,
DEPARTMENT OF CORRECTIONS,
Olympia, WA, September 18, 1992.

Hon. HARRY M. REID,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR REID: I wholeheartedly support your amendment that would exclude inmates from the Fair Labor Standards Act. The application of FLSA to inmate populations could well have the affect of destroying legitimate work programs that presently provide healthy activity, job skill training and solid work habits for those incarcerated. States simply do not have funds available to meet FLSA requirements. Such a loss would be devastating to generally overcrowded correctional facilities across the country.

Thank you for sponsoring this amendment.

Sincerely,

CHASE RIVELAND,
Secretary.

LAW OFFICES OF,
LEONARD, RALSTON, STANTON & DANKS,
Washington, DC, September 16, 1992.

Hon. HARRY M. REID,
Chairman, U.S. Senate, Hart Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We represent the 18,000 employees of the Federal Bureau of Prisons who are members of the Council of Prison Locals of the AFL-CIO.

We have been directed by the President of the Council to vigorously support the proposed Amendment to the DOL Appropriations Bill which would overturn Hale v. Arizona, a decision recently rendered by the United State Court of Appeals for the 9th Circuit.

Please understand that our employees are dues paying members of the AFL-CIO employees with a contrary position should be totally disregarded.

Our employees support this legislation because it would reverse a court decision which would put in jeopardy of bodily injury or death every member of our union who daily must work in the presence of convicted felons.

Senator, we know that you understand that even office secretaries in the Bureau are

in continuous contact with those people who society has decided are not ready to be with the wives and children in our communities. Unlike the law enforcement officer, these prison workers are constantly surrounded by convicted felons many of whom have violent records.

Senator, these workers are your workers. You and your colleagues are their employers on whom they and their families must rely.

Senator, the issue here is simply. Every time someone makes it more difficult to operate our prisons by restricting the ability of Federal Prison Industries to control the prison environment and safeguard the prison employees and the prisoners themselves, there is a greater likelihood of prison riots, violence, injury, death and destruction of prison property. There are simply too many examples of this fact for it to be disputed.

We need and urgently request that you do all in your power to support the Reid Amendment to the DOL Appropriations Bill.

Sincerely,

JERRIS LEONARD,
Washington Counsel,
Council of Prison Locals.

CORRECTIONAL PRODUCTS & SERVICES, INC.,
Westminster, CO, September 18, 1992.

Hon. HARRY REID,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR REID: As an owner of a private sector company and as Chairman of the Correctional Industries Association Corporate Relations Committee, I wish to express my complete support to you in your effort to resolve the chaos that will result from the recent "Hale vs. Arizona" ruling in the Ninth Circuit Court.

As a taxpayer, I find it difficult to comprehend, and would find it even harder to explain to my taxpaying employees why their jobs are in jeopardy because tax-costing offenders gain the benefits of the Fair Labor Standards Act.

The Fair Labor Standards Act is excellent legislation to the benefit of hard-working taxpayers, but I believe, to contort it in such a manner as to include criminals will raise unprecedented contempt for government from the American people.

As chairman of the Corporate Relations Committee of the CIA and representing 59 taxpaying, private corporations, we recognize the immediate and catastrophic effect this will have on our companies and the thousands of taxpaying workers we employ.

The benefits of working inmates are clear—reduced idleness and violence, reduced costs to taxpayers as well as the benefits in the rehabilitation of the inmate, but to consider inmates as employees with the same wages and benefits of free-world labor is wrong. Please continue your efforts in support of the taxpayer.

Sincerely,

ED COOK,
Chairman, Corporate Relations Committee, Correctional Industries Association, Vice President, CPSI.

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY, DEPARTMENT OF CORRECTION,
Boston, MA, September 22, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I would like to take this moment to strongly support Senate bill 3160. The amendment to the Fair Labor Standards Act of 1938.

The Massachusetts Department of Correction attempts to employ all inmates within our jurisdiction. This provides for healthier, safer and more secure institutions. It also gives an inmate a sense of responsibility which can prepare him/her for an easier more effective reintegration into the community. Inmate labor positions include janitorial work, paint crews, walks and grounds maintenance and inmate industries.

I would like to add that the inmate industries is not in competition with the private industries. Therefore, the enactment of this bill will not affect the private sector. If this bill is not passed the budget will far surpass any economical and safety objectives. In essence, we would be paying minimum wage for inmates to maintain their own living quarters, eating area, recreation rooms and yards.

Furthermore, the Department of Correction might be forced to lay off current Department employees in order to pay inmate wages. It would be economically detrimental to pay inmate wages in addition to the amenities currently provided (food, shelter, clothing, medical care, education and recreation programs).

Again, the Department of Correction strongly supports S3160. I thank you for the opportunity to express my opinions and concerns.

Sincerely,

LARRY E. DUBOIS,
Commissioner.

MINNESOTA DEPARTMENT OF CORRECTIONS,
St. Paul, MN, September 18, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: As commissioner of the Minnesota Department of Corrections and president of the Association of State Correctional Administrators, I am writing to express my strong support for the amendment you are proposing to the Labor Appropriations bill which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions.

As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems which are already seriously financially overburdened. if the act is not amended, state corrections departments may face the very real risk of having to terminate state prison employees in order to find the funds to pay inmate wages and benefits comparable to those received by citizens in the free community. I am also concerned about the creation of an employer/employee relationship between staff and inmates.

Your efforts in amending the labor Appropriations bill are very much appreciated.

Sincerely,

ORVILLE B. PUNG,
Commissioner.

JUNIPER VALLEY PRODUCTS,
Colorado Springs, CO, September 24, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I have reviewed a copy of your proposal to amend the Fair Labor Standard Act to ensure that inmates are not treated as employees as determined by the 9th Circuit Court for Arizona, and our office fully supports this endeavor.

I am sure that you are aware that should the decision to pay inmate workers prevailing wages become the "law of the land," we in State Government will be affected drastically in our efforts to provide training and work opportunities for inmates. As you know, there are some circumstances that offer us the opportunity to pay offenders minimum or prevailing wages. While these programs work well for those states authorized to participate, there are precious few private-sector employers willing to suffer the liabilities associated with such a program due to worker turnover, training, security, and related restrictions that must be imposed in a prison environment.

For the most part, all correctional industry programs provide products to State agencies that meet their needs at a price comparable to the prevailing market; however, the training in basic work ethics and the satisfaction of having a job while incarcerated go a long way in preventing disruptive behavior while in prison as well as preparing them for their release to society.

In addition, there are considerable cost savings to tax payers in the form of cost avoidance. We in Colorado have determined that it would cost approximately $5,000 per inmate per year to provide other training or alternate work programs for assigned inmates. When applied to the overall incarceration rate nationwide the numbers are staggering.

Your efforts to amend the FLSA to exclude inmates from coverage is greatly appreciated.

Sincerely,

TOM G. CRAGO, Ph.D.,
Director, Correctional Industries.

FLOOR STATEMENT OF SENATOR RICHARD H. BRYAN, OCTOBER 2, 1992

Mr. President, in August, Senator Reid and I introduced S. 3160; a bill compelled by the Ninth Circuit Court of Appeals' June decision in Hale. This decision held that prison inmates are covered under the Fair Labor Standards Act as "employees", and thus are to be paid at the prevailing minimum wage rate. This decision is absurd. To hold that criminals, some convicted of violent crimes, some serving decades in prison are now entitled to be paid minimum wage while serving time is nonsensical.

The Fair Labor Standards Act has a detailed listing of employees exempted from the Act's minimum wage requirements. This listing has never exempted prisoners. The Hale decision requires Congress to now make such an exemption. The decision requires Congress to restore a little common sense through this legislation.

Hale has opened the gates for inmates to file lawsuits to recover minimum wage payments under FLSA for work done as an inmate in prison. The gates are also open for inmates to seek back payment of minimum wages; up to two years retroactively under the FSLA. The magnitude of Hale's ramifications is obvious.

For my state of Nevada, Hale will cost hundreds of thousand of dollars annually to pay state prisoners at minimum wages. Like many other states throughout this country, Nevada is dealing with a major budget crisis, and the painful program cuts necessitated by the reality of this situation. To add to the budgetary problems of these states by allowing the Hale decision to prevail will be disastrous. To place states in the position of also defending inmate lawsuits for retroactive payment of wages, magnifies the disaster.

As a former governor, I am particularly aware of Hale's impact. As governor, I encouraged the creation of state prison employment programs, both to ensure inmates'

working time was used productively, and that inmates developed an employable skill. I certainly did not contemplate these prison programs would result in the establishment of an "employer-employee" relationship between the prison and the inmates, and thus coverage under the Fair Labor Standards Act minimum wage provisions. As the Ninth Circuit Court of Appeals stated in its earlier 1991 *Gilbreath*, 931 F.2d 1320, decision. "* * * it is highly implausible that Congress intended the FLSA's minimum wage protection be extended to felons serving time in prison."

Our state governments are under extreme budget duress. Over 34 states have been required to revamp their budgets this year to address shortfalls. To allow Hale to stand puts all states at risk of inmate lawsuits with retroactive award potential, and at risk of state budget chaos. For many of the affected states, the result may be the termination of prison employment programs.

Hale must be rectified. We cannot expect the states to survive another round of lawsuits and retroactive awards in this economic climate. We cannot justify asking this country's taxpayers to pay prisoners a minimum wage. We do not have the money to do it. Even if we did, those funds could be better spent putting more police on patrol, rather than bringing prisoners to the wage level of working Americans.

I would like to thank Senator Edward Kennedy very much for his cooperation in agreeing to hold hearings on this issue early in the 103rd Congress. This is a problem we need to resolve as quickly as possible—before all of our states are unduly harmed by the Hale decision.

BOSNIA AND SOMALIA

Mr. SIMON. Mr. President, periodically I submit my weekly newspaper column for publication in the CONGRESSIONAL RECORD.

Today, I would like to focus my colleagues' attention on the serious issue of donor relief—both as it applies to Bosnia and Somalia. I ask unanimous consent the article be printed in the RECORD.

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

(See exhibit 1.)

Mr. SIMON. In a related issue, as many of my colleagues know, I have spoken on this floor numerous times, pleading for attention to famine-stricken Somalia. An article in the September 29 edition of the Christian Science Monitor, quoted a Somali agricultural expert Hussein Iman, painting an incredibly miserable picture. He says "some family members are lying in their houses so weak they can't go out." He estimates that, due to the fighting, looting and drought, farmers lost 80 percent of their crops this year.

What we have seen closer to Baidoa, the epicenter of the famine—about 120 miles inland and where fighting continued well into this year—the harvest was practically nothing.

The plight of Samolia is one of the doom and despair. It will take Somalia 10 to 20 years just to rebuild the country's infrastructure

I chair the Senate Panel on African Affairs, and we have held several hearings on the situation in Somalia, and in fact, we will convene the subcommittee today to discuss this and other African developments. Whether it was Assistant Secretary of State for African Affairs Herman Cohen or the President's designee to coordinate Somali relief Andrew Natsios, we have been jolted by the triple digit deaths each day. This week we learned that a significantly higher percentage of deaths were adults.

I fear the greatest bulk are dying of disease, and the endless banditry has hampered the work of relief agencies in the interior which has slowed the transport of food to an estimated 2 million Somalis on the brink of death.

Somalia's 6 million people are on the move because of anarchy and hunger. Perhaps that is a big reason why so many of them are dying. We see, and certainly the Senator from Kansas who recently returned from the Horn of Africa will agree, relief agencies are trying to deliver food directly to villages rather than focusing on centralized aid camps. The rationale is to keep people at home rather than wasting their energies in desperate, often fruitless, searches for food. Most camps for Somalis outside their country have well-organized operations by now, but the problem is overwhelming. More than 300,000 Somalis are sheltering in Kenya, 400,000 in Ethiopia.

One out of every three Somalis are starving at home. More than 100,000 have already starved to death.

We have an obligation to humanity to stop this senseless death. We must. Hopefully this column will put our role in solving these two world crises into perspective.

EXHIBIT 1

WHAT ROLES FOR THE U.S. AND THE U.N. IN BOSNIA AND SOMALIA?

When should U.S. force be used to maintain stability around the world?

Congress and the White House wrestle with that question, knowing that if force is used, American lives may be lost—but also knowing that failure to take action also can cost loss of lives, and ultimately much greater loss of American and other lives if the resort to violence by one nation spreads to others.

One of the difficulties is that resolutions in Congress authorizing or suggesting the use of force are general.

The other day, for example, we adopted a resolution calling on the President to get action from the Security Council of the United Nations authorizing the use of force, if necessary, to get relief supplies to surrounded Bosnian cities.

But the resolution did not specify how much U.S. force would eventually be used, and the resolution did not authorize it yet.

I voted for it. I favor using air power to help relieve the tragic situation in Bosnia. I oppose the use of U.S. ground troops. The Serbian government's call for "ethnic cleansing" has a Hitleresque ring to it, and its clear-cut aggression against the people of Bosnia should be resisted

The community of nations has to do more than mouth pleasant pieties denouncing the Serbian government. We are providing a limited economic boycott and there is a small United Nations presence in Sarajevo, but the response has been anemic.

An even more tragic situation is in Somalia, where there is a clear-cut civil war. Many times the numbers of civilians being killed in Bosnia are dying of starvation in Somalia. The U.N. has authorized 500 troops to bring food to the starving nation.

How can the United States exert leadership, yet not have situations develop into a Desert Storm in which the United Nations action became overwhelmingly a United States action? (539,000 U.S. troops were in Kuwait.)

Complicating all of this is that when Congress authorizes the use of force, whether in Vietnam or Kuwait, we simply give the President the authority to use force. We do not stipulate how much force. Whether it is 1,000 troops or 500,000, we leave it to the President.

Senator Joseph Biden and I are discussing the possibility of a measure authorizing the President to use up to a specified number—perhaps 2,000 armed forces personnel—who could be used by the President if the United Nations Security Council calls for action.

Under our proposal, these would be volunteers from our armed forces, who would be made available at the discretion of the President to help get food into Somalia, or provide air cover for food and medicine going into Bosnia—or whatever situation is serious enough to warrant United Nations Security Council action.

UN Security Council measures cannot be passed if any one of five nations—including the United States—vetoes it. UN actions have not been frequent.

The Biden-Simon proposal would permit the United States to participate with a limited use of force without further authorization from Congress.

My guess is that occasional, small uses of international force will be necessary in the coming decade.

History suggests that when an empire shrinks or collapses, small wars and difficulties sometimes follow. When the British left the Indian subcontinent, it broke into two nations with significant loss of life. When the United States left the Philippines, a mini-civil war eventually erupted. And when both the Soviet and Yugoslav empires collapsed, there has been some chaos, and more can be expected.

We must strive to see that small conflicts do not grow into large wars.

The United States and other nations should assist in that, and the authorization of a limited use of force by our President, when he approves, and if requested by the United Nations, seems the best way to achieve that.

ON CLOTURE ON THE MOTION TO PROCEED TO S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. HATFIELD. Mr. President, earlier today the Senate defeated the motion to invoke cloture on S. 2, the Neighborhood Schools Improvement Act by vote of 59–40. As the author of one of the key amendments incorporated in the Senate version of S. 2, I was disheartened to have to cast my vote against this motion. Two weeks ago I expressed my hope on this floor,

during consideration of the fiscal year 1993 Labor, HHS, Education Appropraitons bill, that the conference agreement on S. 2 would reflect the will of the Senate on eduction flexibility. Unfortunately, the final outcome failed to satisfy this test.

Last January the Senate voted 95–0 to support the concept of education flexibility as an amendment to S. 2. As the sponsor of this legislative effort, I was pleased with the overwhelming endorsement of my colleagues to give States and local school districts the freedom to use Federal funds in the most effective ways possible. On a bipartisan basis, we joined together to support the thousands of quality educators across the country in their efforts to reduce the Federal regulatory burden in order to proceed with the important task of educating our young people.

The goal of the Senate ed-flex provision was to allow 50 local, education agencies in 6 States the opportunity to experiment with Federal flexibility on a limited basis. School districts, including both elementary and secondary schools, could apply for regulatory waivers in the following programs: chapter 1, chapter 2, the Dwight D. Eisenhower Mathematics and Science Education Act, the Follow Through Act, sections of the Stewart B. McKinney Homeless Assistance Act and the Carl D. Perkins Vocational and Applied Technology Act. Civil rights protections would not be waived under any circumstances, not would the flexibility waivers impact Federal funding allocations to these critical programs. In exchange for a loosening of the Federal regulations, educators would be carefully monitored and required to demonstrate edcuational achievement through out the duration of the waiver period.

The House also incorporated educational flexibility into their companion legislation on this matter. However, their demonstration program was limited to a total of 300 schools nationwide and mandated the creation of local reform committees to oversee the flexibility program. The House also included a limitation on the program restricting waivers only to those institutions which are affiliated with chapter 1. While most elementary schools do participate in the chapter 1 program, the majority of the Nation's secondary schools do not. Unfortunately, the House provision remained in the final version of the conference report, thereby limiting a small demonstration program even further by restricting the waiver authorization to solely chapter 1 institutions. In my State of Oregon alone, only 13 percent of chapter 1 students are enrolled in secondary schools. This limitation substantially reduced our ability to have a well-rounded demonstration opportunity in flexibility.

At this point, Mr. President, I would ask that a list of the percentage of students in chapter 1 programs in secondary schools across the Nation be included in the RECORD. I urge my colleagues to evaluate the impact of this limitation in their own States. Nationally, only 9 percent of chapter 1 students are in secondary schools.

I ask unanimous consent the material be printed in the RECORD.

(See exhibit 1).

Mr. HATFIELD. The intention of any flexibility effort is to lessen the regulatory burden on schools and teachers by allowing certain regulations to be waived which may be impeding real education reform. In return for this flexibility, the Government requires accountability to ensure that Federal dollars are spent as wisely as possible. In essence, the conference agreement is interested in assuring that Federal funds are spent as wisely as possible, but only in programs which effect the disadvantaged. I believe the promise of flexibility includes the disadvantaged, but goes far beyond to include all children affected by elementary and secondary education programs. My amendment to S. 2 was designed as a compliment to deregulation efforts already in place in many States across this country. Today's conference agreement takes us a step backward from the amendment supported in this body by 94 of my colleagues.

As I noted a few weeks ago, I am pleased that the Senate is moving forward on educational flexibility on other fronts. Recently, the Senate Appropriations Committee included language regarding "ed-flex" in H.R. 5620, the supplemental appropriations bill providing disaster relief assistance to parts of the country devastated by recent disasters. Specific provisions were included in that act to allow the Secretary of Education to waive Federal regulations in a variety of education programs in those areas substantially affected by Hurricane Andrew, Hurricane Iniki and Typhoon Omar. While these provisions are limited in application, I believe they will provide significant relief to school officials working to rebuild their educational institutions.

Furthermore, in the fiscal year 1993 Labor, HHS, Education appropriations bill, the Senate Appropriations Committee included report language indicating our support for authorization efforts to enact "ed-flex". The committee has directed the Secretary of Education to report on State initiatives in this area before the fiscal year 1994 appropriations hearings.

Many States throughout the country have joined Oregon and already acted to deregulate education programs in order to permit more time to be spent in the classroom rather than on complying with costly paperwork burdens. Many of the educators in my State—Norma Paulus and the Oregon Department of Education, the Confederation of Oregon School Administrators, the Oregon Education Association—were hopeful that S. 2 would signal the beginning of a commitment from the Federal Government to support State efforts to reduce Federal regulatory oversight complications. Furthermore, many of my colleagues on the Senate Labor Committee—particularly Senators KASSEBAUM, KENNEDY, HATCH, and PELL, and the Secretary of Education as well, were supportive of flexibility efforts. Unfortunately, the final conference agreement did not reflect our collective efforts over the past few months.

Therefore, I will look to the 103d Congress for the opportunity to make substantial strides in education flexibility. I intend to introduce legislation early in the 103d Congress proposing broad Federal educational flexibility. I am confident that the unanimous support of this Senate for the flexibility concept will prevail in the 103d Congress and we will see education flexibility realized for the thousands of educators across this country who believe in the promise it holds.

EXHIBIT 1

Chapter 1 1989–90 Data

State	Total grades 9–12	Percent grades 9–12	Total students
Alabama	3,979	3	130,028
Alaska	311	5	5,760
Arizona	8,842	13	69,570
Arkansas	3,021	4	67,223
California	179,783	16	1,140,074
Colorado	3,361	9	37,516
Connecticut	6,017	12	49,174
Delaware	190	2	10,416
District of Columbia	967	7	12,922
Florida	4,401	3	172,290
Georgia	4,815	3	142,527
Hawaii	1,152	8	14,966
Idaho	1,981	8	23,741
Illinois	20,010	13	155,369
Indiana	4,496	5	96,963
Iowa	1,012	3	39,436
Kansas	2,022	6	35,505
Kentucky	5,111	5	99,675
Louisiana	1,277	1	102,437
Maine	534	2	25,597
Maryland	558	1	67,923
Massachusetts	7,181	10	75,350
Michigan	6,660	5	143,270
Minnesota	1,385	2	64,329
Mississippi	12,812	10	123,634
Missouri	860	1	72,345
Montana	3,395	24	14,072
Nebraska	1,865	7	28,565
Nevada	433	4	9,861
New Hampshire	720	6	12,483
New Jersey	23,609	14	174,868
New Mexico	2,800	8	34,092
New York	60,797	17	363,587
North Carolina	7,142	6	114,687
North Dakota	621	6	10,192
Ohio	2,344	2	138,027
Oklahoma	2,779	5	59,072
Oregon	6,230	13	46,255
Pennsylvania	21,387	10	217,618
Rhode Island	1,236	8	14,571
South Carolina	4,009	7	57,803
South Dakota	583	4	14,564
Tennessee	1,521	1	107,734
Texas	20,153	5	417,601
Utah	999	3	29,418
Vermont	515	5	10,063
Virginia	509	1	70,485
Washington	4,847	8	62,132
West Virginia	412	1	33,087
Wisconsin	7,036	10	69,602
Wyoming	270	6	4,877
Puerto Rico	19,840	9	210,483
Bureau of Indian Affairs	4,055	25	15,998
Nation	482,845	9	5,327,837

IN SUPPORT OF S. 2575, THE VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1992

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join with committee chairman, Senator CRANSTON, in support of the Veterans Health Program Improvement Act of 1992. This bill makes meaningful and essential changes which ensure quality of health care that our Nation's veterans deserve.

As reported by the committee, this bill has seven titles which address issues of concern to veterans and the health system that serves their needs. It improves nurses' pay, heightens awareness of preventive health services, corrects inequities in the State veterans homes, and enhances the health care needs of the rural veteran population. It also establishes demonstration programs for veterans to obtain better access to telephone services within the VA medical centers. In addition, the bill addresses the escalating prices of prescription drugs purchased by VA and deals with several expiring VA authorities.

NURSE PAY AMENDMENTS

Title I contains provisions to address concerns and problems in implementing the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366. That act was designed to help VA overcome difficulties in the recruitment and retention of nurses within the VA health care system by making salaries competitive with the private sector by requiring VA to establish a locality pay system covering registered nurses and certified registered nurse anesthetists.

Mr. President, it is critical to the quality of VA health care that professional nurses receive fair wages in today's competitive health care market. Many VA nurses have suffered salary inequities during the past year and have waited patiently for their recommendations to be heard. Title I addresses their concerns to ensure that veterans receive the benefit of the highest quality of nursing care.

PREVENTIVE HEALTH CARE

Title II of S. 2575 focuses on the provision of preventive health care services within VA. Originally introduced as S. 2740, this section would serve to elevate the status and priority placed upon preventive health services in the overall package of comprehensive health care services VA provides.

Mr. President, I continue to support efforts to improve preventive health services both within and outside the veterans health care system. Title II takes an appropriate step in that direction.

STATE VETERANS HOMES FACILITIES

Title III contains provisions which would correct an inequitable situation that exists under current law with respect to veterans in State veterans homes who receive needs-based pension and who participate in compensated work therapy [CWT] or incentive therapy [IT] programs. This title of the bill would clarify that a veteran's participation in a State home incentive therapy or Compensated Work Therapy Program would affect neither the veteran's eligibility for pension, nor its amount.

RURAL HEALTH CARE CLINICS

Title IV of the bill would require VA to furnish health care services in geographically remote areas by utilizing a variety of modes of health care delivery. This title allows for great flexibility in determining the appropriate means of providing access to health care for rural veterans, and I am pleased to support its adoption.

Mr. President, it is worth noting that the mobile clinics scheduled for delivery this September pursuant to the Mobile Clinic Pilot Program established in Public Law 100-322 were quickly put to the test to help out victims of Hurricane Andrew in Florida recently. Three fully staffed VA mobile clinics were flown and driven to the site of the disaster in south Florida to provide onsite, mobile health care to victims of the hurricane. I commend the VA employees who participated in this mission.

TELEPHONE USE DEMONSTRATION PROJECT

Title V of the bill would require VA to establish demonstration projects in the VA medical centers in Philadelphia and Tucson to determine the feasibility of bedside telephone installations in patient rooms throughout the VA system of 171 medical centers.

The time has come for VA to provide, on a system-wide basis, the same sort of telephone service—bedside service—that has become the norm in most hospitals. VA shares that goal. Nonetheless, I am informed that a number of technical and cost issues must be addressed before VA can proceed. Therefore, this bill directs VA to install bedside telephones in the VA medical centers in Philadelphia and Tucson as demonstration projects in order to assess those issues. Once such assessments have been completed, VA will then be in a better position to determine how it will proceed on a nationwide basis.

PRICES FOR DRUGS AND BIOLOGICALS

Title VI of the bill addresses the current crisis in VA's drug costs by establishing a set of limits on the prices VA and other Federal entities will pay for drugs and biologicals. While I applaud the hard work that went into this compromise crafted by Senators CRANSTON, MURKOWSKI, ROCKEFELLER, and SIMPSON, I am, frankly, troubled by the fact that this provision was not subject to the normal hearing process due such an important measure, and I am withholding an objection with some reservation. Nevertheless, having had an opportunity to study title VI, it is my judgment that it represents a meaningful way in which to deal with the problems our veterans face because of increased drug prices, and I am consenting to it because of the urgent need for action on this important subject.

There is no doubt, Mr. President, that VA drug prices have increased dramatically over the past few years. In Pennsylvania alone, VA hospital directors reported shortfalls in fiscal year 1991 totaling nearly $2 million in their pharmacy budgets which they attributed to price increases. Those shortfalls have resulted in cutbacks both in the veterans who can be treated as well as in important maintenance programs.

Title VI is one step in dealing with that problem.

Under title VI of the bill, the prices VA pays for most of its drugs would be limited to 76 percent of what wholesalers pay for the same drugs. Because VA has historically enjoyed deep discounts on its pharmaceuticals, and because of the vital mission of our veterans health care system, I believe such a discount is entirely appropriate. The bill would also authorize the Secretary to establish buying groups within the Federal sector, termed unified pharmaceutical award contracts, or "UPAC's." In order to determine the worth of UPAC's, the authorization would be limited to a demonstration program which would end in 1997. Mandatory discounts and buying smart are, in my view, two excellent means for getting a handle on VA drug prices.

There is, however, a second step required. I know that at least part of the escalation in VA's drug prices can be attributed to the Medicaid rebate provisions of the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. Those provisions require rebates to Medicaid purchasers which are computed by reference to the lowest prices negotiated by any purchaser, including VA. The rebate provisions have contributed to this problem by creating a disincentive for drug companies to continue to offer large discounts to VA. I am pleased that the Committee on Finance, led by Senators BENSTEN and PACKWOOD, included a provision in H.R. 11, which the Senate recently passed, which would exempt VA prices from the so-called best price calculation. That is a vital and necessary second step in the process which I was pleased to support.

Title VI is critical to the continued viability of our veterans health care system, and I urge my colleagues to support it.

EXPIRING AUTHORITIES

Finally, Mr. President, title VII of the bill will extend, or make permanent, certain statutory authorities applicable to the VA which have expired in the recent past. I support these measures.

Mr. President a great amount of time and labor went into the committee bill. I would like to thank Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott of the committee's majority staff and Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, Charlie Battaglia, and Tom Roberts of my staff.

Mr. President, no issue has higher priority with me than ensuring the highest quality of care within the VA health care system. The Veterans Health Programs Improvement Act of 1992 takes vital steps in securing this objective.

I urge my colleagues to support this important measure.

EEOC TECHNICAL ASSISTANCE AND TRAINING BILL

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged in further consideration of H.R. 5925, the EEOC technical assistance and training bill; that the Senate proceed to its consideration; that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place, as though read.

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

So the bill (H.R. 5925) was deemed read a third time, and passed.

Mr. METZENBAUM. The EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992 provides for a one-time transfer of $1 million from EEOC's existing appropriation for salaries and expenses to a new technical assistance revolving fund, under which the EEOC may charge fees for education, technical assistance, and training. Once established, the fund would be self-sustaining.

The Technical Assistance Revolving Fund is a creative, deficit-neutral approach to ensure that the EEOC has the ability to provide technical assistance to the employers and individuals who are affected by the laws which are administered by the agency. The money for the fund has already been appropriated through the Commerce, State, and Justice Departments appropriations process. The transfer effected by this legislation is necessary to make that money available for use in creating the fund.

The bill requires that fees could be charged only for specified services, that such fees would be charged on a uniform basis for persons receiving such services, that the fees would not exceed the costs of providing such services, and that with respect to each person receiving such services, the fees would bear a reasonable relationship to the cost of providing such services.

Notably, the EEOC will continue to provide technical assistance at no charge in accordance with its legislative mandate and the availability of appropriated funds. For example, the EEOC will not charge fees to individuals seeking single copies of materials containing basic information about their rights. I ask unanimous consent that a letter from EEOC Chairman Evan Kemp which confirms this commitment be printed in the RECORD.

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

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC, October 1, 1992.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in regard to the Technical Assistance Revolving Fund legislation, H.R. 5925, which is pending in the Labor and Human Resources Committee.

Under existing law, the EEOC currently provides education, technical assistance and training through appropriated funds. These activities are provided to the public at no cost.

As a result of the Civil Rights Act of 1991 and the Americans with Disabilities Act, the EEOC anticipates a 20 to 30 percent increase in charges to process. A workload increase of that magnitude will strain the agency's resources, making it impossible for the EEOC to expand or even to continue the current level of outreach activities.

The Revolving Fund will give the EEOC the ability to charge reasonable fees to particular audiences for certain specialized products and services relating to all of the laws under the EEOC's jurisdiction. The Revolving Fund will help to reduce the demand on appropriated funds, thereby permitting the EEOC to continue and to expand its current free education, technical assistance and training activities.

The Revolving Fund will in no way reduce the EEOC's commitment or legal responsibility to provide free technical assistance and training. On the contrary, it will permit us to increase our outreach efforts.

The EEOC will continue to offer education, technical assistance and training to the general public at no cost. It is our intention that no one will be denied access to these products and services because of lack of ability to pay.

I hope you and the other members of the Senate will support H.R. 5925. Its passage is vital to our ability to inform people of their rights under the law and to educate employers about their responsibilities.

Attached is a list of products and services which the EEOC provides to the public at no cost.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

EDUCATION, TECHNICAL ASSISTANCE AND TRAINING SERVICES PROVIDED BY THE EEOC AT NO COST TO THE PUBLIC

1. Written education/technical assistance materials in FY 1992.

More than two million public information pieces were distributed to the public.

18 new pieces were made available in English, Spanish, Creole and Mandarin Chinese (also understood by Vietnamese-speaking individuals).

34 ADA-related publications were put into alternate formats: Braille, tape, large print and disc.

2. New educational/technical assistance materials (full listing attached.)

3. New Publications Distribution System (project description attached.)

4. Outward bound transfer capability of toll-free telephone service automatically transfers the caller to the nearest EEOC field office (14,000 to 22,000 calls per month).

5. Speakers Bureau—Approximately 100 professional staff members are available upon request to speak to audiences about the laws under the EEOC's jurisdiction.

6. Field office outreach.

Six field offices have each established one program analyst position for a pilot program of outreach to underserved populations.

In the first, second and third quarters of FY 1992, 1749 field staff members made presentations to approximately 125,000 individuals, including members of civil rights groups, advocacy groups, educational institutions, trade associations and businesses.

Expanded presence—outreach activities focus on geographical areas with a history of low charge numbers.

7. Technical assistance is available to individuals and groups from the Office of Legal Counsel.

8. Attorney-of-the-day—Staff members in the office of Legal Counsel are available on a rotating basis to assist with technical assistance questions from field office staff.

9. The Office of Communications and Legislative Affairs provides information, both written and verbal, to Congress, the public, and print and electronic media.

Mr. METZENBAUM. This legislation will help the EEOC accomplish its enforcement responsibilities under the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and other civil rights legislation within its jurisdiction. Compliance begins with understanding the law. My hope is that as a result of the increased education, training, and technical assistance made possible through this legislation, employers will be better informed of their legal obligations, and compliance with these laws will be improved.

THE SCIENTIFIC AND ADVANCED TECHNOLOGY ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1146, a bill to establish an advanced technician program, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in intenational trade, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 3390

(Purpose: To establish programs at the National Science Foundation to strengthen and improve the scientific and technical education capabilities of associate-degree-granting institutions, and for other purposes)

Mr. EXON. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Ms. MIKULSKI, for herself and Mr. COCHRAN, proposes an amendment numbered 3390.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as

the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3390) was agreed to.

Ms. MIKULSKI. Mr. President, I rise today to urge my colleagues to support S. 1146, the Scientific and Advanced Technology Act.

We are in a war for America's future. And winning that war depends on having jobs today and jobs tomorrow. Jobs for the nineties and jobs for the 21st century. And we must have a work force that is job-ready for a high-tech future.

This bill will help students get ready to compete in the global marketplace. This is particularly true in the fast-changing fields of science and technology.

Yet in a time of increasing demand for science and technology, study after study has shown that we are falling behind in training students in science, math, and technology.

We are facing a critical shortage of young people who are capable and willing to major in science and engineering.

In addition, more women and minorities than ever before are entering the work force.

One study found that by the year 2000, about a quarter of all jobs as we know them today will disappear—these are current jobs that do not require a high school diploma.

And the new jobs that will take their place will be different. They will require more scientific training and more advanced technical skills.

These new jobs are not all going to Ph.D. scientists—they are going to skilled technicians who will be the backbone of our scientific and technical infrastructure.

Mr. President, the efforts of Government, private industry, and our associate-degree colleges will all be needed to address this critical need.

This bill addresses this challenge. It authorizes the National Science Foundation to expand and improve advanced technician training programs in associates-degree-granting colleges.

Mr. President, my bill does this through three very important competitive grant programs—and these are not designed to be Government giveaways, associates degree colleges must match funds in either in-kind contributions or other funding.

The first competitive grants program involves grants to associates-degree colleges to provide technical training and education in advanced technology fields.

Awardees will enter into innovative private industry or local government partnerships, improve faculty competence in advanced technology fields, or upgrade laboratory instruments.

This is important because associate-degree-granting colleges are in a unique position to work with local industry.

They can return workers, meet the needs of industry, and create jobs for local people who may need training or retraining.

But they cannot do this without the right equipment and faculty. If the tools of education aren't state-of-the-art, how can education be state-of-the-art?

In my own State of Maryland, Dundalk, Community College has been working with private industry to meet their training needs, but had to turn away one large company in need of advanced technology training for its employees because it did not have the facilities.

The second kind of grant strengthens the relationships between associate-degree colleges and secondary schools. It is designed to improve the teaching of math and science at the high school level.

It also has another important benefit. A stronger relationship between colleges and high schools will help students to focus on their future, give them direction and help them set goals to get there. This vision is important. Some students cannot see themselves going on to a 4-year college or university, but could see themselves becoming highly skilled technicians.

The third kind of grant strengthens the relationships between 2-year and 4-year colleges.

As college costs continue to grow, more and more students start out at local 2-year schools.

Among minorities, in particular, as many as half of students who go on after high school begin at 2-year schools.

Strengthening partnerships between 2-year and 4-year schools will help students move between schools and will increase the numbers of bachelors degrees in math, science and engineering.

Mr. President, my bill does one more important thing. It directs the National Science Foundation to establish, on a competitive basis, up to 10 centers of scientific and technical education. These centers will be located at institutions that are already recognized for their excellence. The centers will serve as national clearinghouses for education and training programs.

Mr. President, we must not close our eyes to the looming shortage of skilled scientific and technical workers.

We must better prepare for this technologically advanced competitive global economy.

This bill is an important step in developing the skills needed for technological industry.

I urge my colleagues to join me in this effort to develop our technological skills infrastructure and to prepare our work force for the future.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1146

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 "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and sup-

port access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

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

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

The motion to lay on the table was agreed to.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 755, S. 3155, a bill to establish the National Indian Policy Research Institute.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3155) to establish the National Indian Policy Research Institute.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

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 "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.

[(4)] *(5)* Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

[(5)] *(6)* The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than **[36]** *60* months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. *In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.*

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—*(1)* The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.

(e) FELLOWSHIPS.—The Institute shall, consistent with the availability of funds, and resources and procedures established by the Board of Directors, provide fellowship opportunities for students of Indian policy at tribal colleges and other institutions of higher education and experienced policy experts in order to make it possible for such fellows to dedicate their time and energies to researching significant public policy issues.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public and private agencies, organizations, institutions, and [individuals, and, at the request of a tribal government or tribal governments, to receive grants and contracts from Federal agencies on the same basis as a tribal organization as defined and provided for by the Indian Self-Determination and Education Assistance Act] *individuals*;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) [Six] *Seven* individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and [6] *7* individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.

[(B)] *(C)* The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection [(a)(1)] *(a)(1)(A)*, the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all [12 members are appointed.] *members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.*

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) [4] *5* shall have a term of office of 12 months;

(B) [4] *5* shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of the Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Commit-

tee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) shall make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with, and make grants to—

(1) tribally-controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

[(2) the United Tribes Technical College and Southwest Indian Polytechnic Institute;]

(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

AMENDMENT NO. 3391

(Purpose: To delete authorizations for grants and a fellowship program and to clarify that the Resource Advisory Council is only an advisory council, having no executive functions)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. INOUYE, proposes an amendment numbered 3391.

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

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

The amendment is as follows:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3391) was agreed to.

Mr. INOUYE. Mr. President, the Select Committee on Indian Affairs was informed of the administration's views on S. 3155 only after the bill was ordered favorably reported on September 25. It is to meet the objections of the Department of Justice to S. 3155 that this amendment is being offered.

The Department of Justice had objected to a provision authorizing the grant of fellowships by the National Indian Policy Research Institute, since its board is not made up of persons appointed by the President, but would be carrying out a governmental function. The amendment would eliminate the authorization for the Institute to award fellowships.

Second, the Department objected, on the same grounds, to the provision authorizing the Institute to make grants to tribally controlled community colleges and other postsecondary institutions. The amendment deletes that grantmaking authority.

Third, the Department pointed out the need to clarify that the Resource Advisory Council was only advisory, possessed no executive function, and could not be required to make recommendations to the Congress. The amendment clarifies the advisory role of the Council and removes any obligation for the Council to make recommendations to the Congress.

The PRESIDING OFFICER. The bill is open to further amendment. If there

be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3155

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 "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.

(5) Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

(6) The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than 60 months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—(1) The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public

and private agencies, organizations, institutions, and individuals;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) Seven individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and 7 individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.

(C) The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection (a)(1)(A), the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) 5 shall have a term of office of 12 months;

(B) 5 shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council, which is advisory only and exercises no executive authority—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) may make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of

any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with—

(1) tribally controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

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

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

The motion to lay on the table was agreed to.

CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS OF 1992

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 701, S. 2970, the Cash Management Improvement Act Amendments of 1992.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2970) to amend the Cash Management Improvement Act of 1990, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act" and inserting "with regard to each State, by July 1, 1993";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four" and inserting "Five".

SEC. 3. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 4. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

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

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "and that the agency has made reasonable efforts to obtain payment of such debt." and inserting in lieu thereof "; and"; and

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

"(5) certifies that reasonable efforts have been made to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 5. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to

amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

SEC. 6. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall become effective on the date of enactment of this Act.

AMENDMENT NO. 3392

(Purpose: To amend the Cash Management Improvement Act of 1990, and for other purposes)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Mr. GLENN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. GLENN, proposes an amendment numbered 3392.

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

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

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

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

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

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

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3392) was agreed to.

Mr. LIEBERMAN. Mr. President, on behalf of Chairman GLENN, I rise today to clarify one question that has been raised regarding the provisions extending the private counsel pilot project. Some have raised fears that the Department of Justice would be required by this legislation to shut down the project to resolicit Requests for Proposals. This is not the intent of the legislation or of the committee.

It is not the intent of the committee to interrupt ongoing debt collection activities being carried out under the private counsel pilot project. It is the intent of this legislation to allow the Attorney General to administer the project to ensure its smooth and continuous operation, including, if the Attorney General deems it appropriate and to the extent necessary to ensure such smooth and continuous operation, to permit the Attorney General to extend contracts currently in existence with private counsel. The Attorney General is granted such authority, however, only for such time as is necessary to carry out a full and open procurement for private collection services in those areas where contracts are expiring. This legislation in no way creates an indefinite waiver of competition requirements.

The committee recognizes, however, that the Department is also currently conducting its procurement of a new nationwide Central Intake Facility, and that it may not be possible to begin the procurement of new private counsel contracts to replace existing contracts until after completion of the CIF procurement. If the Attorney General deems it necessary to delay the start of those procurements pending completion of the CIF procurement, nothing in this legislation requires him to do otherwise.

Mr. President, I also want to make it clear that the committee is pushing this legislation forward on the basis of representations it has received from the Office of Management and Budget that this legislation will not cause a sequester. The Office of Management and Budget has told the committee that it will score this legislation as increasing outlays by $75 million in fiscal year 1993, and as increasing offsetting revenues by $80 million for the same year. Thus, the net effect of this bill in fiscal year 1993 is to increase revenues by $5 million.

In addition, OMB has told the committee that over the 5-year budget period, it expects this legislation to raise revenue by a total of $36 million. It is important to note that none of these increases in revenue come from additional fees or taxes, but simply through improving collection of debts already owed the Federal Government.

Mr. President, this is legislation that needs to be passed before we adjourn. I have been contacted by the top three financial management officials in the Connecticut State government asking us to pass this bill. I urge my colleagues to do so.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to engrossed for a third reading, was read the third time.

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5377, the House companion, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 2970, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 5377) was passed.

Mr. EXON. Mr. President, I ask unanimous consent that Calendar No. 701 indefinitely be postponed.

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

PEACE CORPS REAUTHORIZATION

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3309, introduced earlier today by Senator CRANSTON, reauthorizing the Peace Corps; that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

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

So the bill (S. 3309) was passed, as follows:

S. 3309

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

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.".

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

"(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on

Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

S. 3309: PEACE CORPS AUTHORIZATION

Mr. CRANSTON. Mr. President, I have today introduced S. 3309, legislation relating to the Peace Corps which contains provisions previously reported by the Foreign Relations Committee and passed by the Senate as title XII of the conference report on H.R. 2508, the proposed International Cooperation Act of 1991. As my colleagues are aware, the conference report on H.R. 2508 will not be enacted during this Congress for reasons unrelated to the Peace Corps provisions. The provisions of this bill are noncontroversial and would make needed administrative and programmatic improvements to the Peace Corps operations, and I urge my colleagues to support its passage.

Mr. President, the provisions in this bill were derived from S. 1042, a fiscal year 1992 authorization bill I introduced in the first session of the 102d Congress with the cosponsorship of the chairman of the Foreign Relations Committee, Senator PELL, committee members, Senator WOFFORD and Senator SIMON, and Senators DECONCINI, ROCKEFELLER, and BOREN. The provisions of S. 1042, except for section 4 of the bill, relating to the crediting of Peace Corps volunteer service for Federal retirement purposes, were approved by the Foreign Relations Committee at the committee's June 11, 1991, markup, and reported favorably by the committee in title XI of S. 1435, an original bill comprised of provisions from numerous initiatives that had been referred to the committee. The text of S. 1435 was passed by the Senate on July 26, 1991, as a substitute amendment to H.R. 2508. Thereafter, the Senate-passed Peace Corps provisions were included in title XII of the conference report on H.R. 2508, which also included an amendment to authorize the Peace Corps to carry out programs in the sovereign States of the former Soviet Union. That provision would not require any Peace Corps action and, thus, would not violate the Congress' longstanding practice of not mandating particular Peace Corps programs.

The Senate passed the conference report on H.R. 2508 on October 8, 1991, but on October 30, 1991, the House voted down the conference report because of matters unrelated to the Peace Corps provisions.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 1 of the bill would amend section 3 of the Peace Corps Act to authorize a fiscal year 1993 appropriation of $218,146,000 which would be available through September 30, 1994. This is the amount that was requested by the administration and has been approved by both the House and Senate, though final action on the foreign operations appropriations bill has not been taken and would allow for progress towards achieving the congressionally mandated goal of 10,000 volunteers established in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83.

I note that section 1 would provide for fiscal year 1993 funds to be spent through the following fiscal year, which would provide the Peace Corps with added flexibility to plan programs for more than a 1-year period. When the Peace Corps makes plans to enter a new country or accept a new group of volunteers, the agency is making a commitment of at least 2 years to both the country and the volunteers. Requiring a wait-and-see approach to funding each year causes underutilization of resources and a failure to achieve steady and well-planned growth. I note that the administration's fiscal year 1992 and fiscal year 1993 budget requests included a similar

proposal to allow funds appropriated in each of those fiscal years to remain available through the following fiscal year.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. President, section 2 of the bill would establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar. One significant factor that has slowed progress toward the 10,000 volunteer goal has been the decreased value of Peace Corps funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, then-Director Ruppe stated that, due to the falling dollar, $1.5 million was lost in fiscal year 1989. The Peace Corps has recently advised that, in fiscal year 1990, $2.1 million was lost to foreign currency fluctuations and an additional $2.1 million was lost in fiscal year 1991. In order to avoid such losses in the future, section 3 of our bill would establish a foreign currency fluctuations account for the Peace Corps patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138(c). The bill would authorize appropriations of amounts sufficient to maintain a balance of $5 million in the account. Such a foreign currency fluctuations account would help to ensure that, by stabilizing Peace Corps fiscal support, the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar rises to offset losses in other years in which the dollar drops.

PEACE CORPS HEALTH CARE SERVICES

Mr. President, section 3 of the bill would require independent evaluations of health care services for Peace Corps volunteers and the submission of reports on such evaluations to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The Peace Corps annually provides complete healthcare services to approximately 6,000 volunteers and trainees worldwide. Each Peace Corps country program is required, before volunteers arrive, to establish a medical office, which is staffed by a Peace Corps medical officer and usually one other person. The country director is responsible for recruiting the medical staff, and the Peace Corps' Washington office of medical services provides hiring criteria and advice on the applicants. A degree from a medical or nursing school accredited in the United States is not required of Peace Corps medical officers. Within each Peace Corps country, local healthcare facilities are identified to serve as referral facilities for healthcare problems that the medical officer is not equipped to handle, and, in the cases of severe medical problems or emergencies for which there are not adequate hostcountry facilities, the volunteer is evacuated to either a nearby Peace Corps country or to the United States for care.

Mr. President, a General Accounting Office [GAO] review of the Peace Corps' healthcare system, conducted at the request of Sen. INOUYE and completed in July 1991, found several deficiencies in that system, including inadequate systems to monitor the quality of health services provided to volunteers. Among GAO's recommendations published in its July 1991 report, entitled "Peace Corps: Long-Needed Improvements to Volunteers' Health Care system," was that regular outside reviews of Peace Corps' healthcare system should be conducted. The Peace Corps, in response to that recommendation and at the strong urging of the Senate Appropriations Subcommittee on Foreign Operations and earlier Senate and House passage of this provision, has initiated a process of improving and monitoring its healthcare system and has contracted for a series of independent evaluations as proposed in section 3. I am pleased that the Peace Corps has taken these steps. Section 3 of the bill would ensure that the evaluations are completed and that the responsible congressional committees are fully informed of the results in a timely way.

FEDERAL EMPLOYMENT COMPENSATION CLAIMS

Mr. President, section 4 of our bill would require a report on Peace Corps and Department of Labor activities regarding the claims of disabled former volunteers for Federal workers compensation benefits.

If a Peace Corps volunteer contracts a disease or becomes disabled during Peace Corps service, he or she is eligible for assistance under the Federal Employees' Compensation Act [FECA], administered by the Department of Labor. The FECA applies generally to civilian employees of the United States and, under section 8142 of title 5, United States Code, to Peace Corps volunteers during their term of service and provides, among other benefits, medical and compensation benefits for health problems and injuries sustained in the performance of duty.

Mr. President, although the FECA provides medical coverage to Peace Corps volunteers for their service-related health problems, it appears that many eligible volunteers may not be aware of their eligibility for FECA benefits. GAO found, based on a GAO survey of former volunteers, that from 10 to 30 percent of former volunteers had medical problems related to their Peace Corps service, and about 50 percent of them had not filed a FECA claim. Since the GAO report was issued and this provision was first passed by the Senate last year, the Peace Corps has initiated improvements in both disseminating information regarding FECA benefits and coordinating individual casework with DOL.

Section 4 would require that the Director of the Peace Corps and the Secretary of Labor jointly submit to the Senate Foreign Relations Committee and the House Foreign Affairs Committee a report on these issues. The report would focus on the coordination between the Peace Corps and Department of Labor in providing information to Peace Corp applicants and volunteers regarding the benefits and services to which they may be entitled, or for which they may be eligible, in the event they are injured or become disabled during service and in processing FECA claims filed by volunteers or trainees. The report would also be required to include recommendations to improve the information and services provided to Peace Corps volunteers and trainees in connection with FECA benefits. Requiring the two agencies to examine their coordination in providing information to applicants, trainees, and volunteers may result in improved services from both agencies for those who must pursue benefits under the FECA.

CONCLUSION

Mr. President, this legislation would make needed administrative and programmatic improvements in the Peace Corps' operations, and I urge all of my colleagues to support its passage.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993—CONFERENCE REPORT

Mr. EXON. Mr. President, I submit a report of the committee of conference on H.R. 5095 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 30, 1992.)

Mr. BOREN. Mr. President, the House of Representatives has approved the conference report on H.R. 5095, the Intelligence Authorization Act for fiscal

year 1993, and it has now arrived in the Senate for final action.

The conference report, in fact, does not depart significantly from the bill passed by the Senate several days ago. While several minor changes were adopted to title VII on intelligence organization to meet a few lingering concerns of the administration, the bill retains the basic provisions of the Senate bill, which, as I mentioned earlier, represent the most sweeping changes in the statutory framework for intelligence since 1947. It is a considerable achievement to have reached agreement on this measure, both in the Congress and with the administration, and I am very pleased to bring it to this body for final passage in this, my last year as chairman of the Intelligence Committee.

I also want to acknowledge the excellent contribution made by the House Permanent Select Committee on Intelligence in developing the comprehensive restatement of the law governing the CIA Retirement and Disability System, which is also contained in the conference report. Our experts believe it clarifies existing law and brings CIA's Retirement System in line with other Federal retirement programs.

Last, but perhaps most important of all, the conference report achieves a significant reduction in the budget for intelligence without sacrificing real strength or flexibility. We have cut back where it makes sense to cut back, but have preserved the capability we need to cope with a volatile and dramatically changing world. Further cuts may yet be desirable in the future, but I believe this year's bill represents a prudent beginning to downsizing U.S. intelligence capabilities. This process must be gradual and managed carefully, else we may find ourselves in need of lost capabilities which cannot be quickly rebuilt or can be rebuilt only at great cost.

This, then, Mr. President, brings me to what is likely to be my last official act as chairman of the Select Committee on Intelligence, final passage of the conference report on this year's authorization. It has been for me an interesting and rewarding 6 years. I think the committee's record of accomplishment speaks for itself. I thank my colleagues for their support and encouragement, and for allowing me the opportunity to have served in this capacity.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

HUMANITARIAN SITUATION IN SUDAN

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 140 submitted earlier today by Senators SIMON, KASSEBAUM, and others, relating to humanitarian relief and the human rights situation in Sudan; that the concurrent resolution be agreed to, the preamble be agreed to; and that the motions to reconsider be laid upon the table en bloc.

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

So the concurrent resolution (S. Con. Res. 140) was agreed to, as follows:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

Resolved, That the Senate (The House of Representatives concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system, to ameliorate the humanitarian situation in Sudan.

THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, as the preeminent leader of the international community, the United States must take all means at its disposal to highlight the severe human rights abuses now occurring in Sudan. Three hundred thousand innocent civilians are now caught in a vice in the southern Sudanese city of Juba, where they are being used by the Sudanese military as human shields, or hostages, against a siege of the city being mounted by the opposing Sudan Peoples' Liberation Army. Elsewhere in Sudan, the government is conducting an ethnic cleansing operation against an indigenous group, the Nuba. Additionally, for months the Sudanese authorities have been pushing internally displaced people in the city of Khartoum out to woefully inadequate camps in the surrounding desert, virtually casting hundreds of thousands out to cling to life in the desert or die as the case may be. We must do all we can to let the world know of the cruelty and inhumanity of the Sudanese Government before it is too late for countless numbers of suffering people.

Some months ago I warned by colleagues on the Senate floor that while the situation in Bosnia-Hercegovina was indeed tragic, the world could not ignore similar but even more desperate human suffering in Somalia. After 10 months of writing letters, holding hearings, passing resolutions, making calls to the United Nations and to the administration, the international community, including the United States, has finally committed large-scale re-

sources to try to save millions from starvation in Somalia. Without pointing fingers at the guilty parties, it is critical that we learn from our mistakes in Somalia, where sufficient political will to help was absent until literally a few weeks ago. Now, the statistics in Somalia are staggering: perhaps as many as 2,000 people are dying daily, and truly gruesome pictures of human suffering reiterate the need for the United States and the international community to ensure that people are fed and the lives of innocent civilians protected. But because of our delay, even all of the resources committed to Somalia may not save hundreds of thousands of people from starvation.

We must not let such indifference occur again, this time in Sudan. I want to take this opportunity to send a signal to my colleagues, the administration, and the public that just as we are rightly concerned with the issue of ethnic cleansing in Bosnia, we must also focus our attention on similar abuses in Sudan. At the end of 1991, human rights groups and relief workers warned us that the Nuba peoples of southern Kordofan province faced the destruction of their ethnic identity. According to reports of Africa Watch and others, including the State Department, these abuses have worsened in 1992. The Sudan Government appears to have declared a holy war on the Nubians. While outside access to the Nuba Mountains has been tightly restricted, reliable information indicates a campaign of horrifying dimensions, with villages burned, people killed, and forcible relocation of the population from their ancestral homeland to camps in the northern part of the province.

Another disturbing action by the Sudanese officials is the relocation of some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city. There are reports that an additional 250,000 will also be pushed out to the barren camps, where facilities for food, water, and shelter are reportedly wretched and incapable of handling such large numbers. Access to these camps by many international relief agencies has been severely restricted. We do not have a grasp yet of the scope of the suffering, but it is reasonably safe to say that the lives of all those in the camps is in jeopardy.

As if the situation with the displaced in the Khartoum region and among the Nuba were not bad enough, in the southern city of Juba, an additional 300,000 civilians have been forced by the Sudanese army into a small sector of the city to serve as hostages, or shields, against the opposing forces of the Sudan Peoples' Liberation Army, which is besieging the city. All foreign relief workers and missionaries were expelled from Juba in August, and they brought with them credible stories of summary executions conducted by the Sudan army against the captive civilians. In late September, the United States learned that one and possibly two of its local employees of USAID were executed in Juba, reportedly for treason. We do not know precisely who killed the USAID employees, but evidence points to the Sudan military. These two individuals, U.S. Government employees, were among 13 Sudanese nationals working with AID to alleviate suffering among those civilians entrapped in Juba.

The civilian hostages in Juba are fed by intermittent relief flights to Juba. If the relief supplies are cut off, there will be certain and early death for thousands among the captives too frail to endure prolonged suffering, such as children, the ill and the elderly. With a sustained cutoff of relief sources, all of the 300,000 lives are at risk.

The Khartoum displaced, the Nubas and the people of Juba cannot be ignored. We as Americans must lead in an international effort to focus attention on the human rights abuses being perpetrated by the authorities in Khartoum. I am introducing today in the Senate, with cosponsorship from my colleagues, Senators PELL, HELMS and KASSEBAUM, a resolution condemning the Sudan Government for its abuses and calling upon the President to work with the U.N. Secretary General to bring this issue up for debate in the Security Council. The introduction of this resolution on Sudan is but the first step; we must thereafter unite to keep the focus on Sudan, just as we have done in Bosnia and now in Somalia.

NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4841, a bill granting the consent of the Congress to the New Hampshire-Maine interstate school compact, and that the Senate proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 4841) was deemed read three times and passed.

NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. MITCHELL. Mr. President, I rise in support of H.R. 4841, a bill granting formal consent to two towns in Maine and New Hampshire to consider the creation of a unified interstate local school district.

This proposal needs congressional approval because of a Constitutional provision in article I:

> No state shall, without the consent of Congress, * * * enter into any agreement or compact with another state, or with a foreign power * * *.

This bill fulfills that constitutional requirement and allows the compact between Maine and New Hampshire to take effect. With its enactment, the State Education Commissioners can set up a planning committee to explore the possibility of a unified school district.

The movement for education reform and change is a grassroots movement throughout the Nation. Principals and teachers, parents and students alike are searching for innovative ways to improve local schools.

Movements for reform range from curriculum changes and innovative programs to the nuts and bolts of school operations in an effort to stretch scarce resources further, to use resources more efficiently.

One such effort is the one under way in Acton, ME, and Milton, NH, where both communities are exploring the possibility of an interstate unified school district. Such a district could save both communities money and allow a greater share of local resources to be devoted to improved instruction, equipment and curriculum.

The ultimate decision to create such a unified school district will be made by the people of the local communities directly affected, through a referendum.

But in order to hold that referendum, Acton and Milton need the formal consent of the Congress to consider an interstate school district. That legislation, H.R. 4841, is now before us.

It has been approved by the House of Representatives and will pass the Senate today. It will give the people of Acton, ME and the people of Milton, NH, the right to explore a promising avenue for administrative savings that could lead to reform and improvement in the local schools.

I am pleased that we are able to complete action on this measure in the 102d Congress, and I look forward with interest to the conclusions of the communities involved as they debate their unified school district proposal.

Mr. COHEN. Mr. President, I am pleased that the Senate is acting today on legislation to allow the development of a Maine-New Hampshire interstate school compact. This agreement has been negotiated for some time, and I now understand that the local towns and schools boards and the Maine and New Hampshire Departments of Education fully support this project.

Currently, the town of Acton, ME, pays tuition for its secondary students to go to the Wells-Ogunquit Community School District, almost 30 miles away. This arrangement, while perfectly acceptable in terms of the quality of education Acton's students receive at Wells High School, has re-

sulted in long hours of travel and high transportation costs, and has raised obstacles to students' participation in extracurricular activities.

This legislation, which has also been approved by the House of Representatives, will enable the towns of Acton, ME, and Milton, NH, to combine their resources and form school districts if such a combination should prove economically and educationally feasible. Discussions to date indicate that the appropriate local officials from both States are working cooperatively to develop a mutually acceptable plan to educate the area's students in grades 9–12. Such a plan could result in financial savings, as well as a more efficient use of educational resources.

Congressional ratification of the compact is only the first step in forming an interstate school district. Many issues have yet to be resolved, including the development of a curriculum that meets the requirements of both States. What happens from here is rightfully in the hands of the local governments, school boards, parents, and teachers. I am certain that this project will demonstrate why we have traditionally placed such confidence in local control of education, as Acton's and Milton's citizens are the best judges of the students' needs.

Mr. SMITH. Mr. President, I rise today in support of H.R. 4841, a bill to grant the consent of Congress to the New Hampshire-Maine interstate compact. Both States approved the compact in 1969 and have since awaited congressional action. I am pleased that our colleagues in the House have approved this measure, and I hope that we can finally conclude this process.

Some of my constituents have expressed to me their concerns that approval of this compact would mandate participation by communities in an interstate school district. This notion is incorrect; passage of this measure would merely allow those communities that wish to formulate interstate districts to do so.

This compact recognizes the expanded educational opportunities that may be offered by school districts that cross State borders. I believe that this legislation represents an important step for the children of New Hampshire and Maine.

I thank my colleagues for supporting this measure.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 752, S. 3157, a bill to provide for a National Native American Veterans' Memorial; that the committee amendments be agreed to; the bill be deemed read a third time and passed; and the motion to reconsider be laid upon the table.

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

So the bill (S. 3157) was passed, as follows:

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 "Native American Veterans' Memorial Establishment Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Americans [of various Indian tribes] across the Nation, have a long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial. The site shall be located on a portion of the lands within the boundaries described in section 7(a) of the National Museum of the American Indian Act.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial [Except as otherwise provided in this Act, the design, location, and construction of the Memorial shall be subject to the Act entitled "An Act to provide standards for replacement of commemorative works on Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).]

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees many accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site on which it is to be located.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Native American" means an Indian, a Native Hawaiian, and an Alaska Native.

(2) The term "Indian" means a member of an Indian Tribe.

(3) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(4) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

Mr. EXON. 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.

ADVISORY COUNCIL OF CALIFORNIA INDIAN POLICY ACT OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calender No. 753, H.R. 2144, the California tribal status bill.

The Senate proceeded to consider the bill (H.R. 2144) to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Act of 1992".

SEC. 2. FINDINGS.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 5. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the Congress, the Secretary, and the Secretary of Health and Human Services; and

(7) make such report available to California Indian tribes, tribal organizations, and the public.

SEC. 6. ACCESS TO DESCENDENCY LISTS.

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80–D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

SEC. 7. POWERS OF THE COUNCIL.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or em-

ployment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(g) NO INFRINGEMENT ON TRIBAL AUTHORITY.—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.

SEC. 8. TERMINATION.

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes.".

CANCER REGISTRIES AMENDMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3312, a bill introduced earlier today by Senator LEAHY and others dealing with the establishment of a uniform system of statewide cancer registries; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

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

Mr. LEAHY. Mr. President, 20 years ago Congress and the President declared war on cancer. That started the Nation on an aggressive campaign of research and cancer control efforts aimed at eradicating this dreaded disease.

We have made significant progress. Overall survival rates have improved, especially among children. Yet today, one in three Americans will be diagnosed with cancer. One in five will die of this harsh disease.

It is time to take a fresh look at our National Cancer Program and put together a new plan to carry us into the next century. Today, the Senate will pass legislation that adds a very potent weapon to that plan. It is the Cancer Registries Amendment Act of 1992 which Congressman SANDERS and I introduced earlier this year.

Our bill sets up a national system of cancer registries that will give researchers the information they need to fight this disease. Many of our States lack statewide cancer registries that record data on the incidence, stage and treatment of cancer. This information is precisely what our researchers say they need to better understand the causes of cancer and how to control it.

The Leahy-Sanders cancer registries bill provides $30 million a year to States to establish or upgrade their cancer registry systems. Planning grants are available to States currently without registries.

Mr. President, our bill also takes aim at one particular cancer that has reached epidemic proportions—breast cancer. Every 3 minutes another American woman will be diagnosed with the disease. Every 12 minutes, another woman in this country will die.

For reasons we do not know, breast cancer death rates are higher for women in Vermont and other Northeastern States than in other parts of the country. Our bill launches a 5-year comprehensive study to find out why this is.

Mr. President, the cancer registries bill passed the Senate earlier this year with overwhelming, bipartisan support as part of the National Institutes of Health reauthorization bill. But President Bush vetoed that important legislation because of his unreasonable opposition to fetal tissue research—research that holds great promise for the treatment and cure of diseases like Alzheimer's, Parkinson's, and juvenile diabetes.

That veto was a bitter disappointment to me and millions of Americans across this country because it sent a signal to us that election year politics is more important than people's lives.

I applaud the Senate for passing the Cancer Registries bill today and taking an important step in bolstering our efforts against cancer. Congressman SANDERS and I are working hard to see that the House takes up this legislation, too, and passes it quickly so that we can get it to the President for his signature.

Mr. President, the Cancer Registries bill has been called the cancer weapon America needs most. The families in this country that have been touched by cancer, and the millions more that face it, should not have to wait another day for this help.

Mr. President, I ask unanimous consent that the bill as amended be printed in the RECORD.

So, the bill (S. 3312) was read a third time, and passed as follows:

S. 3312

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 "Cancer Registries Amendment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) cancer control efforts, including prevention and early detection, are best addressed

locally by State health departments that can identify unique needs;

(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

(b) PURPOSE.—It is the purpose of this Act to establish a national program of cancer registries.

SEC. 3. NATIONAL PROGRAM OF CANCER REGISTRIES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for

the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRIES.—For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for each of the fiscal years 1993 through 1997. Out of any amounts appropriated for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of title IV for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following calendar items, Calendar Nos. 627, 765, 766, 768, and 769; that, where appropriate, the committee amendments be agreed to; the resolutions and preambles be agreed to; that the motions to reconsider be laid upon the table en bloc, and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

COMMENDING THE PEOPLE OF THE PHILIPPINES ON SUCCESSFUL DEMOCRATIC ELECTIONS

The concurrent resolution (S. Con. Res. 134) to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 134

Whereas achieving the first peaceful and constitutional succession of elected presidents is one of the most difficult and important steps in the establishment of democratic government;

Whereas the Philippines, under the leadership of President Corazon Aquino, has successfully completed this democratic transition and, thereby, secured the final victory of the 1986 Peoples Power Revolution;

Whereas Fidel Ramos was a key participant in the 1986 Peoples Power Revolution that ended the Marcos Dictatorship, and subsequently played a crucial role in opposing 6 abortive coup attempts that threatened to overthrow the democratically elected government;

Whereas newly-elected President Fidel Ramos will face the important challenge of continuing the difficult economic and political reforms begun by his predecessor;

Whereas despite a series of natural disasters (including earthquakes, typhoons, and volcanic eruption), the Philippine economy has turned from annual contraction under the previous regime to a yearly growth rate of 3 to 4 percent;

Whereas the American people can be proud of the role the United States has played in helping Filipinos succeed in the reestablishment of democracy in their country and in beginning free market economic reforms; and

Whereas despite the withdrawal of United States Armed Forces from Clark Air Field and Subic Bay Naval Station, the United States and the Philippines continue to be bound together by their Mutual Defense Treaty and to share important security interests in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That in light of the continued strong security and economic interests shared by the United States and the Philippines as well as our deep cultural and historic ties, the Congress—

(1) congratulates Fidel Ramos on his election to the Presidency of the Philippines;

(2) commends the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections;

(3) urges the President of the United States to support strongly continued economic and political reform by the new Philippine Government; and

(4) believes a new era has begun in the United States-Philippine relations and recommends that a post-bases relationship be built on the cooperative pursuit of mutually beneficial goals.

EXTRADITION OF ALOIS BRUNNER

The resolution (S. Res. 150) 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, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 150

Whereas Austrian-born Alois Brunner, who joined the Nazi party at the age of nineteen, was the deputy and personal secretary to Adolf Eichmann, who was personally responsible for sending to their deaths more than one hundred and twenty thousand Jews from Austria, Germany, France, Slovakia, and Greece;

Whereas, in 1938, after Kristallnacht, Brunner joined the Nazi Secret Police and subsequently requested a transfer to the Central Office for Jewish Emigration in Vienna, where he began his career in genocide as Eichmann's personal secretary;

Whereas Brunner helped execute Eichmann's plan for the Final Solution;

Whereas Brunner was particularly brutal toward French Jews, sending to their deaths more than two hundred children from Jewish-operated orphanages, including thirty-four children from Louviciennes;

Whereas, in 1954, Brunner was sentenced to death in absentia by French courts in Paris and Marseilles for crimes against humanity;

Whereas, since 1955, Brunner has lived in Damascus, Syria, under the protection of the Syrian Government and Syrian bodyguards and has assumed the name of Dr. Georg Fischer;

Whereas it is well known that Brunner lives in an apartment at 7 Rue Haddad in Damascus;

Whereas the Syrian Government has frequently denied that Brunner lives in Syria; and

Whereas attempts by Austria and Germany to secure Brunner's extradition from Syria have been unsuccessful: Now, therefore, be it

Resolved, That the Senate urges the President to call on the President of Syria to permit the extradition of the fugitive Nazi war criminal Alois Brunner for trial in Germany.

RELATING TO THE CAPTURE OF ABIMAEL GUZMAN

The resolution (S. Res. 346) to express the sense of the Senate regarding the capture on September 12, 1992, of the Peruvian communist and terrorist leader, Abimael Guzman, and for other purposes, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 346

Whereas Abimael Guzman is the leader of the Maoist communist, terrorist group known as Shining Path;

Whereas Shining Path declared war on the Government of Peru in 1980, and, since that time, has been responsible for tremendous economic devastation and terror and contributed to the death of more than twenty five thousand Peruvian men, women, and children;

Whereas nearly two-thirds of the world supply of cocaine is produced from coca leaf growth in Peru;

Whereas Shining Path promotes and profits from the consumption of illicit narcotics in the United States;

Whereas Shining Path provided armed protection for narcotics traffickers in the Upper Huallaga Valley of Peru;

Whereas Abimael Guzman was captured by the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police of the Government of Peru on September 12, 1992;

Whereas the capture of Abimael Guzman resulted from careful intelligence work carried out under hazardous conditions;

Whereas the capture of Abimael Guzman and several of his immediate subordinates represents an important victory for the Government of Peru in the fight of that government against terrorism and international narcotics trafficking;

Whereas the capture of Abimael Guzman is an important step in the fight against violent anti-democratic forces that have undermined constitutional government in Peru;

Whereas the United States Government has been concerned with the April 5, 1992, decision of President Fujimori of Peru to dissolve the Congress and judiciary of the Government of Peru and to rule by decree; and

Whereas the United States Government has encouraged President Fujimori to move expeditiously to restore constitutional democracy in Peru: Now, therefore, be it

Resolved, That the Senate hereby—

(1) supports the Government of Peru in its determination to fight the violent, anti-democratic terrorist group known as Shining Path;

(2) commends and congratulates the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police who conceived and executed the plan to capture Abimael Guzman, the leader of Shining Path, and several of his immediate subordinates;

(3) encourages the people in all sectors of Peruvian society to commit themselves to the long-term process of overcoming the ravaging social effects of the activities of Shining Path and creating the necessary conditions for the maintenance of a viable constitutional democracy and viable economy in Peru;

(4) encourages the Government of Peru to hold free and fair elections for a constituent assembly on November 22, 1992, under international supervision by the Organization of American States; and

(5) encourages the Government of Peru to continue its efforts to fight terrorism and international narcotics trafficking and to establish the rule of law throughout Peru.

PERU AND THE CAPTURE OF ABIMAEL GUZMAN

Mr. COATS. Mr. President, I am pleased to congratulate the Government of Peru for the capture of terrorist leader Abimael Guzman, on September 12, by members of Peru's Counter-Terrorism Directorate.

Abimael Guzman's terrorist group, Sendero Luminoso, or Shining Path as it is known in English, has shaken Peru's fragile democracy, and has instilled fear in every Peruvian. Since 1980, the Shining Path's terror campaign has cost over 25,000 lives and resulted in $20 billion in economic damage.

Today, people throughout the hemisphere are relieved that Abimael Guzman—the leader of Shining Path—is behind bars in a Lima prison, and is standing trial.

Guzman wants to impose a Communist dictatorship on Peru. A Marxist philosophy professor in a province of Peru, Guzman went to China in 1965, just as it was beginning its cultural revolution. There, he was instructed in the people's war doctrine of Mao Tse Dong, and in how to organize clandestine political and terrorist activity.

When Guzman returned to Peru, he became a leader of the pro-Chinese faction of the Communist Party of Peru. By 1970, he had formed the Shining Path on the precept that Peruvian society had to be absolutely razed to the ground, before it could be recreated in his own image.

Shining Path quickly became a cult of mass murderers. In 1976, Guzman's followers were already training with weapons. By 1980, just as President Belaunde was reestablishing democracy in Peru, Shining Path declared war against the Peruvian people.

Five thousand armed guerrillas ultimately came under Guzman's spell. Guzman tells his followers to idolize Stalin and Mao. He teaches them that the Russians, Cubans, and even the People's Republic of China and North Korea are weak and not true Communists. Guzman tells his followers that they have to "cross a river of blood" in order to build Peru's new society and kill over 1 million Peruvians.

Even more alarming, Guzman's aims extend far beyond Peru. Shining Path seeks to reunite the old Inca Empire. Guzman's terrorists threaten not only Peru, but Ecuador, Colombia, and Bolivia as well.

Mr. President, like so many of the Communist terrorist groups which have plagued Latin America, Shining Path, under Guzman's leadership, finances itself with the proceeds from narcotics trafficking—the trade which has destroyed so many of the young people in the United States.

Peru produces over 60 percent of the world's coca supply, and most of that coca is produced in the Upper Huallaga Valley. By 1986, the Shining Path terrorists gained control of much of the Upper Huallaga Valley. Now they charge both the coca growers and the narcotics traffickers in the valley for protection from their guerrillas. In this way, Shining Path now has steady revenue of up to $100 million annually, and it has access to highly sophisticated war materiel and explosives.

Untold massacres by Peru's Shining Path have driven millions of peasants to flee to the shanty towns around Lima and Peru's other major cities. Car bombs have turned many of Lima's buildings into pockmarked shells. In its July 1992 offensive alone, Shining Path made 293 attacks throughout Peru that left 179 people dead and thousands of other people wounded and homeless. Shining Path epitomizes the connection between terrorism and drugs, death and destruction.

For 12 years, many foreign observers believed that the Shining Path terrorists could not be stopped by the Peruvian authorities. When President Fujimori came to power and vowed to end the menace of Shining Path by 1995, many of his critics scoffed.

Mr. President, the tools the Peruvian Government has at its disposal are inadequate. Most of its soldiers have little counterinsurgency training, few bullets for their weapons, and are paid less than $50 a month.

However, President Fujimori has quietly and methodically laid the groundwork for a counterterrorism strategy which has already begun to pay dividends. Fujimori has streamlined the trial and sentencing process. He has toughened sentences for convicted terrorists and drug traffickers. He has taken steps to overhaul the prison system.

Fujimori has stressed strong intelligence and police detective work, and has tried to capture the terrorist leaders. Even before Guzman was captured, Victor Polay, the leader of Peru's other major terrorist group, the Tupac Amaru Revolutionary Movement, was behind bars.

In fact, Guzman's capture was made possible, in part, because of the previous capture of members of the Shining Path's intelligence apparatus. Such notable Shining Path figures as Elena Iparraguirre, Guzman's second in commnd; German Sipian, Shining Path's national coordinator; and Gilberto Iparraguirre, the head of Shining Path's main hit squad in Lima, have been captured in recent weeks and are all behind bars and awaiting trial.

Abimael Guzman is called the Fourth Sword of Marxism and considered infallible by his fanatical followers. Guzman's capture has destroyed this

myth and revealed this man for what he is: a narcoterrorist and a petty would-be tyrant. Peru's police authorities have decapitated the leadership of Shining Path, and restored some measure of confidence to the people of Peru.

Mr. President, now comes the true test of the policies which President Fujimori has implemented. Can his government hold Guzman? Can it resist corrupt attempts to buy off officials which allow Guzman to escape? Can the Peruvian Government keep Guzman from operating his narcoterrorism ring from his jail cell? I hope so.

Just as President Fujimori is tackling the Shining Path terrorists, so he is attempting to turn around the country's economy. Every member of this body hopes that President Fujimori will firmly establish democracy in Peru. The Peruvian people appear to overwhelmingly support his efforts, and they have continually expressed their approval of his struggle against the terrorists and the drug traffickers. Peru is now laying the foundation for a free and more democratic society. Hopefully, the Peruvians will celebrate another victory on November 22, when they elect a Constituent Congress and begin their work to restore constitutional democracy.

Mr. President, in Peru, we are watching a brave people struggle against seemingly impossible odds. When they've made mistakes, we've let them know about it. When they've needed help, we've given aid, but the Peruvian people have borne the brunt of Sendero's ferocious onslaught and the world has understood little about the ordeal that they have had to undergo.

But the Peruvians have not given up. Despite all their difficulties, they are still fighting for freedom from the terror of drugs and terrorism. They have earned their tremendous victories against the terrorist Abimael Guzman and his followers.

Mr. President, I believe that it is important that we stand up and support publicly those countries who score successes in the war against drugs and terrorism. That is why I offered this amendment.

I specifically want to thank the senior senator from Connecticut for working with me on this amendment. And I thank my colleagues for their bipartisan support.

COMMENDING THE PEOPLE OF THAILAND

The resolution (S. Res. 351) to commend the people of Thailand for successfully conducting peaceful general elections and to congratulate Thailand's prodemocracy parties on their victory, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 351

Whereas on February 23, 1991, a military coup overthrew the democratically elected Government of the Kingdom of Thailand;

Whereas in May 1992, following general elections, Thai citizens in Bangkok peacefully demonstrated against General Suchinda Kraprayoon's appointment as nonelected Prime Minister;

Whereas these unarmed protesters were suppressed violently by Thai military and police forces, ending with the death of forty eight demonstrators, the injury of hundreds, and the disappearance of as many as two hundred and sixty two;

Whereas the steadfast protests led to the resignation of General Suchinda and the establishment of an interim government charged with holding new free and fair general elections;

Whereas in June 1992 the caretaker government ordered an official investigation into the May violence and later removed four senior military officers found responsible for ordering the use of force against the peaceful demonstrators; and

Whereas new elections were held as scheduled on September 13, 1992, with 62 percent of eligible voters participating: Now, therefore, be it

Resolved, That, the Senate—

(1) commends the people of Thailand for their commitment to civilian democracy by supporting peaceful and constitutional elections;

(2) commends Thailand's interim government on its leadership in investigating the May 1992 violence and upholding its commitment to conducting fair elections;

(3) congratulates Thailand's four pro-democracy parties on their victory;

(4) encourages the new government of Thailand to complete the official investigation in the May 1992 events; and

(5) supports resuming United States foreign economic assistance to Thailand once the newly elected government has taken office.

ONGOING VIOLENCE IN SOUTH AFRICA

The Senate proceeded to consider the resolution (S. Res. 301) relating to ongoing violence connected with apartheid in South Africa, which had been reported from the Committee on Foreign Relations with amendments.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble as amended was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

S. RES. 301

Whereas more than 11,000 people have died in South Africa as a result of political violence since 1984, and more than one-half of these have died since the release of Nelson Mandela from prison in 1990;

Whereas the negotiations by the Convention for a Democratic South Africa (CODESA) on the formation of a transitional government that will lead to a new constitution and a nonracial, democratic government could be undermined by the continuing violence;

Whereas the terror perpetuated by the ongoing political violence jeopardizes the willingness of South Africans to participate in the transition process and compromises the climate for free political participation by all South Africans; and

Whereas the Goldstone Commission of Inquiry into Public Violence and Intimidation has acknowledged that all parties bear some responsibility for the violence in South Africa.

Whereas credible evidence has been presented to the Goldstone Commission of Inquiry into Public Violence and Intimidation, South African human rights organizations, Amnesty International, and others that members of South African security force units have trained, armed, and funded paramilitary groups involved in committing and instigating violence, and perhaps continue to do so: Now, therefore, be it

Resolved, That (a) the Senate hereby—

(1) notes with dismay the killings in South Africa and condemns this senseless violence; and

(2) urges all political organizations and other signatories of the Peace Accord to take concrete steps to end the violence.

(3) Urges the Government of South Africa to take effective steps to end the violence and protect all South African citizens regardless of race, color, or creed.

(4) Expresses the strong support for the efforts of the Goldstone Commission of Inquiry into Violence and Intimidation, and calls on all parties to adhere to its recommendations.

(b) It is the sense of the Senate that the President should prepare and transmit to the Senate a report on—

(1) the nature of the violence in South Africa and the role that the various participants are playing in the ongoing violence; and

(2) the impact of this violence on South Africa's transition to democracy; and

(3) recommendations for actions to be taken by the U.S. to support the ending of political violence.

INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar 754, S. 2977, the Indian Agricultural Resources Management Act of 1992.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2977) to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorizations.

TITLE V—MISCELLANEOUS

Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance Indian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

SEC. 102. PURPOSES.

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decision-making processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

SEC. 103. DEFINITIONS.

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101-630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) MANAGEMENT ACTIVITIES.—Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (Act of January 4, 1975; Public Law 93-638; 88 Stat. 2204; 25 U.S.C. 450b), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpetually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the effected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly

fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) RIGHTS OF INDIVIDUAL LAND OWNERS.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) NATURAL RESOURCES INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101-630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) EDUCATIONAL OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) ASSUMPTION OF LOANS.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native

natural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and

(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and

(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training;

(B) develop and publish cooperative environmental education and natural resource planning materials; and

(C) perform land and facility improvements, and other activities related to land and natural resource management and development.

The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

SEC. 504. MISCELLANEOUS.

(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.

(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.

AMENDMENT NO 3393

(Purpose: To clarify certain responsibilities of the Secretary of the Interior)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. MCCAIN, proposes an amendment numbered 3393.

Mr. GARN. 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:

Strike out in the text of amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

Mr. MCCAIN. Mr. President, I rise to offer an amendment to S. 2977, a bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands.

S. 2977 was introduced in the Senate on July 2, 1992. A joint hearing on the bill was held by the Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs on September 22, 1992. At that hearing, the Department of the Interior expressed a number of objections to this bill.

Immediately following the hearing, committee staff met with representatives of the Bureau of Indian Affairs and the Solicitor's Office of the Department of the Interior. As a result of this meeting, and a second meeting, a number of amendments were developed and adopted by the committee which, in my opinion, address the concerns of the Department. I believe the Department shares this view.

Nevertheless, one final area of uncertainty remains. This is on the question of the management responsibility of the Secretary for Indian agricultural lands. Section 201(a) of s. 2977, as reported by the committee, provides that "Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination Assistance Act of 1975 (Public Law 93-638)."

In its testimony before the Select Committee, the witness for the Interior Department testified that as a technical matter, the Department does not manage most of the Indian lands, and expressed concern that this legislation was imposing new management responsibilities on the Secretary. This is not the intention of this legislation.

The Department currently operates or administers a wide array of programs that compliment the very goals that S. 2977 is designed to accomplish. The purpose of the legislation is not to change the responsibilities that are exercised by the Secretary under existing

law, but rather to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

In order to make clear the intent of this legislation—that it is not intended to impose managerial responsibilities that are not now exercised under existing law—I am offering an amendment to make clear that the legislation will not impose on the Secretary any direct managerial responsibility other than that currently exercised under existing law.

Mr. President, I believe my amendment addresses the final policy concern raised by the administration. With this final amendment, I believe we now have a bill that should reduce, if not eliminate, the administration's strong opposition to S. 2977.

Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 2977.

Mr. DASCHLE. Mr. President, I am pleased that we are here today considering S. 2977, the Indian Agricultural Resource Management Act.

The purpose of this legislation is to provide for the establishment of a viable system for the management or administration of Indian-owned lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to provide greater authority to the Indian tribes in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in the management of Indian natural resources. The purpose of this legislation is not to establish new program responsibilities for the Secretary of the Interior. It is to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

The trust responsibility of the United States to the tribes and to the individual Indian land owners for protection of property is unquestioned. But the Bureau's Inventory and Production Report for 1992 shows that over 1.1 million acres of Indian trust land lie idle nationwide, and in Oklahoma alone nearly 60,000 acres are not being leased.

Over the past 20 years, the Indian agriculture program maintained by the Bureau of Indian Affairs has fallen into serious decline. Actual dollar funding levels for the program have remained static over the years and through inflation have been reduced to half or less of their former levels; the number of BIA personnel engaged in agricultural or natural resource management activities has decreased dramatically, and only in the past 3 or 4 years have any educational programs been instituted to provide training and educational assistance in the natural resources area.

In 1975 the Bureau of Indian Affairs budget for its Agricultural Resources Program was $22 million. In 1990 the actual dollar funding for this same program was $24 million. In 1975 the BIA employed 91 range conservationists; in 1990 there were 77. In 1975 there were 210 soil conservationists; in 1990 there were only 62—this to protect and manage some 54.5 million acres of trust or restricted land. In 1975 there were some 1,205 persons employed by the BIA in the Agricultural Resources Program. Today the Bureau's budget shows 654 personnel slots for these programs, many of which are apparently unfilled or detailed to other functions.

The need for enhanced educational opportunities for Indian students in the area of natural resources is fully acknowledged and was in fact supported by the Department in its testimony on this legislation before the Select Committee on Indian Affairs. Indeed, the need for increased educational efforts was emphasized in the President's White House Conference on Indian Education in its report filed with the President in May of this year.

Mr. President, this legislation does not impose new management responsibilities on the Secretary of the Interior. It does, however, require studies to determine the resource needs under existing programs to restore Indian Agricultural Programs to a viable standard. It empowers the tribes to conduct and develop management plans for agricultural lands to provide coherent long-term objectives. It recognizes the authority of the tribes to enact ordinances necessary to achieve these land use objectives. It allows tribes to adopt resolutions in support of Indian use of trust lands owned by the tribes or individual Indians while at the same time allowing individual Indians who own a 50-percent interest or more in an individual allotment to exempt his or her property from such Indian preference. Finally, it provides a much-needed educational program to Indian students in the field of natural resources management.

Mr. President, the administration has expressed concerns about the BIA's role under this legislation, and the amendment offered by my esteemed colleague from the State of Arizona has been worked out to address that concern. The amendment is totally consistent with the intent of this bill. While I believe that the bill, as reported by the Select Committee on Indian Affairs, is clear on its face, nevertheless, in order to avoid a strained interpretation by the Department of the Interior, I welcome my colleague's amendment as a means of further clarifying this issue.

Mr. President, I urge my colleagues to support the amendment offered by my esteemed colleague from Arizona and to support the enactment of this legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3393) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2977

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorizations.

TITLE V—MISCELLANEOUS

Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance In-

dian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

SEC. 102. PURPOSES.

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decisionmaking processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

SEC. 103. DEFINITIONS.

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101-630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpet-

ually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the affected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) RIGHTS OF INDIVIDUAL LAND OWNERS.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided

that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land filed with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) NATURAL RESOURCES INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101-630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) EDUCATIONAL OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) ASSUMPTION OF LOANS.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native natural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian

natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and

(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and

(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training;

(B) develop and publish cooperative environmental education and natural resource planning materials; and

(C) perform land and facility improvements, and other activities related to land and natural resource management and development.

The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

SEC. 504. MISCELLANEOUS.

(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.

(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.

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

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

The motion to lay on the table was agreed to.

MEASURE REFERRED—SENATE JOINT RESOLUTION 335

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 335, a resolution concerning the overthrow of the Kingdom of Hawaii, and that it then be referred to the Senate Select Committee on Indian Affairs.

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

SOVIET SCIENTISTS IMMIGRATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives of S. 2201.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2201) entitled "An Act to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic states as employment-based immigrants under the Immigration and Nationality Act, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soviet Scientists Immigration Act of 1992".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term "independent states of the former Soviet Union" means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term "eligible independent states and Baltic scientists" means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

Amend the title so as to read: "An Act to authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.".

Mr. MITCHELL. I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

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.)

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 287

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1991, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

The Railroad Retirement Board (RRB) serves over 873,000 railroad retirees and their families and almost 283,000 railroad employees who rely on the system for retirement, unemployment, disability, and sickness insurance benefits. Beneficiaries depend on the financial integrity of the pension funds for payment of their benefits.

This report includes the Annual Actuarial Report, which concludes that the railroad retirement system will not experience a cash flow problem in the near future. The Chief Actuary at RRB, however, warns that "the long term viability of the system . . . is still questionable." Based on the report's analysis, if employment trends continue as they have for over a quarter of a century, the trust funds will go broke sometime between 2010 and 2016.

I continue to strongly oppose the permanent diverting of Federal income taxes to the rail pension system. Since 1983 approximately $5.4 billion in taxpayer subsidies have been given to the rail pension fund, $1.72 billion of which were from the diversion of income taxes. The Railroad Retirement Board believes current resources are sufficient to pay benefits, except under the most pessimistic assumptions, thereby rendering Federal subsidies unnecessary. Railroad pensions should be financed solely by rail sector resources.

As I stated last year, I support all equitable reforms to the system, such as privatization and the extension of rules protecting private pensions (Employee Retirement Income Security Act) to the railroad's private pension system.

GEORGE BUSH.

THE WHITE HOUSE, *October 1, 1992.*

MESSAGES FROM THE HOUSE

At 12:40 p.m., a message from the House of Representatives, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. SMITH of Florida, Mr. VISCLOSKY, Mr. ALEXANDER, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. PORTER, Mr. GREEN of New York, Mr. LIVINGSTON, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1637. An act to make improvements in the Black Lung Benefits Act.

H.R. 5192. An act to amend title 38, United States Code, to make improvements to veterans health programs.

At 6:03 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker makes the following modifications in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) entitled "An act to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes":

As additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126 and title VIII of the House bill, and sections 7171 and 7173 and title VIII of the Senate amendment, and modifications committed to conference: Mr. de la GARZA, Mr. TALLON, and Mr. COLEMAN of Missouri.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference: Mr. TORRES, Mr. HUBBARD, and Mr. MCCANDLESS.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference: Mr. ANNUNZIO, Mr. HUBBARD, and Mr. WYLIE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–7143, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PERKINS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. GAYDOS, and Mr. GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sec-

tions 2171–2173, 2175, 2177–2185, 6220, 6231–6251, 7109, 7121, 7136, 7171–7174, 10011(b), 10201, 14111–14140, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. SIKORSKI, Mr. BRUCE, Mr. LENT, Mr. DANNEMEYER, and Mr. BLILEY: Provided, that solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Mr. MARKEY, Mr. SYNAR, and Mr. BOUCHER are appointed in lieu of Mr. WAXMAN, Mr. SIKORSKI, and Mr. BRUCE; that solely for consideration of sections 2180–2185, 6220, 6231–6241, and 14111–14140 of the Senate amendment, Mr. BILIRAKIS is appointed in lieu of Mr. LENT; that solely for consideration of sections 2173, 2175, 6251, 10011(b), and 10201 of the Senate amendment, Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. BLILEY; and solely for consideration of title XI of the Senate amendment, Mr. RINALDO is appointed in lieu of Mr. BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, and Mr. LENT.

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, and Mr. SENSENBRENNER.

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. SYNAR, Mr. BRYANT, Mr. STAGGERS, Mr. FISH, Mr. MOORHEAD, and Mr. SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. HUGHES, Mr. BRYANT, Mr. SANGMEISTER, Mr. SENSENBRENNER, Mr. SCHIFF, and Mr. RAMSTAD.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. HUBBARD, Mr. HUGHES, Mr. TAUZIN, Mrs. UNSOELD, Mr. DAVIS, Mr. YOUNG of Alaska, and Mr. FIELDS.

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference: Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. SCHULZE, Mr. GRADISON, Mr. THOMAS of California, and Mr. MCGRATH.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FAZIO, Mr. SMITH of Florida, Mr. OBEY, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. WHITTEN, Mr. LEWIS of California, Mr. PORTER, Mrs. VUCANOVICH, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House of Representatives having proceeded to reconsider the bill (S. 323) entitled "An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that said bill do not pass, two-thirds of the House of Representatives agreeing not to pass the same.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 8:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; and

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

The enrolled bills and joint resolution were subsequently signed by [Mr. BYRD].

At 9:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 138. Concurrent resolution to authorize a correction in the enrollment of H.R. 2042.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FASCELL, Mr. GEJDENSON, Mr. FEIGHAN, Mr. JOHNSTON of Florida, Mr. BROOMFIELD, and Mr. ROTH as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5575. An act to authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.

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–3966. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Report consisting of a Plan for the Town Branch Watershed, Gentry County, Missouri, and an Environmental Impact Statement"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3967. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Plan for the East Yellow Creek Watershed, Sullivan, Linn, and Chariton Counties, Missouri"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3968. A communication from the President of the United States, transmitting, pursuant to law, a request relating to the Fiscal Year 1993 Department of Defense budget and the Junior Reserve Officer Training Corps program; to the Committee on Appropriations.

EC–3969. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmit-

ting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3970. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "National Reconnaissance Office Security Act"; to the Select Committee on Intelligence.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 240. A bill for the relief of Rodgito Keller.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1759. A bill for the relief of James B. Stanley.

H.R. 3590. A bill for the relief of Lloyd B. Gamble.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 5452. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

S. 287. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1174. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2013. A bill to amend chpater 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2499. A bill for the relief of Elham Ghandour Cicippio.

S. 2652. A bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Brook Hedge, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Lee F. Satterfield, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Shirley Chilton-O'Dell, of California, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1994:

Stephen Norris, of Virginia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1994;

Tony Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years; and

Wayne Arthuir Schley, of Alaska, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring October 14, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI:

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRYAN:

S. 3306. A bill to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of a consumer to pay overdue child support; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 3309. A bill to amend the Peace Corps Act to authorize appropriations for the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; considered and passed.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. DOLE, Mr. PRYOR, Mr. LUGAR, Mr. HARKIN, Mr. SEYMOUR, Mr. CONRAD, and Mr. DASCHLE):

S. 3311. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. ADAMS, Ms. MIKULSKI, Mr. D'AMATO, Mr. DURENBERGER, Mr. SIMON, Mr. HATFIELD, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BIDEN, Mr. INOUYE, Mr. DECONCINI, and Mr. HATCH):

S. 3312. A bill entitled the "Cancer Registries Amendment Act; considered and passed.

By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of United States registry; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. A joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY):

S. Con. Res. 140. A concurrent resolution relating to humanitarian relief and the human rights situation in Sudan; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

WOMEN IN THE ARMED FORCES COMMEMORATIVE COIN ACT

Mr. SPECTER. Mr. President, as ranking member of the Committee on Veterans' Affairs, I am pleased to introduce legislation to authorize the Secretary of the Treasury to mint a coin commemorating women who have

served in the Armed Forces of the United States.

This bill would help to provide the Women in Military Service Memorial Foundation, a private foundation authorized in 1986 to oversee the creation of a Women In Military Service Memorial, with the additional funds necessary to build their memorial. In enacting legislation to help raise funds for the creation of the memorial, this body has the opportunity to honor the more than 1.8 million women who served or are serving in the Armed Forces since the American Revolution.

Mr. President, last fall the Women in Military Service Memorial foundation was granted a 2-year extension to complete design specifications and to raise funds for the memorial. Thus, it is important that we move as quickly as possible to pass this piece of legislation. Recently, a design team was awarded a contract to build a beautiful monument with views of Arlington National Cemetery and the monuments of Washington. Now we can do our part by enacting this piece of legislation.

The women who served this country deserve no less than a national memorial recognizing their contributions to the Armed Forces. I urge my colleagues to support this important measure.

By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

RELIEF OF ELIZABETH MILLER OWEN AND BRIAN ROSS OWEN

• Mr. GRASSLEY. Mr. President, today I am introducing legislation to redress the unfair naturalization circumstances of Mrs. Elizabeth Miller Owen of Centerville, IA, and her husband Brian Ross Owen.

Mrs. Owen was born in West Germany to German parents in 1965. Shortly thereafter she was adopted by Charles and Beatrice Miller. Mr. Miller was a U.S. Army officer at the time, while Mrs. Miller was operating a business in Britain. Elizabeth lived with her mother in London until September 1973, when the family relocated to the United States.

From 1973 to 1986, Mr. Miller was seriously ill with cancer, which required the amputation of both his legs and 11 surgical procedures, and also suffered consequent mental illness. He died in 1986. The family had relied on him to handle the childrens' naturalization, and Mrs. Miller presumed he had gotten Elizabeth naturalized just as he had the three other German children the Millers adopted. Throughout this period Elizabeth attended public schools, held a social security card, paid taxes, and generally lived under the assumption that she was a U.S. citizen.

This assumption was dispelled when, after graduation from Drake University in Des Moines, Elizabeth decided to travel to South Africa to be with her future husband, Brian Owen, who she had met in the United States. She discovered that the only passport she had was German, from her infancy, and that she had apparently never been naturalized by her adoptive parents.

Elizabeth consulted an immigration lawyer in Des Moines before leaving on her overseas journey in 1988. He told her she could leave without getting naturalized, and advised her of the need to get a re-entry permit, but not of the naturalization consequence of staying abroad for more than a year. The consequence is an interruption of the 5-year permanent residency requirement that is prerequisite to naturalization. In South Africa, Elizabeth married Brian Owen, and decided to stay with him beyond 1 year while he settled his affairs so they could relocate to the States. She was improperly advised by the United States Government representative in South Africa that there would be no adverse immigration/naturalization consequences if she stayed in South Africa longer than a year. Relying on this information, Elizabeth stayed in South Africa for 16 months.

In short, after 15 years continuous permanent residence in the United States and a lifetime as the child of U.S. citizens, Elizabeth stayed abroad 4 months too long, interrupting her residence for naturalization purposes. She must therefore reside here another 5 years to be eligible for citizenship.

This unfortunate circumstance would be tolerable if Elizabeth were unmarried and childless. Since she is married to a foreign national, and the mother of a newborn U.S. citizen child, the practical effect of her legal situation is to deny her the possibility of ever becoming a U.S. citizen. For, unless Brian can immigrate to the United States immediately, the Owens will be required to return to South Africa with their child. Elizabeth would then be unable to satisfy the residency requirement for naturalization. If she wants to stay here and satisfy the legal requirements of citizenship, she must wait 2 years before her husband will be allowed in the country as a permanent resident.

The application of the standard rules of law and immigration regulations in this case is entirely unreasonable. Elizabeth Miller Owen, as the adopted child of American citizens, who relied on her late father to process her naturalization papers, should not be penalized for his failure to do so as a consequence of the illness which killed him. She should be able to enjoy all the rights of citizenship, just as she has borne all the obligations of U.S. citizenship her entire life. She should not be denied the consortium and support of her foreign spouse because of her absurd legal situation.

This bill which I am introducing today will rectify the Owen's situation. It will require Elizabeth to be considered to have satisfied the residency requirements of the Immigration and Nationality Act, and allow Brian Ross Owen to be lawfully admitted to the United States as a permanent resident.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3303

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

SECTION 1. WAIVER OF PERIOD OF RESIDENCY REQUIREMENT FOR ELIZABETH MILLER OWEN.

(a) WAIVER.—Elizabeth Miller Owen shall be considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States, and, notwithstanding section 310(d) of that Act, may be naturalized if she is otherwise eligible for naturalization under that Act.

(b) LIMITATION OF WAIVER.—Subsection (a) shall apply only if Elizabeth Miller Owen files an application for naturalization within two years after the date of the enactment of this Act.

SEC. 2. PERMANENT RESIDENCE FOR BRIAN ROSS OWEN.

(a) GRANTING OF STATUS.—In the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Brian Ross Owen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) REDUCTION OF NUMBER OF AVAILABLE VISAS.—Upon the granting of permanent residence to Brian Ross Owen as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under subsection (a) or (b) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153).•

By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

NITROGEN STABILIZERS AND WATER QUALITY

• Mr. LUGAR. Mr. President, as you and many of my colleagues are aware, agricultural nonpoint source pollution regarding nutrient contamination in surface and ground water is an important concern for agricultural producers in Indiana and across the Nation. Agricultural producers are continually adopting best management practices and seeking new tools to minimize impacts on the environment while maintaining production efficiency.

The use of nitrogen stabliizing ingredients is one tool which seems to show

promise in reducing nitrate contamination of ground and surface water from fertilizers, especially in water quality sensitive areas. It has come to my attention that ambiguities in current law have resulted in regulatory uncertainty, limiting the marketing and use of these products. Our laws should promote, not discourage, the development and use environmentally beneficial technologies.

Today, Senator PRYOR and myself are jointly introducing a bill which amends the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] to clarify the application of the act with respect to nitrogen stabilizers. Our goal is to accelerate the research, registration and use of products designed to improve environmental protection; in this case, water quality. The bill outlines one approach for the regulation of these products. We offer this bill to bring attention to the issue, and for purpose of generating the discussion and dialog necessary for a full debate of these complex issue next year.

It should be noted the provisions of this bill represent more than a year and a half of negotiation and compromise on the part of industry, regulators and agriculture. The language in this bill has been agreed to by the Environmental Protection Agency and the United States Department of Agriculture.

I'd like to thank Senator PRYOR in joining me in this effort and look forward to working with him and others when FIFRA is debated and reauthorized in the next Congress.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3304

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

SEC. 1. DEFINITIONS.

Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "or dessicant" and inserting "desiccant, or nitrogen stabilizer";

(B) by striking "and" at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting "; and "; and

(D) by adding at the end the following new paragraph:

"(5) in the case of a nitrogen stabilizer, an ingredient that will, through action upon soil bacteria, prevent or hinder the process of—

"(A) nitrification;

"(B) denitrification;

"(C) ammonia volitilization; or

"(D) urease production";

(2) in subsection (u)—

(A) by striking "and" before "(2)"; and

(B) by inserting "and (3) any nitrogen stabilizer," after "dessicant,"; and

(3) by adding at the end of the following new subsection:

"(hh) NITROGEN STABILIZER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'nitrogen stabilizer' means any substance or mixture of substances that is intended, through action upon soil bacteria, to prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production.

"(2) EXCLUSION.—The term shall not include any substance or mixture of substances—

"(A) that was not registered pursuant to section 3 prior to January 1, 1992; and

"(B) that was used in a commercial agronomic use prior to January 1, 1992, with respect to which after January 1, 1992, the distributor or seller of the substance or mixture has made no specific claim relating to the prevention of hindering of any of the processes described in paragraph (1), regardless of the actual use or purpose for, or future use or purpose for, the substance or mixture.".

SEC. 2. EXEMPTION.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f) is amended by adding at the end of the following new paragraph:

"(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—

(A) Any mixture or other combination of—

"(i) one or more nitrogen stabilizers; and

"(ii) one or more fertilizer products, shall not be subject to the requirements of this section or sections 4, 5, 7, 8, 15, and 17(a) (except for the requirements referred to in the conditions described in subparagraph (B)) if the conditions described in subparagraph (B) are met.

"(B) The conditions described in this subparagraph are as follows:

"(i) The mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination.

"(ii) The mixture or other combination is mixed or combined in accordance with the labeling referred to in clause (i).

"(iii) Other than a nitrogen stabilizer, the mixture or other combination does not contain any active ingredient.".

SEC. 3. CONFORMING AMENDMENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new items:

"(hh) Nitrogen stabilizer.

"(1) In general.

"(2) Exclusion.";

and

(2) by adding at the end of the items relating to section 3(f) the following new item:

"(4) Mixtures of nitrogen stabilizers and fertilizer products.".●

● Mr. PRYOR. Mr. President, I am pleased to join with my colleague from Indiana, Senator LUGAR, in introducing a bill that will assist in enhancing agricultural production potential as well as reduce any environmental harm caused by such production.

This legislation proposes to assure that nitrogen stabilizing fertilizers, which reduce nitrate contamination in ground and surface water, are made more readily available for us in agricultural production.

However, it has recently come to my attention that a regulatory logjam has developed between the Department of Agriculture and Environmental Protection Agency over the regulation of nitrogen stabilizers. This regulatory uncertainty is limiting the marketing and use of these environmentally sound products.

Today Senator LUGAR and myself are jointly introducing a bill that works to break that logjam by amending the Federal Insecticide, Rodenticide and Fungicide Act and clarifying how nitrogen stabilizers are to be registered and regulated for future use by farmers. After more than a decade of regulatory stalemate on this issue and after more than a year of work and compromise on the part of industry, regulators and agriculture, EPA and USDA have agreed on the language contained in this bill regarding this important environmental issue.

Nitrogen stabilizers can be important tools for improving water quality and reducing the potential for nitrate ground water contamination. Again, this bill breaks the regulatory logjam between EPA and USDA and, if adopted, will accelerate the research, registration and use of products designed to improve farm production efficiency and environmental protection.

I'd like to thank Senator LUGAR in joining me in this effort and look forward to working with him and others when FIFRA is considered in the next Congress.●

By Mr. MURKOWSKI;

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN REAL PROPERTY

● Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which would convey certain property located in the Tongass National Forest to Daniel J. Gross, Sr., and to his brother, Douglas K. Gross.

In the early 1930's Mr. William Lee Gross and his wife Bessie Knickerson Gross homesteaded 160.8 acres of land at Green Point on the Stikine River. The Gross family lived at Green Point for several years and have claimed title to the land since the 1930's. Unfortunately, the legal documents that conveyed title of the land to the Gross family were destroyed when their home burned in Wrangell during the winter of 1935–36.

Mr. President, the Gross family should not be punished because the title to their land was destroyed in a fire. The title to their land was destroyed in 1936, 22 years before Alaska became a State. In 1936, Wrangell, AK, was truly the last frontier. There were no modern conveniences, no computers to store information in the unlikely event of fire.

The Gross family is the victim of a unfortunate accident, and the U.S. Forest Service is turning their back on the

family. Imagine the Federal Government telling victims of Hurricane Andrew the Federal Government was reclaiming title to an individuals land because the legal documents were destroyed in a fire caused by the hurricane.

Mr. President, the Gross family deserves better treatment from the Forest Service. They have given to the State of Alaska and to the country. Mr. William Lee Gross was a private in the U.S. Marines during the Spanish-American War. Mrs. Bessie Knickerson Gross was a Tlingit Indian. William and Bessie are no longer living. Douglas and Daniel are the children of William and Bessie Gross. They are very well known in the Wrangell community. Douglas Gross, who is 70-years-old, worked for the Bureau of Indian Affairs for 25 years. Doug was in the Army as a technician 5th grade in chemical warfare. He operated an antiaircraft gun in WW II. Daniel Gross, who is 72 years old, was a sergeant on a crash boat in the Aleutian Chain. Their older brother, William Lee Gross, Jr., now deceased, was a technical sergeant and also served on crash boats in the Aleutians during the war. Their youngest brother, Harvey B. Gross was a corporal during the Korean war. All four men were honorably discharged.

Mr. President, Dan and Doug Gross are old timers from Alaska who have been seeking title to their land for decades. Despite overwhelming support from the local community, and substantial evidence submitted by the Gross family, the Forest Service has refused to convey title of the land at Green Point to Doug and Dan Gross. For this reason, I am introduction legislation to resolve this issue.

Doug and Dan are seeking help. They don't have insider influence in Washington, DC, no lobbyist, no special interest group, no Political Action Committee. Doug and Dan Gross are ordinary people who have come up against a bureaucracy that threatens to dismiss over 50 years of their family history. I cannot allow this to happen.

As their Senator, I will be working during the coming months to correct this injustice.●

By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA ACT

● Mr. SIMON. Mr. President, I am pleased to be joined by my colleague from Maryland, Senator SARBANES, in introducing the Elementary and Secondary School Library Media Services Act.

The legislation we are introducing today is intended as a discussion piece for the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. We are encouraging elementary and secondary school librarians to take a look at our legislation and provide us with their expertise. It might be good to hear from the students as well.

It is my understanding that in a few weeks the American Association of School Librarians will hold their national conference in my colleague's home State of Maryland. Perhaps this would provide an opportunity for comment and discussion.

The merger of programs in chapter 2 of the ESEA has resulted in a serious decline of funding for elementary and secondary school libraries. Out Nation's school libraries are now dependent upon a core of deteriorating and out-of-date library materials purchased with funding from the original ESEA in 1965. Small and rural school libraries are further disadvantaged because of smaller budgets based on low student enrollments and limited access to resources, services, and personnel.

If we are to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy with its growing technology, every school in the United States must be equipped with the best and most up-to-date library and information resources.

The legislation I am introducing today would help prepare our Nation's children for the future.

The Elementary and Secondary School Library Media Act would establish a new division of Elementary and Secondary School Library Media Services in the Department of Education to provide information and leadership to school library media programs and personnel nationwide.

In addition, three grant programs are to be established within the new division of Elementary and Secondary Library Media Services. One program would be a direct allocation to the States for the acquisition of library resources, and the other two would be competitive grants to encourage library media specialists and teacher partnerships in innovational instruction and in expanded uses of technology.

The American Library Association has been very active in trying to restore support for elementary and secondary school libraries. To that end, the ALA has published a fact sheet on school library media programs. I ask unanimous consent to have the ALA's fact sheet included in the RECORD after my remarks.

Mr. President, I urge my colleagues to review this important legislation. I also encourage them to talk to their local elementary and secondary school librarians and students. I look forward to working with them next year on improving and moving this legislation forward.

I ask unanimous consent that the text of the bill follow my statement.

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

S. 3307

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 "Elementary and Secondary School Library Media Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in order to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy, every elementary and secondary school in the United States should be equipped with the best and most up-to-date library resources, certified library media specialists, access to advanced technology, and instruction on the use of library and information resources;

(2) our Nation's elementary and secondary school libraries are primarily dependent on a core of deteriorating and out-of-date library materials purchased with original funding from the Elementary and Secondary Education Act of 1965;

(3) school library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools since 1979; and

(4) small and rural school libraries are further disadvantaged because of small budgets based on low student enrollments, and limited access to resources, services, and personnel.

(b) STATEMENT OF PURPOSES.—It is the purpose of this Act to—

(1) establish within the Department of Education Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide;

(2) provide continued funding for elementary and secondary school library media program improvement, equity, innovation, and technological advancement;

(3) establish a partnership program for elementary and secondary school teachers and school library media specialists to jointly design resource and curriculum-based instructional activities that provide opportunities for students to access a broad diversity of resources and information, and other languages and cultures, including materials that will encourage understanding; and

(4) establish a partnership program for encouraging uses of technology and the sharing of information and access to resources by elementary and secondary school students, school library media specialists, and teachers.

SEC. 3. ESTABLISHMENT AND FUNCTIONS OF THE DIVISION OF ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES.

(a) DIVISION ESTABLISHED.—Section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended—

(1) by inserting "(a) OFFICE.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DIVISION.—There is established within the Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services, to be administered by a Director of such Division.".

(b) FUNCTIONS.—The Division of Elementary and Secondary School Library Media Services established in section 209(b) of the Department of Education Organization Act shall—

(1) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators in order to encourage improvement of educational programs, train library personnel, use advanced technology, and develop library resources, including resources that will encourage students to acquire skills in other languages; and

(2) monitor and administer—

(A) the grant programs for elementary and secondary school library media center resource development;

(B) elementary and secondary school library media specialist and teacher partnership grants for innovative education; and

(c) grants for uses of technology in the classroom that are linked to the library media center.

SEC. 4. ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA PROGRAM.

(a) ESTABLISHMENT OF THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCE DEVELOPMENT PROGRAM.—The Director shall award grants from allocations under subsection (b) to States for the acquisition of school library media resources for the use of students, library media specialists, and teachers in public elementary and secondary schools.

(b) ALLOCATION TO STATES.—From the amount appropriated pursuant to the authority of subsection (e) in each fiscal year, the Director shall allocate to each State having an approved plan under subsection (c) an amount which bears the same relationship to such funds as the amount such State received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 bears to the amount all States received under such chapter in each such year.

(c) STATE PLANS.—In order for a State to receive an allocation of funds under subsection (b) for any fiscal year such State shall have in effect for such fiscal year a State plan. Such plan shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of the program described in this section; and

(2) set forth a program under which funds paid to the State from its allocation under subsection (b) will be expended solely for—

(A) acquisition of school library media resources, including foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

(B) administration of the State plan, including development and revision of standards relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 5 percent of the amount allocated to such State under subsection (b) for such fiscal year; and

(3) set forth the criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

(d) DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—

(1) DISTRIBUTION RULE.—From the funds allocated to a State under subsection (b) in each fiscal year, such State shall distribute not less than 95 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in public elementary and secondary schools within the school districts of such State, adjusted to provide higher per-pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students——

(A) living in areas with high concentrations of low-income families;

(B) from low-income families; and

(C) living in sparsely populated areas.

(2) CALCULATION OF ENROLLMENT.—The calculation of relative enrollments under paragraph (1) shall be made on the basis of the total number of students enrolled in public schools in the State.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 5. ESTABLISHMENT OF THE SCHOOL LIBRARY MEDIA SPECIALIST AND TEACHER PARTNERSHIPS FOR INSTRUCTIONAL INNOVATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Director shall award grants for projects that—

(1) encourage collaboration between public elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable elementary and secondary school students to use a variety of information resources; and

(2) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 6. ESTABLISHMENT OF THE USES OF TECHNOLOGY IN THE CLASSROOM PROGRAM.

(a) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Director shall award grants to encourage collaborative elementary and secondary school library media specialist and teacher programs designed to—

(A) expand the use of computers and computer networks in the curriculum; and

(B) enable elementary and secondary school library media centers to access information from computerized databases.

(2) COOPERATIVE AGREEMENTS.—The Director may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 7. CONSTRUCTION.

Nothing in this Act shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and materials.

SEC. 8. SUPPLEMENTATION.

Funds provided under this Act shall be used so as to supplement and not supplant other Federal, State, or local funds available to carry out the activities and services assisted under this Act.

SEC. 9. DEFINITIONS.

For the purpose of this Act—

(1) the term "Director" means the Director of the Division of Elementary and Secondary School Library Media Services established pursuant to section 209(b) of the Department of Education Organization Act;

(2) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(3) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(4) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

(5) the term "State" means each of the several State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianna Islands, the Republic of the Marshall Islands, the Federated State of Micronesia, and the Republic of Palau; and

(6) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

AASL FACT SHEET—SCHOOL LIBRARY MEDIA PROGRAMS

BACKGROUND INFORMATION

Most U.S. Schools have been built from 1948–1985.

A vast majority of the approximately 51,000,000 students in public schools come from urban environments. New York City alone has nearly 1,000,000 students.

51 million students attend public schools and 8 million attend private schools.

The average age of most books is in the late 1960's when large amounts of federal, state and local funds were expended on school libraries.

Most schools are wired for television, but not for computer networks.

Most micro-computers in schools are older and only used for student instructional purposes or administrative purposes, but not both.

GENERAL EDUCATION STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Enrollment (K–12), 51,041,000—Public, 8,298,000—Private.

Teachers (K–12) 2,890,000—Public 598,000–Private.

Volunteers (K–12) 38,042,000.

Principals (K–12) 77,890—Public, 25,401—Private.

Largest School Districts (K–12)

1. New York City	930,440
2. Los Angeles Unified	609,746
3. Chicago City	408,442
4. Dade County (FL)	279,420
5. Philadelphia City	189,451
6. Houston City	185,566
7. Detroit City	175,436
8. Hawaii	169,493
9. Broward County (FL)	148,803
10. Fairfax County (VA).	126,790
11. Dallas City	125,897
12. Hillsborough County (FL)	119,811
13. San Diego City	119,314
14. Clark County (NV)	111,460
15. Baltimore City	107,782
16. Prince Georges County (MD)	106,974
17. Duval County (FL)	106,593
18. Memphis City	104,410
19. Montgomery County (MD)	100,261
20. Palm Beach County (FL)	98,705
Total	4,324,794

Note.—Nearly 10 percent of the U.S. students.

LEARNING RESOURCES AND TECHNOLOGY STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Access to information has been widely cited as the key to success in a growing number of endeavors. Thus, how information is made available and to whom become matters of concern.

In fall 1985, almost 94 percent of all public schools and 75 percent of all private schools had libraries or media centers.

During the 1984–85 school year, public school libraries held an average of 7,668 book titles, 34 periodical subscriptions, 353 audio materials, and 540 films and filmstrips.

The number of public schools using microcomputers has risen rapidly in recent years. Between fall 1981 and fall 1986, the proportion of public schools with computers rose 18 percent to 96 percent.

About 36 percent of all American workers used computers on their jobs in October 1989. The percentages ranged from 7 percent for workers who did not complete high school to 58 percent for those with 4 or more years of college. Women who have not completed college were more likely to use computers than men who have not completed college. For men and women who have completed 4 years of college, the percentages using computers were about the same. Computer users with higher levels of education were more likely to use their computers for more diverse applications than those with lower levels of education.

The total computer usage rate of students at school increased from 27.3 percent in October 1984 to 42.7 percent in October 1989. The rate at the pre-kindergarten and kindergarten level increased more than twofold. The rate at the first-through eighth-grade level increased by about two-thirds.

More than half (52 percent) of all elementary school children used computers at school in October 1989. The computer usage rate was 39 percent for students in high school and college. Sizeable percentages of students used them for schoolwork. About 18 percent of elementary school children used computers at home and about 6 percent used them for schoolwork. Students at the high school and undergraduate level were about twice as likely as the elementary school children to use home computers for schoolwork. In general, students in higher income families were more likely to use computers at home and use them for schoolwork than were students from lower income families.

ESEA CHAPTER II BACKGROUND

Because of the merger of programs in Chapter 2 of ESEA, there is now competition for resources among educational programs which should be partners. During the 1960's, Title II of ESEA provided the impetus for establishing libraries in most elementary schools and strengthening secondary school libraries. By the early 70's, many states even had full-time professional librarians managing most of their elementary and secondary libraries. Statistical evaluation indicated that the disparity of library materials and A–V equipment between schools was narrowing. With the advent of ESEA Chapter 2 during the late 70's and 80's, the disparity in library media collections and equipment between schools widened to a near chasm.

DISPARITY OF COLLECTIONS

A good example is: Broward County Schools (Ft. Lauderdale, Florida), where their local paper reported library spending ranging from $1.59 per student in one elementary school to $57.00 per student in another. Middle School and high school disparities are similar. These same reports are echoed nationwide.

EFFECTS ON STUDENT PERFORMANCES AND ACHIEVEMENT

Analyses of schools that have been successful in promoting independent reading suggest that one of the keys is ready access to books. However, fully 15% of the nation's schools do not have libraries. In most of the remaining schools, the collections are small, averaging just over 13 volumes per student.—"Becoming a Nation of Readers," 1985

Schools should maintain well-stocked and managed libraries. Access to interesting and informative books is one of the keys to a successful reading program. As important as an adequate collection of books is a librarian who encourages wide reading and helps match books to children.—"Becoming a Nation of Readers."

SchoolMatch (800–992–5323), in Westerville, Ohio, will send you information on school districts in the area to which you're moving. You fill out a questionnaire listing your priorities and SchoolMatch searches its data base for 15 school systems that come closest to meeting your needs (there are separate questionnaires for private schools). The service, which costs $97.50, sometimes yields surprising results, says company president William Bainbridge, a former superintendent schools. For instance, SchoolMatch research indicates that the most important measures of a school district's success are not its tax base or property values but the education level of parents and the amount of money spent on library and media service.—"Changing Times," August 1990.

SchoolMatch, a company in Ohio which is in the business of providing budget information to school districts, so they can determine where priorities should be placed on spending, or how they compare with other similar or competitive school districts, released the following findings.

Comparative financial information for 15,892 public school systems in the U.S.; 14,856 private schools in the U.S.; and accredited American Schools throughout the world.

Multiple regression and discriminate function analysis was used to analyze the various spending categories in all school system budgets.

There is a stronger correlation between library and media expenditures and student achievement and student performance on scholarship exams than any other expenditure in the school. Of all expenditures that influence a school's effectiveness—including those for facilities, teachers, guidance services, and others—the level of expenditures for library and media services has the highest correlation with student achievement and performance on scholarship exams. The correlation is beyond the traditionally held view that school systems with bright students and parents will spend more money for libraries and media.

In a personal interview, Dr. William L. Bainbridge, the head of the company and a former school superintendent from a conservative state, related that:

"A school System can get 'more bang for the buck' by putting a priority on expenditure for the library media program". He further stated that:

I was personally surprised by the result and would not have believed the findings until I double checked the calculations.—"School Match Report," 1987

A small amount of Chapter 2 funding can make a significant difference in increasing student achievement and success.

Chapter 2 funding improves student's opportunities for learning.

The Chapter 2 program acts as a catalyst for school improvements and creative risk-taking.

School districts praise chapter 2 for enabling local schools to have local control to meet local educational needs.—"Indiana Chapter 2 Evaluation Report" by Dr. Teresa L. Jump, independent educational consultant, 1992

Access to the library media collection is the single best school predictor of student achievement.

The instructional role of the library media specialist affects the library media collection an, in turn, student achievement.

The degree of collaboration between library media specialist and teachers is affected by the ratio of teachers to pupils.—Colorado Study of 221 public schools, 1992

Library media expenditures affect access to the library media program and, in turn, student achievement.—Colorado Study of 221 public schools, 1992

COSTS FOR LIBRARY MEDIA RESOURCES

We need a basic expenditure of at least $20.00 per student, with the federal government sharing 50%, state 25%, and local 25%. Most of our school districts in the U.S. are strapped to the point that 90% of their budgets go for salaries and building operations (heat, cooling, lights, etc.). At $10.00 per student, we are talking about $400,000,000 plus for public schools and $20,000,000 for private schools. In other words, the total Chapter 2 allocation or a new chapter (In 1966–67, $2.00 per student was allocated for Title II).

The Florida Department of Education analyzed the cost factors for purchasing state rights to copy video programs versus individual school districts:

Sample Video Series	A	B	C
Three year State lease	$20,904	$9,373	$8,814
Lease by 67 school districts	174,814	128,520	122,094
Individual copy with no rights	844	1,495	444
67 school districts with no rights	56,601	100,165	29,748

Thus, it would be very cost effective to arrange state leases with copy privileges and let individual districts copy for their own use, those videos they want.—Florida Department of Education, 1991

Nearly half of the nonfiction books on the shelves of most Indiana school libraries are over twenty years old, out-of-date and have misleading information.—"Indiana Legislative Report" by Daniel Callison, 1990

In the area of space exploration, over half of the books on the shelves were written prior to the United States landing a man on the moon.

In the area of civil rights, most of the materials on the shelves were written during the dramatic changes initiated in the 1960s and few reflect the progress in human rights for minorities, the handicapped, and women over the past decade.

In the areas of geography and travel, most of the books on the shelves present a world as it existed twenty to forty years ago showing out-of-date maps and out-of-date political relationships.

In the area of biological science, few books on the shelves of our school libraries discuss the dramatic advances in discoveries related to modern knowledge of genetic structures.

In the area of career education, most of the materials available to our children through school libraries describe career opportunities as they existed over two decades ago. For example, women are often not included as part of the professional arena beyond the careers of teaching and nursing.—Report by Roger

Whayle, Director of Media Services at New Albany-Floyd County Consolidated Schools and Lauralee Foerster, Coordinator of Media Services for the Lafayette School Corporation.

School library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools and 14 percent in private schools since 1978–79.

The median per-pupil expenditure by school libraries in 1989–90 was $5.48—less than half the average cost of a children's book.

The average price of a hardcover book more than doubled from $19 to $40 between 1977 and 1990.

The average price of U.S. periodicals increased about 400 percent over the same period.—"ALA Fact Sheet," by ALA Public Information Office, 1991.

EXAMPLE OF A MODEL LIBRARY MEDIA FACILITY AND RESOURCES

Bonifay High School (500 students) (30 teachers), opened a new building in February 1992. Each classroom has a color monitor computer and a television monitor, connected to the library media center using a local area network (LAN). There are 8 VHS video recorders connected to each classroom, so on any given day, teachers and students can have access to 8 programs directly from the library media center. There will be other recorders on carts, which can be loaned to classrooms, when needed. The card catalog also is available on-line. This school dates back to the 1920's, so they have discarded most of their collection and have purchased 2,500 new books. Teachers can request a videotape using their school-wide intercom/telephone system and can access the school's on-line library media catalog through their classroom computer network.

A complete television studio is operational, producing a weekly news show and specials. Four students are assigned each period, so 28 students are enrolled in the television production course. Eventually, 4 video laserdisk players and 4 (25") video monitors will be placed on carts, so they can be connected to the classroom computers for interactive video activities. Teachers at that right teaching moment can type into their computer, isosceles triangle, mule deer, etc. and the proper illustration, action segment or picture instantly becomes available.

In June 1992, three interactive CD-ROM's were added to the LAN. An electronic encyclopedia, almanac and SIRS can be accessed simultaneously by up to 40 terminals.

Approximate investment:

36 Television Monitors $400	$14,400
45 Color Monitor Micros $2,500	112,500
8 VHS Video Recorders $400	3,200
3 CD-ROM Players $800	2,400
8-Channel Video System, Computer System, CD-ROM System, wiring and outlets in classrooms	46,000
2,500 Books $20	50,000
Total	228,500

NOTE.—An expenditure of $457 per student.•

• Mr. SARBANES. Mr. President, I am very pleased to join with Senator SIMON in introducing the Elementary and Secondary School Library Media Services Act, to establish within the Department of Education Library Programs a division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide. As the 102d Congress draws to a close, it is my hope that this legislation will serve as a model and useful medium for discussion when we consider the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. I am also hopeful that this proposal will facilitate related discussions when the American Association of School Librarians convenes its national conference in Baltimore later this month.

It is in my view imperative that when we consider the future of our Nation, the need to compete in an international economy, and the importance of moving our country forward, we remember the critical need to educate our future work force. In so doing, we must pay close attention to the information center of the classroom—the library, or school library media center as it is often called today. While my memories, and those of many of my colleagues, may revolve around a favorite book, young people of today may have, in addition to books, videotapes, recordings, computer software, CD-ROM's, magazines, newspapers, government documents, and films. The legislation we are introducing today is designed to ensure that this variety of information is available in an equitable manner in school library media centers across the Nation.

Prior to the merger of many education programs into block grants as proposed by the Reagan-Bush administration in the 1980's, a separate categorical program, ESEA title II, existed for school libraries. Because of this program, many school libraries were able to build up core collections which are still in use today. In fact, many libraries have been unable to make any significant changes to their collections since the merger of programs into block grants—a few preliminary surveys have established that in some States the ages of book collections date back as far as 1965, with one junior-senior high school reporting that 55 percent of its school library collection was printed before the school's senior class was born.

Mr. President, a rapidly changing world has highlighted the need to ensure that school libraries are able to bring their collections up to date. One example of this change is the implosion of the former Soviet Union which rendered obsolete a vast array of world atlases, almanacs, encyclopedias, maps, and history books. It is clear that serious and immediate effort is needed to ensure that school library media centers are able to provide students with accurate and timely resource materials. I urge my colleagues to support the legislation introduced today and related efforts to address the critical needs of our school library media centers.•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. BRADLEY. Mr. President, I rise today to introduce the South Jersey Wild and Scenic River Act. I am proud to have Senator LAUTENBERG join me as a cosponsor. This legislation would designate, according to the wishes of the local communities, 14.3 miles of the Manumuskin River and 2.7 miles of Muskee Creek as National Wild and Scenic Rivers. It also encourages the Secretary of the Interior to continue to work with the communities throughout the Maurice River basin that are interested in planning and preserving the river's unique features.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It's a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been there. But they will only continue to be here if the citizens of this area decide positively that they commit themselves to a pristine future for the river.

This isn't an easy decision, and there are high stakes for all of us. This is complex, and, unfortunately, many of the options or paths taken cannot be reversed.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, and so forth. Even though all aren't participating in the endorsement of Wild and Scenic status, all will be able to see its implications and implementation. It will be up to all of us to see that the many fears aren't realized while the enormous promise is.

Given the continued support of the local citizens, I am ready to push for-

ward this legislation that will secure Wild and Scenic River status for these 17 miles of unique and beautiful waterways.

I ask unanimous consent that the text of the legislation be printed following my remarks.

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

S. 3308

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1)(A) The Maurice River in the State of New Jersey and its tributaries, Menantico Creek, the Manumuskin River, and Muskee Creek, are eligible for designation as components of the National Wild and Scenic Rivers System.

(B) The segments and their classifications are as follows:

(i) The Maurice River, lower segment, from the United States Geological Survey Station at Shellpile to the Route 548 Bridge at Mauricetown, approximately 7.0 miles, as a recreational river.

(ii) The Maurice River, middle segment, from the Route 670 Bridge at Mauricetown upstream to 3.6 miles of the drainage ditch upstream of Fralinger Farm, approximately 3.8 miles, as a scenic river.

(iii) The Maurice River, middle segment, from the drainage ditch upstream of Fralinger Farm to 3.1 miles upstream to ½ mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, as a recreational river.

(iv) The Maurice River, upper segment, from ½ mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plant, approximately 3.6 miles, as a scenic river.

(v) The Menantico Creek, lower segment, from its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, as a recreational river.

(vi) The Menantico Creek, upper segment, from the Route 55 Bridge to the base of the Impoundment at Menantico Lake, approximately 6.5 miles, as a scenic river.

(vii) The Manumuskin River, lower segment, from its confluence with the Maurice River to 2.0 miles upstream, as a recreational river.

(viii) The Manumuskin River, upper segment, from 2.0 miles upstream from its confluence with the Maurice River to its headwaters, approximately 12.3 miles, as a scenic river.

(2) A resource assessment of the Maurice River and its tributaries shows that the area possesses numerous outstandingly remarkable natural, cultural, scenic, and recreational resources that are significant at the local, regional, and international levels, including rare plant and animal species and critical habitats for birds migrating to and from the Northern and Southern Hemispheres.

(3)(A) A river management plan for the river system that would meet the requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)) has been developed by the Department of Planning and Development of Cumberland County, New Jersey, and adopted by the City of Millville, by Maurice River Township, and by Commercial Township, New Jersey.

(B) The City of Vineland, New Jersey, has adopted a master plan that calls for river planning and management and, as of the date of enactment of this Act, is in the process of adopting zoning ordinances to implement the plan.

(C) Buena Vista Township in Atlantic County, New Jersey, has adopted a land use plan consistent with the Pinelands Comprehensive Plan that is more restrictive than the Cumberland County local river management plan.

(b) PURPOSES.—The purposes of this Act are to—

(1) declare the importance and irreplaceable resource value of the Maurice River and its tributaries to water quality, human health, traditional economic activities, ecosystem integrity, biotic diversity, fish and wildlife, scenic open space, and recreation;

(2) recognize that the Maurice River system will continue to be threatened by major development and that land use regulations of the individual local political jurisdictions through which the river segments pass cannot alone provide for an adequate balance between conservation of the river's resources and commercial and industrial development; and

(3) recognize that segments of the Maurice River and its tributaries in addition to those designated under this Act are potentially eligible and suitable for designation at some point in the near future.

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) MANUMUSKIN RIVER, NEW JERSEY.—(A)(i) From its confluence with the Maurice River to a point 2.0 miles upstream, to be administered by the Secretary of the Interior (referred to in this paragraph as the "Secretary") as a recreational river.

"(ii) From the point 2.0 miles upstream from its confluences with the Maurice River to its headwaters, approximately 12.3 miles, to be administered by the Secretary as a scenic river.

"(B) MUSKEE CREEK, NEW JERSEY.—From its confluence with the Maurice River to the Pennsylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary as a scenic river.

"(C)(i) The Secretary shall administer the river segments designated under this paragraph—

"(I) in association with the political jurisdictions through which the Maurice River and its tributaries pass; and

"(II) in accordance with the local river management plan prepared by the Cumberland County Department of Planning and Development, and plans and ordinances prepared and adopted by the municipal governments of the political jurisdictions referred to in subclause (I).

"(ii) The local river management plan referred to in clause (i)(II) shall be reviewed by the Secretary to ensure that proper implementation of the plan will protect the values for which the segments were designated.

"(iii) The Secretary may—

"(I) provide, on request, planning assistance to the State of New Jersey and to political subdivisions of the State; and

"(II) enter into a memorandum of understanding or a cooperative agreement with another Federal agency or with the State of New Jersey to ensure that Federal and State programs are carried out in a manner that is consistent with the river management plans referred to in clause (i)(II).

"(iv) The Secretary shall review compliance with the locally adopted river management plans referred to in clause (i)(II) on a biennial basis and shall report to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives on a timely basis any deviation from the plans that causes or may result in any diminution of the values for which the segments were designated.

"(D) Section 6(a) shall not apply to the river segments designated by this paragraph.

"(E) For each fiscal year, there are authorized to be appropriated to the Department of the Interior an amount not to exceed $70,000 for planning assistance, biennial review, and reporting for the segments designated by this paragraph, and for negotiating towards possible designation of additional segments of the Maurice River as components of the National Wild and Scenic Rivers System.".

(b) FUTURE DESIGNATIONS.—

(1) CONGRESSIONAL INTENT.—The Secretary of the Interior is encouraged to continue to work with local municipalities to negotiate agreement and support for designating additional eligible segments of the Maurice River and its tributaries as components of the National Wild and Scenic Rivers System.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue a report to Congress describing—

(A) the status of the discussions and negotiations with local municipalities referred to in paragraph (1); and

(B) such recommendations concerning the designation of additional river segments in the State of New Jersey as components of the National Wild and Scenic Rivers System as the Secretary of the Interior considers to be appropriate.

Mr. LAUTENBERG. Mr. President, I join with my colleague from New Jersey, Senator BRADLEY, in introducing this legislation to amend the Wild and Scenic Rivers Act to designate certain tributaries of the Maurice River as components of the National Wild and Scenic Rivers System.

In 1987, Senator BRADLEY and I introduced legislation which initiated a study by the National Park Service to evaluate the suitability and feasibility of designating portions of the Maurice River and its tributaries for potential inclusion in the National Wild and Scenic River System. That legislation directed the Park Service to work with the communities to determine which segments of the river and its tributaries were appropriate for designation.

The Park Service recently released a draft study report and I am pleased today to introduce legislation, with Senator BRADLEY, which will enact the Park Service recommendations to designate the Manumuskin River and Muskee Creek as part of the National Wild and Scenic Rivers Program. This legislation respects the individual property owners' rights and the preferences of local governments.

The Wild and Scenic Rivers program aims to bring long-term protection of important natural resources by focus-

ing on local initiative and management. The Wild and Scenic Rivers Act, enacted in 1968, reflected the national recognition of the need to protect our rivers. It was the intent of Congress to protect rivers and their surroundings for their scenic, recreational, historic, and cultural qualities. The Wild and Scenic Rivers program balances the need for development on rivers with the need to preserve those rivers in their natural, free-flowing condition.

New Jersey is the most densely populated State in the Nation. As a result, preservation, enhancement, and enjoyment of our natural resources is of great value to the people of my State.

Recently, Senator BRADLEY and I introduced legislation which would designate portions of the Great Egg Harbor River as Wild and Scenic. I look forward to its eventual addition to the Wild and Scenic System. Inclusion of the Manumuskin River and Muskee Creek within the system would complement our efforts with the Great Egg Harbor River, and enhance protection of these areas by encouraging Federal, State, and local cooperation.

Mr. President, each time I visit this area of my State I am awestruck by its beauty. Last year I was lucky enough to see a bald eagle. Large portions of the Maurice, Manumuskin, and Manantico lie within the boundaries of the Pinelands National Reserve, one of our most valuable natural resources. It's a part of our State that we New Jerseyans are most proud of and it's a side of New Jersey many people do not know exists.

Local efforts to protect these segments of the river are impressive. I am pleased to lend a Federal hand to those efforts. We must ensure that the natural resources of this area continue to be treasured so that future generations will be able to see and enjoy this area. Inclusion of the Manumuskin River and the Muskee Creek in the Wild and Scenic Rivers System will help accomplish this goal.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL CREDIT AMENDMENTS ACT

Mr. CONRAD. Mr. President, I am pleased to introduce the Agricultural Credit Amendments Act of 1992 along with Senators GRASSLEY, BUMPERS, and others. The core of this bill relates to assistance to beginning farmers and ranchers. I want to recognize Senator GRASSLEY and Senator BUMPERS for their early and continued leadership and assistance on this proposal. I also want to commend Congressman ENGLISH and Congressman PENNY for their invaluable work in developing and moving H.R. 4906, the Agricultural Credit Improvement Act of 1992. Many provisions in the bill we are introducing today are similar to the provisions in H.R. 4906.

I also appreciate the views and assistance provided by many organizations and individuals as we have moved this proposal through the legislative process, and their support for the bill we are introducing today. In particular, I want to thank the Center for Rural Affairs for its excellent work to develop the proposal on which this bill is based, and for its tireless efforts to ensure its passage.

Mr. President, there are a number of pressing problems which Congress needs to address relating to farmers and other rural residents. I think passage of this bill is important to address some of those problems. I am also committed to passage of S. 3119, the USDA National Appeals Division Act of 1992 to address very serious problems in USDA's appeals systems.

There are many obstacles to getting started in farming. Farming requires a significant capital investment. It may be difficult to find suitable land at an affordable price. Lenders are wary of taking a risk on a beginning farmer or rancher who does not have a large asset base. The business of farming itself is risky, and profit margins are very slim and often nonexistent.

This bill attempts to address some of these obstacles. First, it establishes a down payment loan program under the Farmers Home Administration [FmHA]. Under this proposal, a beginning farmer or rancher who wishes to purchase land may receive a 10-year, low-interest FmHA loan for 30 percent of the value of that land if the beginning farmer provides a 10 percent down payment, and a commercial, cooperative or other lender makes a loan for the remaining 60 percent. When the beginning farmer or rancher has repaid the FmHA loan at the end of 10 years, he or she will have at least 40 percent equity in the land, which should provide an adequate asset base on which to obtain future private credit and operate a successful farm operation.

Second, this bill establishes a beginning farmer operating loan program which ensures a borrower a reliable source of FmHA-assisted operating credit for up to 10 years if the borrower develops and meets a long-term operating plan.

Both of these programs employ the borrower training and loan assessment provisions that we enacted in the 1990 farm bill to improve FmHA's credit supervision, and assist borrowers to become financially viable, and graduate to private credit. It is my hope that through all of these programs, we will be able to assist new generations of farmers in assuming the vital agricultural production in this country.

Mr. President, I must point out that credit and farm management programs address only some of the problems that hinder beginning farmers. Another, and I believe larger problem, is farm profit. Many commodity prices are simply so low that many farmers cannot make a decent living. Work on a farm is too hard, and the risks too great, to attract a new generation of family-size farmers unless they can see that the business can be profitable. Congress and the administration simply must acknowledge that it has to ensure a decent return on the sale of commodities, or we will lose our stable, cheap supply of food. I strongly urge my colleagues to address this serious problem.

In addition, funding for these programs, particularly the down payment program, is minuscule. The FmHA direct farm ownership loan program is funded at $67 million for the entire country. That means a little over $1 million per State, which funds only a handful of farm ownership loans. There are currently long waiting lists of applicants for these farm ownership loan funds, which are used to assist both beginning farmers and financially troubled borrowers to purchase land and refinance debt. We are now creating a down payment loan program which will also use this same pool of funds. I have regularly pressed for additional farm ownership loan funds, and I urge my colleagues to do the same, so that we can have a meaningful program of assistance to beginning farmers and ranchers.

Mr. President, this bill also includes a number of other FmHA, Farm Credit System, and Farm Credit Administration provisions which I hope will improve the operation of their existing programs.

I ask my colleagues to support passage of this legislation.

Mr. GRASSLEY. Mr. President, I speak today to alert my colleagues to a growing problem not only in Iowa, but in the rest of the Nation, and I urge my colleagues to move quickly to enact legislation that would stem an alarming new threat to the family farm and America's rural communities.

Mr. President, the House of Representatives recently passed the Beginning Farmer and Rancher Credit Act. This bill would assist young people interested in farming by creating a new downpayment loan option for farm ownership loans. This provision is designed to leverage private financing with limited Farmers Home Administration funds. As I will detail in a moment, with the average age of the

farming community continuing to rise at an alarming rate, we desperately need legislation not only to aid the struggling beginning farmer and rancher, but also to encourage our young people to enter the profession. I submit that the transfer of productive agricultural assets with the resulting changing demographics of our rural communities, may be the single most important agriculture issue we will face in the coming years.

I have long been concerned about this trend and have been active in providing incentives that would encourage young people to take up farming. Most notably, I worked hard to get tax-exempt status for State-issued bonds designed to assist beginning farmers to acquire agricultural property.

This has helped thousands, but we need to do more.

And that is why I, in concert with Congressman TIM PENNY, have introduced S. 1835, the Beginning Farmer and Rancher Credit Act. I am pleased that Senator CONRAD has included my bill in a larger agriculture credit package, the Agricultural Credit Amendments Act of 1992. And I sincerely hope that, during these waning days of the 102d Congress, this Chamber supports this measure.

That quick action is needed is demonstrated by 1990 census data and a recent survey conducted by Iowa State University. In Iowa alone, the number of farms dropped by 15,000 between 1980 and 1990, and in fact 32,000 farmers either left the land or found a different primary source of income. During that same time period, the farm population of Iowa declined by 135,000. Many economists believe that steeper declines are expected in the future.

Yet these numbers don't tell the whole story. Census data suggests that the relatively rapid decline in the number of farms during the 1980's was to a large degree due to the dramatic drop in new, beginning farmers. While the numbers of farmers who leave the land have remained relatively stable year in and year out, those who enter farming as a career have dropped off precipitously during the past two decades. The Economic Research Service of the Department of Agriculture confirms this, finding that there has been a 50-percent reduction in the number of farmers under the age of 25, and a 30-percent reduction in the total number of farmers between the ages of 25 and 34. Indeed, the only age group that increased was that of farmers 65 and older. And since most of these farmers are expected to retire in the near future, it is critical to move quickly to encourage young people to get into farming.

To be sure, young people interested in farming face many obstacles: The cost of equipment, seed, livestock, and other inputs means that help with annual operating loans is a necessity. Furthermore, the costs of renting or purchasing farmland has escalated in recent years; and the reduced availability of credit, and cautious lenders, are making it more and more difficult to obtain much-needed credit. Much of the available credit from public and private sources is redirected to existing financially strapped farmers—leaving even less assistance for beginning farmers.

But with the average age of the farmer at 55 years, with many planning to retire in the next 4 years, it is clear that the very foundation of the family farm is being threatened by the barriers to entry that make farming too risky, or too expensive, for young people interested in the profession.

Mr. President, 1 in 4 Iowa farmers will retire in the next 5 years. I have to believe that the numbers for the Nation are comparable. Mr. President, I ask who will take their place? Unless credit is made available for the next generation of farmers, I am afraid that more and more of our agricultural production will be placed in fewer and fewer hands.

A country can ill-afford to ignore its food production, and this Chamber must not miss this opportunity to address the changing face of the American farm. In the past, we have all worked hard to stabilize the farm economy and raise the standard of living of our farmers and ranchers. But to a certain extent our efforts have been primarily reactive. We need the vision to pass this proactive piece of legislation now. We need to ensure that retiring farmers are replaced by aspiring farmers.

Mr. President, I urge my colleagues to put aside any differences that might hinder the enactment of this legislation. Our action during the 102d Congress is crucial not only to the viability of America's family farmers, but also to the future of all of rural America.

Mr. BUMPERS. Mr. President, earlier this year, I introduced legislation that would help provide better direction to USDA's farm credit arm and to make certain that this Nation's beginning farmers will have adqeuate opportunity to meet our food and fiber needs for years to come. Since that time, the House of Representatives has passed legislation, nearly identical to my bill, of which I understand the administration is supportive.

As is appropriate in this body, the Agriculture Committee, the committee of jurisdiction, has reviewed my bill and through a series of discussions within the committee and with representatives of the Department of Agriculture, has approved a package that comes to the floor for introduction today. It is therefore with great pride that I join the distinguished chairman of the Agricultural Credit Subcommittee, Senator CONRAD, and ranking minority member, Senator GRASSLEY, in introducing this important legislation.

When I introduced my Beginning Farmer legislation, I included a statement that outlined the dramatic trend of an aging farm population as well as the increasing costs of farming which have contributed to the barrier which has kept younger generations from entering the farming profession. I will not repeat that accounting of costs or percentages of age groups, but I would like to remind my Senate colleagues of my conclusion: It is little wonder that young men and women are finding it impossible to enter into a life's work in farming even though it is where their hearts or their families' history are strongly attached.

However, I would like to describe a few items that appeared in the September 3, 1992, Wall Street Journal that indicate a few of the reasons why it is difficult for young people to enter farming. Not only is the cost of farming high, credit in rural areas is tight. The ratio of loans to deposits in rural banks is down 20 percent compared to the industry overall, and they are requiring more in terms of downpayments and more in terms of interest rates than might be found in their more urban counterparts.

A certain tenseness about farm credit is understandable. Roughly one-third of the drop in farm debt over the past 7 years—agricultural loans fell by about $55 billion, or 28 percent—can be traced to farm lenders writing off bad debts. The decade of the 1980's witnessed the greatest gut-wrenching in farm country since the Great Depression. During that decade, the tragedy of rural America was portrayed on Hollywood screens and published in weekly farm auction advertisements. In the worst sense of tragedy, the story told of farm suicides, some of which occurred in my home State. As we have grown out of that sad state, the farm lending industry has coated itself with a tough shield of austerity. Given recent history, that is understandable and, to an extent, highly proper. One unfortunate economic outcome, however, is the related hardship on agribusiness. Farmers are now using equipment that should have long been replaced. They can afford little else, but that translates into hard times on Main Street in rural America.

Federal policy must reflect enough caution to avoid a repeat of the 1980's. Federal policy must also contain the will to move into the 1990's and beyond with a dedication to keep farmers on the farm and the farm economy a viable, integral part of our national economy. It always has been so, and to do otherwise today may well result in national economic disaster. We expect farmers to exist and we expect farmers to succeed. I strongly feel the legislation we introduce today will contribute much to both of those expectations.

I would also like to mention an article that appeared in the August 3, 1992, New York Times that described the gradual decline and near extinction of black farmers in this country. According to that article, in 1960, 11 percent of the people operating their own farms were black, which was roughly the same proportion of blacks in the general population. By 1990, that figure had dropped to 1.5 percent or only 69,000 farmers out of a total farm population of 4.5 million. That article quoted Douglas Bachtel, of the University of Georgia's College of Family and Consumer Sciences as stating "black farmers are on their way to extinction."

In my State of Arkansas, this history of a declining black farm population is repeated. Fortunately, there are groups of men and women there who are dedicated to halt this trend through a number of innovative steps to develop alternative crops and other non-traditional methods of rural survival. This year, I am proud to say we were able to finally provide funding for the Socially Disadvantaged Farmer Outreach Program through the agriculture and rural development appropriations bill, some of which I hope will serve those men and women in my State as well as other parts of the country. I believe the legislation we introduce today will highly complement these steps to encourage and enable young farmers, black and white alike, to acquire the tools and resources necessary to farm and to farm successfully.

The legislation we introduce today is not so much a revolution of Federal farm credit policy as it is a long-needed redirection and redefinition of the role Federal farm credit programs should serve to American farmers. The Farmers Home Administration has a long history and has well proven its role in allowing farmers to conduct viable operations by giving them the chance to get on their feet and become productive members of the farming community. It was never designed to be the permanent sole source of credit. The Farmers Home Administration was designed to be the lender of last resort, but not the lender of perpetual resort.

Our legislation is designed to target those beginning farmers who have a true opportunity for success if given that important first chance. Among other things, this bill directs certain portions of funding for Farmers Home lending resources to beginning farmers for operating and eventual farm ownership expenses. The bill also establishes a program in which young farmers can enter into 10-year commitments with Farmers Home so that as long as the farmer meets his or her personal goals, Farmers Home will assist with credit needs. Once a young farmer has proven success, he or she may become eligible for a newly established down payment loan program that goes far in helping purchase a farm that may one day be passed on to their children, young farmers of the next generation.

This legislation not only anticipates farmer success, in a sense it requires it. If farmers are unable to meet their objectives for 2 consecutive years, the Farmers Home commitment may be withdrawn unless the failure is due to circumstances beyond the control of the farmer and will not materially reduce the likelihood of the operation's financial viability. Graduation, the process of moving farmers from federally subsidized credit to commercial credit, has long been the goal of Farmers Home programs and this bill will help make it a reality.

Farmers in my State and elsewhere have experienced difficult times in recent years. Natural disasters, depressed prices, high costs, unfair trade competition, and other factors have all taken their toll. Still, farmers are among the toughest and most dedicated of all our citizens. I am proud to serve them and, through this legislation, to help provide the means for young farmers to succeed. I am equally proud to join with my colleagues in the introduction of this bill as an expression of our thanks to all the generations of farmers who have served this Nation and as a promise of support and expectation for those generations to come.

Mr. LEAHY. Mr. President, I am pleased to cosponsor the Agricultural Credit Amendments Act of 1992. I want to recognize Senator CONRAD, chairman of the Subcommittee on Credit, for his leadership in developing this legislation.

Because of the economics of the past decade, it has become all but impossible for an American farmer to make a decent living, let alone hope that a son or daughter can do the same. We are at risk of losing the family farm—the farm passed down from generation to generation. We must pass this legislation to give young people who want a future in agriculture the opportunity they deserve.

Over the past decade we have witnessed dramatic changes in American agriculture. Nearly one-half of all farmers in 1987 were over the age of 55 and less than 2 percent were under age 25. Farm population is declining at an alarming rate. This year we have only 2.1 million farm families left in the United States. We must act to preserve our rural heritage before it is too late.

The farm recession of the 1980's and policy changes by the Reagan-Bush administrations have restricted the capability of beginning farmers to obtain the credit they need to get started farming.

Given the financial environment today, some restrictions are understandable. This legislation is special because it protects our financial interests—it encourages young people to choose farming as their profession but demands that they make a 10-year commitment and meet their goals. As long as the young farmer keeps his commitment, the Farmers Home Administration will assist with credit.

This program is based on success rather than failure. These young farmers must succeed—if they miss their goals for 2 consecutive years, FmHA can withdraw their commitment. Therefore the program aids in graduating farmers to commercial credit—which has always been an objective of the Farmers Home loan programs. These loan programs were established to provide last resort credit, intended only as a temporary source.

As young farmers face many obstacles, it is appropriate that we have a national policy to assist those young farmers that simply need help getting started.

Enough of the policies of the past decade have hurt rural communities—we have seen much of the progress made combating poverty and unemployment in rural areas reversed. Agriculture plays an essential role in the vitality of rural areas, and losing young farmers will only further add to the struggles of rural America.

We have a proud tradition of agriculture in Vermont and in America. That proud tradition remains on the face of every man and woman, every American farmer that year after year holds on to their farm, is firm in their conviction that U.S. agriculture must remain a world leader, and teaches the value of their land and their farm to their children. This legislation helps ensure that the proud tradition of American agriculture is not lost.

Mr. FOWLER. Mr. President, this legislation is extremely important to the beginning farmers of America and I am pleased to support its passage. However, we have failed to address an important provision expanding the lending authority of the Farm Credit System. I have worked long and hard with the chairman of the Agriculture Committee on this matter and we have come to an agreement which temporarily resolves some of my concerns.

Mr. LEAHY. The Senator from Georgia's interest in this matter is well documented and he should be commended for his commitment to expanding economic development opportunities in rural America.

Mr. FOWLER. I thank my distinguished chairman and want to clarify our agreement. It is my understanding the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on the expansion of the Farm Credit System's lending authority early next year?

Mr. LEAHY. The distinguished Senator from Georgia is correct. The committee will hold a hearing on that matter at the beginning of the 103d Congress early next year.

Mr. FOWLER. It is also my understanding that after the hearing the committee members will examine the testimony to determine if there is interest in moving forward with legislation. If there is significant interest in moving forward with legislation expanding the leading authority of the Farm Credit System, the committee will act accordingly.

Mr. LEAHY. If after the hearing there is a desire by the members of the committee to address the expansion of lending authority, the committee will act accordingly.

Mr. FOWLER. I thank the Senator from Vermont and also want to recognize his continued leadership on the many issues facing rural America.

By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of U.S. registry; to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

• Mr. BREAUX. Mr. President, today I am introducing legislation that will correct an unintended, potentially damaging, consequence of U.S. immigration law, which control the activities of alien tuna fishing vessel crewmen who enter ports in this country. Immigration and naturalization law permit parole privileges, under specified procedures, to crewmembers of foreign-flagged fishing boats that enter U.S. ports.

Alien crewmen on foreign-flagged fishing vessels that dock at our ports are able to secure parole privileges to leave these vessels for onshore medical attention, travel to airports for flights home, attend to the boat's business, and work alongside their vessels to repair nets and perform other work-related functions. Mr. President, alien crews on foreign vessels are allowed reasonable and ample parole privileges.

But if these same crewmen sail into American ports 1 month later as members of crews of American-flagged fishing vessels, Mr. President, they are denied parole privileges absolutely. They cannot visit a doctor if they are sick or injured. They cannot repair nets. They are limited in their ability to participate in unloading the catch. And, they certainly cannot travel to airports: they are not allowed to leave the boat, Mr. President.

Mr. President, according to the Justice Department:

> This inequity arises because section 101(a)(15)(D) of the Immigration and Nationality Act forbids classifying nonimmigrants who work on fishing vessels based in the United States as "D" crewmen. This group of nonimmigrants does not fall under any other category specified in the act * * * according to statute and the policy of the Immigration and Naturalization Service, these crewmen are detained on board their vessels.

Please note, Mr. President, that under our law if you are an undocumented alien docked in an American port as a crewmember of a foreign-flagged fishing vessel, you are treated substantially different, than if you are an undocumented alien under the same circumstances except that you are a crewman of an American-flagged fishing vessel.

Such law and policy, Mr. President, can have serious economic consequences. If foreign crews on American vessels cannot leave their vessels, an American fishing vessel is, and has been, hampered in its ability to unload its catch.

A California cannery has felt the impact of this discrimination. As noted by the Fishermen's Union of America, an affiliate of the Seafarers International Union of North America, AFL–CIO, the tuna cannery in the continental United States at Terminal Island, CA, is threatened with closure if U.S. fishing vessels must unload their catches in ports outside of the United States. It is my understanding that this community's economic base is centered on the commercial fishing industry.

My bill would correct this unreasonable discrimination. My bill would amend the statute to give to foreign crews working on American fishing vessels the same parole rights and privileges, no more or no less, Mr. President, as their counterparts who work on foreign-flagged fishing vessels.

I again note, Mr. President, that the off-vessel activities of foreign crews of American fishing vessels that would be sanctioned by my bill are already being practiced by foreign crews of foreign-flagged fishing vessels. Longshore activities of foreign crews of American vessels would be strictly limited to those allowed under Immigrant Act regulations that enforce section 101(a)(15)(D)(i). American-vessel foreign crews would also have to meet the same documentation requirements, and the requirements of all regulations otherwise prescribed by the Immigration and Naturalization Service for the control of undocumented aliens.

This bill will, however, remove the unintended consequence of U.S. law discriminating against American fishing vessels and creating a disadvantage for an American tuna cannery.

Mr. President, I urge my colleagues to join me in supporting and passing this immigrant legislation.•

By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT PROHIBITING THE LAYING OR INCREASING OF TAXES BY THE SUPREME COURT OR ANY INFERIOR COURT OF THE UNITED STATES

• Mr. DANFORTH. Mr. President, I rise to introduce a constitutional amendment confirming the principle that unelected officials cannot raise taxes on the American people. I ask unanimous consent that the text of the amendment follow my remarks. I am surprised that there is a need for this amendment. Yet, in a 5-to-4 decision on April 18, 1990, the Supreme Court upheld a lower court's decision, which increased taxes on the people in my State. The increase in taxes was indirect, but in a sense so narrow as to be meaningless. Although the Court properly held that a court does not have the power to simply levy a tax increase, in the same opinion the Court held that a judge may eliminate State law impediments to higher taxes and then order that the relevant taxes be increased. I agree with the dissent, that "any purported distinction between direct imposition of a tax by the Federal court and an order commanding the school district to impose the tax is but a convenient formalism."

In 1977, a group of Kansas City students filed a complaint against the State of Missouri for operating a segregated school system. The district court found that the school district and the State had violated the Constitution and ordered a magnet school system to remedy the violation. Unlike most orders in which a court requires that a certain remedy be implemented, this court decided to immerse itself in the details of the new magnet school plan. The judge has ordered $1.2 billion spent on building improvements and development of new programs. That cost could reach $2 billion by the year 2000. The liability for this astronomical amount is split 75 percent to the State and 25 percent to the Kansas City School District. Yet, because of joint and several liability, the State ultimately picks up the tab for amounts that cannot be raised by the local government.

This order has placed an incredible burden on Missouri's budget. Last year, the State had to come up with an unexpected $71 million for desegregation costs. The State has already paid out $570.7 million for the Kansas City desegregation program. The court-ordered monitoring committee found the following:

> The attitude has been prevalent throughout the * * * program that money is no object, and the court will provide all that is necessary and no one will take any punitive actions if we are sloppy in our work habits. * * *

Why extravagance with the public's money? I would argue it is because an

unelected individual has ordered higher taxes to fund the plan. The reason our Constitution did not accord the taxing power to unelected officials is because our government must be accountable to the people, and no power is more basic than the power to tax. The public's money must not be spent unless there is some method for turning off the faucet, or passing judgment on the official who is spending the money.

In Missouri versus Jenkins, the Court was wrong. The Constitution never granted courts the power to levy a direct or indirect tax. Article I, section 8 of the Constitution gives Congress the "power to lay and collect taxes, duties, imposts and excises." Article III enumerates the powers of the judicial branch, and nowhere in the text of article III does the word "tax" appear.

Article I, section 7 states that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills." Why do tax bills have to originate in the House? The reason is that the House of Representatives was the part of Congress closest to the people when the Constitution was written. Until 1913, Senators were elected by State legislators, and therefore were considered more removed from the people.

If the language of the Constitution is not clear enough, let's follow the ordinary canons of constitutional interpretation and look at the history of the founding of this country and the drafting of the Constitution. The Revolutionary War was fought over the right of the people to avoid taxation without representation. The Stamp Act Congress in 1765 reflected the views of all the States in stating the following:

Resolved: That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally or by their representatives * * * that the only representatives of the people of these colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

In the Federalist Papers, Alexander Hamilton and James Madison gave us our best insight into the intent of the drafters regarding taxation. In Federalist 48, James Madison said the following: "* * * the legislative department alone has access to the pockets of the people." In Federalist 78, Hamilton argued that the judicial branch would be the least dangerous branch saying in the process that judges would have "no influence over either the sword or the purse."

In my view, the dissenters in Missouri versus Jenkins were correct: the Constitution did not give judges the power of taxation. Because the government cannot exercise powers it doesn't possess, it follows as a matter of obvious necessity that judges cannot tax. If judges can tax, then the government can give itself powers not granted by the people—an idea that is ridiculous on its face.

My amendment is simple. It would restore the understanding which I have always had of the Constitution. It will not hamstring the courts nor prevent its remedies from being enforced. Courts have always had the civil contempt power which, as is evidenced by the housing desegregation order in Yonkers, NY, is no trifling weapon. Courts have always been able to enforce their orders without the need for the taxing power, and this amendment will not alter this balance of power.

This amendment restates our belief that Americans should not and will not be taxed without representation. It is shocking that the law, as it stands, says the opposite: that an unelected official, appointed for life, can raise taxes. There is no more basic principle in America than popular consent to being taxed. When the courts hold otherwise, the courts are wrong, and should be corrected.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 345

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes."•

SENATE CONCURRENT RESOLUTION 140—RELATING TO HUMANITARIAN RELIEF AND HUMAN RIGHTS IN THE SUDAN

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

Resolved, That the Senate (The House of Representatives Concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system to ameliorate the humanitarian situation in Sudan.

AMENDMENTS SUBMITTED

PUBLIC HEALTH SERVICE ACT AMENDMENTS OF 1992

SMITH AMENDMENT NO. 3373

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill (S. 2899) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, as follows:

At the appropriate place, add the following:

TITLE . CRIME CONTROL

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.
Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children To Distribute Drugs Near Schools and Playgrounds

Sec. 501. Strengthened Federal penalties.

Subtitle B—Antigang Provisions

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.
Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.

Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
Sec. 772. Disclosure of records of arrests by campus police.
Sec. 773. National baseline study on campus sexual assault.
Sec. 774. Sense of Congress concerning child custody and visitation rights.

TITLE VIII—EQUAL JUSTICE ACT

Sec. 801. Short title.
Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
Sec. 804. Federal capital cases.
Sec. 805. Extension of protection of civil rights statutes.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 901. Short title.
Sec. 902. Grants to State and local agencies.
Sec. 903. Continuation of Federal-State funding formula.
Sec. 904. Grants for multi-jurisdictional drug task forces.

Subtitle B—Retired Public Safety Officer Death Benefit

Sec. 911. Retired public safety officer death benefit.

Subtitle C—Study on Police Officers' Rights

Sec. 921. Study on police officers' rights.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 931. Short title.
Sec. 932. Purposes.
Sec. 933. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 934. Designation of lead agency and submission of State plan.

Subchapter A—Police Corps Program

Sec. 935. Definitions.
Sec. 936. Scholarship assistance.
Sec. 937. Selection of participants.
Sec. 938. Police corps training.
Sec. 939. Service obligation.
Sec. 940. State plan requirements.
Sec. 941. Authorization of appropriations.

Subchapter B—Law Enforcement Scholarship Program

Sec. 942. Short title.
Sec. 943. Definitions.
Sec. 944. Allotment.
Sec. 945. Program established.
Sec. 946. Scholarships.
Sec. 947. Eligibility.
Sec. 948. State application.
Sec. 949. Local application.
Sec. 950. Scholarship agreement.
Sec. 951. Authorization of appropriations.

Subchapter C—Reports

Sec. 952. Reports to Congress.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

Sec. 961. Short title.
Sec. 962. Cop-on-the-beat grants.

Subtitle E—Rural Crime Prevention Strategy

Sec. 971. Findings.
Sec. 972. Strategy to address rural crime.
Sec. 973. National Institute of Justice national assessment.
Sec. 974. Pilot programs.
Sec. 975. Funding.

Subtitle F—National Commission to Support Law Enforcement

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Establishment of commission.
Sec. 984. Duties.
Sec. 985. Membership.
Sec. 986. Experts and consultants.
Sec. 987. Powers of commission.
Sec. 988. Report.
Sec. 989. Termination.
Sec. 989A. Repeals.

Subtitle G—Other Provisions

Sec. 991. Missing Alzheimer's disease patient alert program.
Sec. 992. Authorization of appropriations for Bureau of Justice Assistance discretionary grants.
Sec. 993. Law enforcement family support.
Sec. 994. Mandatory literacy program.
Sec. 995. Trauma centers and crime-related violence.
Sec. 996. Study and assessment of alcohol use and treatment.
Sec. 997. Notice of release of prisoners.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Sec. 1001. Drug testing of Federal offenders on post-conviction release.
Sec. 1002. Drug testing in State criminal justice systems.

Subtitle B—Precursor Chemicals

Sec. 1011. Short title.
Sec. 1012. Definition amendments.
Sec. 1013. Registration requirement.
Sec. 1014. Reporting of listed chemical manufacturing.
Sec. 1015. Reports by brokers and traders; criminal penalties.
Sec. 1016. Exemption authority; additional penalties.
Sec. 1017. Amendments to list I.
Sec. 1018. Elimination of regular supplier status and creation of regular importer status.
Sec. 1019. Administrative inspections and authority.
Sec. 1020. Threshold amounts.
Sec. 1021. Management of listed chemicals.
Sec. 1022. Attorney General access to the National Practitioner Data Bank.
Sec. 1023. Regulations and effective date.

Subtitle C—Interdiction

Sec. 1031. Sanctions for failure to land or to bring to.
Sec. 1032. FAA revocation authority.
Sec. 1033. Coast Guard air interdiction authority.
Sec. 1034. Coast Guard civil penalty provisions.
Sec. 1035. Customs orders.
Sec. 1036. Customs civil penalty provisions.
Sec. 1037. Information exchange and assistance.
Sec. 1038. Assistance to foreign governments and international organizations.
Sec. 1039. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.

Subtitle D—Rural Drug Crime

Sec. 1051. Rural drug enforcement task forces.
Sec. 1052. Cross-designation of Federal officers.
Sec. 1053. Rural drug enforcement training.
Sec. 1054. Authorization of appropriations for rural law enforcement agencies.
Sec. 1055. Rural substance abuse treatment and education grants.
Sec. 1056. Clearinghouse program.

Subtitle E—Grant Programs

Sec. 1061. Drug emergency areas.
Sec. 1062. Department of Justice community substance abuse prevention.
Sec. 1063. Grants for substance abuse treatment.
Sec. 1064. Drug testing upon arrest.

Subtitle F—Other Provisions

Sec. 1071. Strengthened Federal penalties relating to crystalline methamphetamine.
Sec. 1072. Advertisements of controlled substances.
Sec. 1073. Increased penalties for distribution of controlled substances at truck stops and rest areas.

Sec. 1074. Enhancement of penalties for drug trafficking in prisons.
Sec. 1075. Seizure of vehicles with concealed compartments.
Sec. 1076. Closing of loophole for illegal importation of small drug quantities.
Sec. 1077. Undercover operations—churning.
Sec. 1078. Drug paraphernalia amendment.
Sec. 1079. Conforming amendments concerning marijuana.
Sec. 1080. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 1081. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 1082. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
Sec. 1083. Elimination of outmoded language relating to parole.
Sec. 1084. Conforming amendment to provision punishing a second offense of distributing drugs to a minor.
Sec. 1085. Life imprisonment without release for criminals convicted a third time.
Sec. 1086. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
Sec. 1087. Drug paraphernalia.
Sec. 1088. Mandatory penalties for illegal drug use in Federal prisons.
Sec. 1089. Drug distribution to pregnant women.
Sec. 1090. Drugged or drunk driving child protection.
Sec. 1091. Penalties for drug dealing in public housing authority facilities.
Sec. 1092. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 1093. Increased penalties for drug dealing in "drug-free" zones.
Sec. 1094. Anabolic steroids penalties.
Sec. 1095. Program to provide public awareness of the provisions of law that condition portions of a State's Federal highway funding on the State's enactment of legislation requiring the revocation of the driver's licenses of convicted drug abusers.
Sec. 1096. Drug abuse resistance education programs.
Sec. 1097. Misuse of the words "Drug Enforcement Administration" or the initials "DEA".

TITLE XI—PUBLIC CORRUPTION

Sec. 1101. Short title.
Sec. 1102. Public corruption.
Sec. 1103. Interstate commerce.
Sec. 1104. Narcotics-related public corruption.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1201. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 1202. Increase in maximum penalty for assault.
Sec. 1203. Increased maximum penalty for manslaughter.
Sec. 1204. Violent felonies against the elderly.
Sec. 1205. Increased penalty for Travel Act violations.
Sec. 1206. Increased penalty for conspiracy to commit murder for hire.

Subtitle B—Civil Rights Offenses

Sec. 1211. Increased maximum penalties for civil rights violations.

Subtitle C—White Collar and Property Crimes

Sec. 1221. Receipt of proceeds of a postal robbery.
Sec. 1222. Receipt of proceeds of extortion or kidnapping.
Sec. 1223. Conforming addition to obstruction of civil investigative demand statute.
Sec. 1224. Conforming addition of predicate offenses to financial institutions rewards statute.
Sec. 1225. Definition of savings and loan association in bank robbery statute.
Sec. 1226. Conforming definition of "1 year period" in 18 U.S.C. 1516.
Sec. 1227. Professional and amateur sports protection.
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TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

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Sec. 1402. Authorization of appropriations for Federal law enforcement agencies.

TITLE XV—FEDERAL PRISONS

Sec. 1501. Authorization of appropriations for new prison construction.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1992".

SEC. 102. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. 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. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder 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;

"(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 which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(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 members 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, intending to cause death or acting with reckless disregard for human life, 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

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

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 18 years of age at the time of the offense or who is mentally retarded.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his 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) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(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) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—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) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct 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), 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 by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—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); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), 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 death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 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.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, 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 COMMISSION.—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 commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR 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.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—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 was no Vice President, the officer next in order of succession to the

office of the President of the United States, or any person 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), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal 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 of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(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), (4), or (5), 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 substances (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) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—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 (21 U.S.C. 859) 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 (21 U.S.C. 860) 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 (21 U.S.C. 861) 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.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, 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, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. 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.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of 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. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. 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 the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 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.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided. The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for 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 that case of imposing a sentence of death. The attorney for 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 an 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 evidence.

"(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;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE 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 be influenced by prejudice or bias relating to the race, color, religion, 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, religion, 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 return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, 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, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, 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 the possibility of release.

"§ 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 of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence 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) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—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 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 so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—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 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"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.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment 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 defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section 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 district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental 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 in earlier proceedings; 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.

"§ 3600. Application in 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 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end 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 beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 110. MURDER BY FEDERAL PRISONER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) '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 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder 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, by death or imprisonment for any term of years or for life.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) 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 in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

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 in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 118. CONFORMING AMENDMENT RELATING TO 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".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(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;

"(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 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 124. 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 before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(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; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 127. 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 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 the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 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 activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which 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. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—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 cir-

cumstances 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 an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 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) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), 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, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited 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) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the 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 the master 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 or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(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, but 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 that 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 stated 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) OFFENSE.—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 that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 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) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), 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 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited 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) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed 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 seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated 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.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which 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 on which 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. 130. 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; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 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) JURISDICTION.—There is jurisdiction over the activity prohibited 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) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) 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, as amended by section 601(b), is amended by adding at the end the following new section:

"§ 2339A. Use of weapons of mass destruction

"(a) OFFENSE.—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 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) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated 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) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

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

"(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)), 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.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years 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 "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 141. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital punishment for murders in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)-(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—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.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for 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 that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggra-

vating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or 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 such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and 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. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau 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 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in

subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; 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.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1992".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end 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—

"(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. 203. 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 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, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

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

"*Rule 22. Habeas corpus and section 2255 proceedings*

"(*a*) *Application for 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. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is 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 subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

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

"(d) An application for a writ of habeas corpus 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.";

(4) by amending subsection (e), as redesignated by paragraph (2), 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."; and

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

"(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 section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

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

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end 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—

"(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 section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 211. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.

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

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"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) APPLICATION OF CHAPTER.—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) ESTABLISHMENT OF APPOINTMENT MECHANISM.—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) OFFER OF COUNSEL.—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 1 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) PREVIOUS REPRESENTATION.—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) NO GROUND FOR RELIEF.—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. 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) STAY.—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) EXPIRATION OF STAY.—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;

"(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) LIMITATION ON FURTHER STAY.—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 180 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 60 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) REVIEW OF RECORD; HEARING.—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) ADJUDICATION.—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 this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

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

"(b) OFFER OF COUNSEL.—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) APPLICATION OF OTHER SECTIONS.—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, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. 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 the 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) APPLICATION OF SECTION.—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 redetermination 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) RULE OF CONSTRUCTION.—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) NO GROUND FOR RELIEF.—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) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

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

"154. Special habeas corpus procedures in capital cases ..... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 221. 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 inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, 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.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a 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 circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) 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.".

SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(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) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) 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 not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

SEC. 405. INCREASED PENALTY FOR KNOWINGLY 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 (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

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

"(2) Notwithstanding 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 may 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 60 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. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end 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. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under 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, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under 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. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) 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 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or for-

eign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 416. 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. 417. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 418. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 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 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 or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed or pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, 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. 419. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 501. STRENGTHENED FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other 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 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 under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

Subtitle B—Antigang Provisions

SEC. 511. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may 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) PARTICULAR PURPOSES.—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, 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—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) 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 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.

"(10) To provide education and treatment programs for juveniles 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 juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such 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

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) 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) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit 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 section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20

percent 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 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) 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) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit 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 residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent 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 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) 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. 512. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 513. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§ 521. Criminal street gangs

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) 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.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

Subtitle C—Juvenile Penalties

SEC. 521 TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), 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, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another,

or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), 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 new paragraph:

"(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 or 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. 522. 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, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were 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".

SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

Subtitle D—Other Provisions

SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

SEC. 601. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism ..... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

SEC. 602. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339. 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 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (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 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

SEC. 603. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal—

"(i) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; 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 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; 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 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 604. ALIEN WITNESS COOPERATION.

(a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by 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 the alien with appropriate immigration visas and allow the 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 provision 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 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the 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 the Attorney General, that granting permanent residence status to the 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 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.

"(d) DEFINITIONS.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.
"3529. Definition.".

SEC. 605. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress 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. 606. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" 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) by inserting at the end 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 the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 607. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end 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.".

SEC. 608. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are 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.

SEC. 610. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1541 OF TITLE 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) CHAPTER 75 OF TITLE 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) SECTION 1545 OF TITLE 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 611. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than 3 levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 612. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 613. INTERNATIONAL PARENTAL KIDNAPING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnaping

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 614. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

SEC. 615. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) OFFENSE.—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.

"(b) APPROVAL OF PROSECUTION.—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) CRITERIA FOR APPROVAL.—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) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by

section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 616. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

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

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—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 that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated 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),".

SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) IN GENERAL.—" before "It shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(b) APPLICATION OF SUBSECTION (a).—

"(1) EXCEPTION.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) VOYAGES AND SEGMENTS BEGINNING AND ENDING IN THE SAME STATE OR POSSESSION.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or to arouse or gratify the sexual desire of, any person;".

SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) PENALTY.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

"§ 2246. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.

"2247. Definitions for chapter.".

SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this sub-

section may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 702(b), is amended by striking the item relating to section 2247 and inserting the following:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.
"2248. Definitions for chapter.".

SEC. 705. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting before the period at the end "and the cost of up to 2 tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

Subtitle B—Victims' Rights

SEC. 711. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 712. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 713. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 714. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) 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), (h), and (i), as redesignated by section 711(b)(1);

(6) by redesignating subsection (g), as added by section 711(b)(2), as subsection (d); and

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

"(e)(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.

"(f) 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.

"(g) 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.

"(h)(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.

"(i) 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;

"(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.

"(j) 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.

"(k) 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.

"(l) 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; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) 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 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.".

Subtitle C—Crime Victims Fund

SEC. 721. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Section 1402 (c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

SEC. 722. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 723. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The last sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 724. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 725. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following: "The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 726. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following new paragraph:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 727. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 728. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)), as amended by section 726, is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs"; and

(2) by adding at the end the following new paragraph:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

SEC. 729. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990" and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31".

SEC. 730. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 731. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

Sections 721(b), 722, 723, and 728, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of enactment of this Act for which the Director certifies that there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

Subtitle D—National Child Protection Act

SEC. 741. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1992".

SEC. 742. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 743. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any 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;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 744. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACK-

GROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(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—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 743, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 745. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 746. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—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—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) 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 744 of the National Child Protection Act of 1992 with the Attorney General for the purpose of implementing the National Child Protection Act of 1992.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) 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—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 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 that State under section 744 of this Act.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

SEC. 751. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 752. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs 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, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) 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—

(A) inform the person of the duty to register;

(B) 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;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) 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 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 person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) 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.

(c) 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, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current 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.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 753. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) 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 this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle F—Domestic Violence

SEC. 761. DOMESTIC VIOLENCE GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"Part Q—Domestic Violence Intervention

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

"SEC. 1702. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.".

"SEC. 1703. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1702;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill those gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

"SEC. 1705. AWARD OF GRANTS.

"The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

"SEC. 1706. REPORTS.

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 1707. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DOMESTIC VIOLENCE INTERVENTION

"Sec. 1701. Grant authorization.
"Sec. 1702. Use of funds.
"Sec. 1703. Applications.
"Sec. 1704. Allocation of funds; limitations on grants.
"Sec. 1705. Award of grants.
"Sec. 1706. Reports.
"Sec. 1707. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.".

SEC. 762. 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 or 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.

Subtitle G—Other Provisions

SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) 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.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end 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.—In 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.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Inducement of minor to commit an offense.".

SEC. 772. 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 maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

SEC. 774. 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 VIII—EQUAL JUSTICE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 804. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) 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. 903. 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 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

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

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

Subtitle C—Study on Police Officers' Rights

SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 931. SHORT TITLE.

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 932. PURPOSES.

The purposes of this chapter 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. 933. 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 subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter 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 chapter;

(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 subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

Subchapter A—Police Corps Program

SEC. 935. DEFINITIONS.

For the purposes of this subchapter—

(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 937;

(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 940.

SEC. 936. 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.

(3) 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.

(4)(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 pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(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 938, 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 938; 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 (C) 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 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 938.

(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 stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 937. 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 the State Police Corps plan, 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 Act, 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 939, and such a participant shall be subject to the same benefits and obligations under this chapter 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 939, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter 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, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional 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. 938. 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 subchapter.

(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 940 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. 939. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 938 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 936, 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 936(d)(1)(C) shall not apply.

(d) LAYOFFS.—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 936, 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 936(d)(1)(C) shall not apply.

SEC. 940. 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 937;

(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. 941. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subchapter B—Law Enforcement Scholarship Program

SEC. 942. SHORT TITLE.

This subchapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 943. DEFINITIONS.

As used in this subchapter—

(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 meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(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. 944. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 951, 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 chapter in the State compared to the shortage of law enforcement personnel and the need for assistance under this subchapter in all States.

SEC. 945. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 944 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 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 944 the Federal share of the cost of the activities described in the application submitted pursuant to section 948.

(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 subchapter shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 944 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 subchapter.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subchapter and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subchapter.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 944 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 944 shall ensure that each scholarship recipient under this subchapter 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 subchapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 946. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this chapter shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subchapter may use such scholarship for educational expenses at any institution of higher education.

SEC. 947. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subchapter 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 subchapter.

SEC. 948. STATE APPLICATION.

Each State desiring an allotment under section 944 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 subchapter 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 subchapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subchapter 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 subchapter;

(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 subchapter;

(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. 949. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subchapter 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 subchapter, 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. 950. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subchapter 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 chapter 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 chapter may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subchapter.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subchapter 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 subchapter 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. 951. 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 subchapter.

(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 945(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 945(a)(1)(B) and (2).

Subchapter C—Reports

SEC. 952. 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 subchapter 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 subchapter 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 subchapter B; and

(5) describe the progress of the programs authorized by this chapter 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 subchapter 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.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

SEC. 961. SHORT TITLE.

This chapter may be cited as "The Cop-on-the-Beat Act of 1992".

SEC. 962. COP-ON-THE-BEAT GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1805. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(b), is amended by striking the matter relating to part R and inserting the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitation on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 761(c), is amended by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out projects under part R.".

Subtitle E—Rural Crime Prevention Strategy

SEC. 971. 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 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. 972. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this subtitle 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. 973. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this subtitle 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 community 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 Act.

(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. 974. PILOT PROGRAMS.

(a) IN GENERAL.—The Director may 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. 975. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this subtitle.

Subtitle F—National Commission to Support Law Enforcement

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 982. 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 25 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. 983. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 984. 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. 985. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national 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. 986. 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 subtitle.

(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. 987. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time 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 that 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 subtitle. 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. 988. REPORT.

Not later than the expiration of the 18-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. 989. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 988.

SEC. 989A. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

Subtitle G—Other Provisions

SEC. 991. 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 the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, aggressive 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 fiscal years 1992, 1993, and 1994.

SEC. 992. AUTHORIZATION OF APPROPRIATIONS FOR BUREAU OF JUSTICE ASSISTANCE DISCRETIONARY GRANTS.

Section 1001(a)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)), as amended by section 1054, is amended to read as follows:

"(7) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 993. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall as-

sure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(b), is amended by striking the matter relating to part S and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 962(c), is amended by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out part S, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1901, including administrative costs, research, and training programs.".

SEC. 994. 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 that 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.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General may 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 reintegration 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" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 995. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

(a) AMENDMENT OF PUBLIC HEALTH SERVICE ACT.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by sec-

tion 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(b) TECHNICAL AMENDMENTS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

SEC. 996. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 997. NOTICE OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b).."; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime (as defined in section 924(c)(2)); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

(b) APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.—In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

SEC. 1001. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking "and";

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), 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 periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 1002. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.) is amended by adding at the end the following new section:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons confined in, or subject to supervision in, the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b). Notwithstanding the preceding sentence, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 percent of the minimum amount that the State is eligible to receive under subpart 1.

"(b) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall promulgate regulations to implement this section to ensure reliability and accuracy of drug testing programs. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impracticable or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but not earlier than the promulgation of the regulations required under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Drug testing programs.".

Subtitle B—Precursor Chemicals

SEC. 1011. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1992".

SEC. 1012. DEFINITION AMENDMENTS.

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—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 inserting "any list I chemical or any list II chemical";

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

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

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

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

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

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

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

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

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

(2) in paragraph (38) by striking the period and inserting "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 ", 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 semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "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 at the end the following new paragraph:

"(42) The terms 'broker' and '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 together a buyer and a seller, or a buyer or seller and a transporter.".

SEC. 1013. REGISTRATION REQUIREMENT.

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

(b) PERSONS REQUIRED TO REGISTER.—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" 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 chemicals" after "controlled substance" each place it appears; and

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

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—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 the Attorney General determines that the registration would be 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.

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

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—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" 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) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

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

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

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

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

(f) PROHIBITED ACTS C.—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 "; or"; and

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

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

SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.

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

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(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 the person.".

SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that 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, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

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

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

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

"(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;

"(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 title; or

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

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

SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) 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 the Attorney General finds that the 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 the Attorney General determines that the advance notice is not required for effective chemical control. If the 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 the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or 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) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 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 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

SEC. 1017. AMENDMENTS TO LIST I.

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

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended 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) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—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 "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

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

SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

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

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

SEC. 1020. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, 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. 1021. MANAGEMENT OF LISTED CHEMICALS.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—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, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(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.

"(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, or 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 convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—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) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

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

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

SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. 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 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 1023. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—Interdiction

SEC. 1031. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2237. Order to land or bring to

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term '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;

"(2) 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;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115; and

"(4) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings stated in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(b) FAILURE TO LAND AIRCRAFT.—(1) It is unlawful for the pilot, operator, or person in charge of an aircraft that has crossed the border of the United States or an aircraft subject to the jurisdiction of the United States that is being operated outside the United States to refuse to obey the order to land made by an authorized Federal law enforcement officer who is enforcing—

"(A) the laws of the United States relating to controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) chapter 27 or section 1956 or 1957 of this title.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, after consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated by Federal law enforcement officers to the pilot, operator, or person in charge of an aircraft.

"(c) FAILURE TO BRING VESSEL TO.—It is unlawful for the 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 the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(d) RULE OF CONSTRUCTION.—This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other law that the Customs Service enforces or administers or the 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.

"(e) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement by the United States of its laws 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.

"(f) PENALTY.—A person who intentionally violates this section shall be fined under this title, imprisoned not more than 3 years, or both.

"(g) FORFEITURE.—Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The 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 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.

"(h) DELEGATION OF AUTHORITY.—The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land or to bring to.".

SEC. 1032. FAA REVOCATION AUTHORITY.

(a) IMMEDIATE REVOCATION OF REGISTRATION.—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 new paragraph:

"(3)(A) The registration of the aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18, 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 the 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); 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) REVOCATION OF AIRMAN CERTIFICATE.—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)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(A) the 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, United States Code; and

"(B) the person knew or had reason to know that the person 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, paragraph (1) shall not apply.

"(3) Subsection (c)(3) 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. 1033. 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.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 1034. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) INTENTIONAL FAILURE TO COMPLY.—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 this title 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) NEGLIGENT FAILURE TO COMPLY.—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 this title 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) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 1035. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(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; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) INTENTIONAL FAILURE TO COMPLY.—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 581 of this Act or section 2237 of title 18, 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) NEGLIGENT FAILURE TO COMPLY.—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 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) EXCHANGE OF INFORMATION.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) USE OF PERSONNEL AND FACILITIES.—The Coast Guard may, when so requested by the Secretary of State, use 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. 1038. 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

"(a) IN GENERAL.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's 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.

"(b) DETAIL OF PERSONNEL.—(1) Utilization of members may include the detail of such members.

"(2) 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.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard 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) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 to read as follows:

"149. Assistance to foreign governments and international organizations.".

SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

Subtitle D—Rural Drug Crime

SEC. 1051. 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, may 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. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

SEC. 1053. 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 subsection (a).

SEC. 1054. AUTHORIZATION OF APPROPRIATIONS 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 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) 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.".

(b) AMENDMENT OF BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

SEC. 1055. 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 the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (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 nonmetrpolitan 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 of not to exceed 3 years, except that the Director may establish a procedure for the 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. 1056. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end 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 E—Grant Programs

SEC. 1061. DRUG EMERGENCY AREAS.

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) If 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 the 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 by any other 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, to protect property and public health, and to promote safety.

"(2) PROCEDURE FOR DECLARATION.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government 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) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall 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 or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that 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 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 (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a 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 the 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 may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(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, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives 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 date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are 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 the assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.

(a) 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 the following new subpart:

"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 includes—

"(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 an 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 described in subsection (b)(5) and to report on the 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.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) 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.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—The table of contents 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 the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

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

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1064. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 2101. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 2102. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2105. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

Subtitle F—Other Provisions

SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.

(a) LARGE AMOUNT.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

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

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it 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, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting 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 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that 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 1 year.

"(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 1,000 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 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with 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 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING COMMISSION 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 (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) IMPLEMENTATION OF SUBSECTION (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) OFFENSES THAT COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791(c) 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 "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) HEADING FOR SECTION 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) AMENDMENT OF SECTION 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) VESSELS, VEHICLES, AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE.—Whenever";

(2) by striking "(b) Every" and inserting "(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) 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, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) 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; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

SEC. 1076. CLOSING OF 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. 1077. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates 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. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.

(a) LESS THAN 50 KILOGRAMS.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marihuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marihuana" and inserting "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) 100 OR MORE PLANTS.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marihuana plants" and inserting "except in the case of 50 or more marihuana plants".

SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "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), and (3)).".

SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) SECTION 401(b)(1) (B), (C), AND (D) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b) (1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—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 drug offense have become final".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—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 the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 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.".

SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended 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.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended 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. 1084. 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 "3 years".

SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) 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." 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 punishable by a maximum term of imprisonment of 10 years or more 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.".

SEC. 1086. 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 18.—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 18 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 sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 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 sentence is otherwise authorized by law, 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. 1087. 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 (that is, objects used to hold 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. 1088. 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 at the end the following new paragraph:

"(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.

SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by 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, commonwealth, 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.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end 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. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) 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. 1092. 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 the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates 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. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

SEC. 1094. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration,".

TITLE XI—PUBLIC CORRUPTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1992".

SEC. 1102. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), 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 the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), 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—

"(A) 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;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) 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, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing 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;

"(ii) 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;

"(iii) 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

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any 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.

"(b) FEDERAL GOVERNMENT.—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 a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, 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 an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) 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) 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;

"(2) the term 'person acting or pretending to act under color of official authority' includes a 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;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) 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; 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.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) 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),".

(3) 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. 1103. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by 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) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1104. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—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) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), 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) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), 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 the 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 the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the 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) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(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 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; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL 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),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

SEC. 1201. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1202. 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, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(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—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by 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)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1203. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by 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 "6".

SEC. 1204. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) OFFENSE.—Subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3587. Mandatory sentence for felony against individual of age 65 or over

"(a) PENALTY.—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 the crime is an individual who had attained age 65 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 the crime under this title, in the case of a first offense to which this section applies; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for the crime under this title, in the case of a second or subsequent offense to which this section applies.

"(b) TERMS OF PUNISHMENT.—Notwithstanding any other law, with respect to a sentence imposed under subsection (a)—

"(1) the court shall not give the defendant a probationary sentence;

"(2) the sentence shall be served consecutively to any other sentence imposed under this title; and

"(3) the court shall reject any plea agreement that would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) in connection with any charged offense.

"(c) DEFINITIONS.—As used in this section—

"(1) the term '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) the term 'victim' means an individual against whom an offense has been or is being committed.".

(b) TECHNICAL AMENDMENTS.—(1) The subchapter analysis for subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") 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

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

SEC. 1205. 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) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1206. 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.

Subtitle B—Civil Rights Offenses

SEC. 1211. 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"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) 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";

(3) 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"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) 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;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) 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"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(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)—

(A) by striking "serious"; and

(B) 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"; 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) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) 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";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) 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";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

(2) by adding at the end the following new subsection:

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

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

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 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 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1223. 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. 1224. 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. 1225. 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 new subsection:

"(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)) that is operating under the laws of the United States.".

SEC. 1226. 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.".

SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

"§ 3704. Applicability

"(a) EXCEPTIONS.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) INDIAN LANDS.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) TECHNICAL AMENDMENTS.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001";

and

(2) by adding at the end the following new item:

"178. Professional and Amateur Sports Protection ..... 3701".

SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 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 and inserting "; and"; and

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

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—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.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(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.".

SEC. 1230. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

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

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, 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) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1231. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 668. Theft of a major art work

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

SEC. 1232. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

SEC. 1233. 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 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 vehi-

cle 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 a person 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 1 SET OF CONDITIONS.—The Attorney General may establish more than 1 set of conditions under which participating motor vehicles may be stopped. If more than 1 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 shall 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) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"160. Motor vehicle theft prevention program.".

(c) ALTERATION OR REMOVAL OF MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Section 511(a) 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 section 160 of title 23 shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

(2) EXCEPTED PERSONS.—Section 511(b)(2) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 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 the owner's authorized agent;

"(ii) State or local law; or

"(iii) regulations promulgated by the Attorney General to implement section 160 of title 23.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (a), the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to section 160 of title 23 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 inserting 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, without authorization under section 160 of title 23 shall be fined not more than $5,000.

"(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 section 160 of title 23.".

(B) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item for section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

SEC. 1234. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 771(b), is amended by adding at the end the following new section:

"§ 22. Stolen or counterfeit nature of property for certain crimes defined

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—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, the 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.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a 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) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 771(c), is amended by adding at the end thereof the following new item:

"22. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1235. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to

be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1236. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(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, 1 or more evidences or records of transactions made by an access device;";

(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)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end 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 affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1237. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) OFFENSES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a) FALSE STATEMENT OR REPORT.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person; and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b) MISUSE OF MONEY.—(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 1 year, or both.

"(c) FALSE ENTRY OF FACT.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business; or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, insurance regulatory official or agency, or agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years.

"(d) INFLUENCING, OBSTRUCTING, OR IMPEDING ADMINISTRATION OF LAW.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined under this title, imprisoned not more than 10 years, or both.

"(e) ENGAGING IN INSURANCE BUSINESS AFTER CONVICTION.—(1)(A) A person who has been convicted of an offense under this section, or of a felony involving dishonesty or a breach of trust, who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if the person has the written consent of an insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance; or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who are or who act as officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia or any territory or possession of the United States;

"(B) commerce between any point in a State and any point outside the State;

"(C) commerce between points within a State through any place outside the State; and

"(D) all other commerce over which the United States has jurisdiction;

"(3) the term 'insurer' means—

"(A) a business that is organized as an insurance company under the laws of a State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the insurance official or agency of a State; or

"(B) a receiver or similar official or any liquidating agent for such a company, in his or her capacity as such,

and includes any person who is or acts as an officer, director, agent, or employee of that business; and

"(4) the term 'State' includes a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"§ 1034. Civil penalties and injunctions for violations of section 1033

"(a) CIVIL PENALTY.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation that the person received or offered for the prohibited conduct, whichever amount is greater. If the offense contributed to the insolvency of an insurer that has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the United States or any other person.

"(b) INJUNCTION.—If the Attorney General has reason to believe that a person is en-

gaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy that is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293(1) of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) 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—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person of the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), 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.".

SEC. 1238. 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—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by 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. 1239. COMPUTER ABUSE AMENDMENTS ACT OF 1992.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1992".

(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 1 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 1 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; or".

(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 and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, 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 the following new subsection:

"(g) A 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 the 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, as amended by subsection (d), is amended by adding at the end 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 subsection (a)(5).".

(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. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Sentencing and Procedure

SEC. 1241. 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. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 1243. REVOCATION OF PROBATION.

(a) IN GENERAL.—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) MANDATORY REVOCATION.—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 OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

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. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(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 OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release,

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) PETTY OFFENSES.—Subsection (a)(3) 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. 1246. 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 may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

SEC. 1247. 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 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. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

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

"(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 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 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 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

SEC. 1249. IMMUNITY.

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

Subtitle E—Immigration-Related Offenses

SEC. 1251. EXPLOITATION OF ALIENS.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

"§ 23. 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 aggravated 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(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.

"(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 by the Attorney General 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.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

SEC. 1252. 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 1251 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 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 (104 Stat. 5052) that 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)); and

(B) modifying a plan described in 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 (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who 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 is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

Subtitle F—United States Marshals

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Association Establishment Act".

SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle 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. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, 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 members of the Board first appointed shall be appointed by the United States Marshals Association, a nonprofit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The members 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.—A member of the Board may be appointed with the advice of the Director of the United States Marshals Service (referred to in this subtitle as the "Director").

(4) TERMS.—The members 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 person may serve for more than 2 consecutive terms as a member 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 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 member of the Board misses 3 consecutive regularly scheduled meetings, the member 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 subtitle; and

(C) carrying out such other actions as may be necessary to carry out this subtitle.

(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 that 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 subtitle. Members of the advisory council have no vote in matters before the Association.

SEC. 1264. 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 of the Association 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. 1265. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) IN GENERAL.—The Association—

(1) shall have perpetual existence;

(2) may conduct business throughout the 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.

(b) SERVICE OF PROCESS.—Service of process on the agent required under subsection (a)(4) or the mailing of process to the business address of the agent shall constitute service on the Association.

(c) 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.

(d) POWERS.—To carry out its purposes under section 1262, the Association shall have, in addition to the powers otherwise given it under this subtitle, 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 members 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.

(e) ACCEPTANCE OF GIFTS.—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. 1266. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 1262, not to exceed the then current Federal Government per diem rates, until the date that is 5 years after 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. 1267. 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 subtitle.

SEC. 1268. 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 member 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 member 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. 1269. 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 (36 U.S.C. 1101 et seq.), 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 the year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURES 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 1262(b); or

(2) refuses, fails, or neglects to discharge its obligations under this subtitle, 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. 1270. LIABILITY OF THE UNITED STATES.

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. 1271. 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 to be 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. 1272. 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. 1273. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this subtitle at any time.

Subtitle G—Other Provisions

SEC. 1281. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 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 (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1282. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, and the carcasses thereof;".

SEC. 1283. COURT TO BE HELD AT LANCASTER.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 1284. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEY'S OFFICE IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION.—There is authorized to be appropriated $35,000,000, to remain available until expended, to plan, acquire a site for, design, construct, build out, equip, and prepare for use an office building to house the United States Attorney's Office in Philadelphia, Pennsylvania, notwithstanding any other law.

(b) SITE SELECTION.—The site of the office building constructed pursuant to subsection (a) shall be at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center and shall be approved by the Attorney General after notification submitted to the Congress as required by law.

SEC. 1285. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

Section 519 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting "(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(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 an 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. 1286. 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 this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(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 to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1287. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(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) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1288. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated $10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appro-

priate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1289. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—SAFE SCHOOLS ASSISTANCE

"SEC. 2201. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2202. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2203. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2202;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 2204. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during

which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2203(c).

"SEC. 2205. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2203(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2203(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2206. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2203(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 2203(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 2207. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—SAFE SCHOOLS ASSISTANCE

"Sec. 2201. Grant authorization.
"Sec. 2202. Use of funds.
"Sec. 2203. Applications.
"Sec. 2204. Allocation of funds; limitations on grants.
"Sec. 2205. Award of grants.
"Sec. 2206. Reports.
"Sec. 2207. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

TITLE XIII—TECHNICAL CORRECTIONS

SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M.," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance

Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1302. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101-123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—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 "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—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 "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—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 "subsection (c)(1)".

(g) SENTENCING COMMISSION.—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 "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) 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 et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1304. 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 striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(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 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1401. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1992".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (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.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

TITLE XV—FEDERAL PRISONS

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

SMITH AMENDMENTS NOS. 3374 THROUGH 3389

(Ordered to lie on the table.)

Mr. SMITH submitted 16 amendments intended to be proposed to the bill S. 2899, supra, as follows:

AMENDMENT NO. 3374

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the mother was not required to wait for 24 hours prior to the performance of the abortion."

AMENDMENT NO. 3375

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3376

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the fetus was born alive."

AMENDMENT NO. 3377

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the first month of development."

AMENDMENT NO. 3378

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the second month of development."

AMENDMENT NO. 3379

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the third month of development."

AMENDMENT NO. 3380

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fourth month of development."

AMENDMENT NO. 3381

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fifth month development."

AMENDMENT NO. 3382

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the sixth month of development."

AMENDMENT NO. 3383

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the seventh month of development."

AMENDMENT NO. 3384

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the eighth month of development."

AMENDMENT NO. 3385

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the ninth month of development."

AMENDMENT NO. 3386

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without notification of the parent of that minor."

AMENDMENT NO. 3387

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without the consent of the parent of such minor."

AMENDMENT NO. 3388

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3389

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

NATIONAL ADVANCED TECHNICIAN TRAINING ACT

MIKULSKI (AND COCHRAN) AMENDMENT NO. 3390

Mr. EXON (for Ms. MIKULSKI for herself and Mr. COCHRAN) proposed an amendment to the bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's 2-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the work force of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and post-secondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the work force (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this partnership shall, at a minimum—

(i) counsel students, including students who have been in the work force (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distribution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (2)(c) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATION AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE

INOUYE AMENDMENT NO. 3391

Mr. EXON (for Mr. INOUYE) proposed an amendment to the bill (S. 3155), to establish the National Indian Policy Research Institute, as follows:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS

GLENN AMENDMENT N0. 3392

Mr. EXON (for Mr. GLENN) proposed an amendment to the bill (S. 2970) to amend the Cash Management Improvement Act of 1990, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101–453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

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

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

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

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT OF 1992

MCCAIN AMENDMENT NO. 3393

Mr. GARN (for Mr. MCCAIN) proposed an amendment to the bill S. 2977 to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes; as follows:

Strike out in the text of the amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Business Meeting on Saturday, October 3, 1992, on Senate Joint Resolution 335, a resolution acknowledging the 100th anniversary of the overthrow of the Kingdom of Hawaii and to offer an apology to the native Hawaiian people.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to

meet on Friday, October 2, at 9:30 a.m. for a hearing on the nomination of Wayne Arthur Schley to be a Commissioner of the Postal Rate Commission.

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

COMMITTEE ON THE JUDICIARY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Friday, October 2, 1992, at 4:30 p.m.

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

ADDITIONAL STATEMENTS

ENGLISH ONLY TREND ISN'T THE AMERICAN WAY

• Mr. SIMON. Mr. President, there is an unhealthy English only movement that is making the rounds in our country.

Ironically, many of those who push the English only approach to our problems are the same people who vote against appropriations for people who want to get into classes to learn English. In Los Angeles, for example, there are about 25,000 on the waiting list to get into classes to learn English, and in San Francisco about 15,000.

There is also an exaggerated fear of what all this means. That is not new in our history.

During World War I there were steps to remove foreign language teaching from our schools, and at least two States passed legislation to move in that direction, but the U.S. Supreme Court ruled that unconstitutional.

Recently, I read a column by Richard Roeper in the Chicago Sun-Times that lends common sense to this area where there is so much hysteria.

Let me add one other point. Recently, I read that there is a smaller percentage of Americans today whose mother tongue is not English than at any point in our Nation's history. I don't know if that is accurate or not, but it would not be surprising.

The antiforeign thrust that is so much a part of our history has never been a good part of our history.

I hope, as we legislate, we will use common sense.

At this point, I ask to insert into the RECORD the column by Richard Roeper, and I urge my colleagues in the House and the Senate to read his sensible column.

The column follows:

[From the Chicago Sun-Times, Aug. 31, 1992]

"ENGLISH ONLY" TREND ISN'T THE AMERICAN WAY

(By Richard Roeper)

The waiter is coldly polite as he listens to my complaint about a cigarette and its foul smoke appearing in the No Smoking section. He solves the problem, I thank him for the effort, and he replies with a curt, "You're welcome, sir."

Later in the evening, I'm on my way to the men's room when I encounter that same waiter, who is with a co-worker near the entrance to the kitchen. Looks like they might be on break.

I nod and make a lame, friendly joke; he gives a little laugh and says, "Really." But as I walk past, he switches from English to Greek and says something to his buddy—something that causes the two of them to erupt in hearty and seemingly derisive laughter. Suddenly I feel a little foolish.

Was it rude of him to erect that language barrier? Well, I don't even know what he said—he might not have been talking about me at all—but yeah, there was something off-putting about it. Judging from the tone of their voices and the nature of their laughter, I'd be willing to bet they were sharing a laugh at my expense.

Episodes like that occur all the time in public service arenas: You're at a convenience store or a hotel or an auto repair shop, and the employee who had been speaking to you in English turns to a colleague and initiates an exchange in another language. Suddenly you feel isolated, maybe even insulted. Maybe they're talking about you, more likely they're not, but in either case it has the same effect as if they had started whispering in front of you.

Mildly annoying? Sure—but no big deal. Although I was irked by the incident in the Greek restaurant, I got over it in a fingersnap. It's not like I sought out the manager and complained about his employees using a language shield to insult the customers. To do so would have turned me into the quintessentially paranoid ugly American, in essence demanding, "They're in the United States now, they should speak English!" After all, if we're not the world's melting pot, we're at least its mixing bowl, and thriving multiculturalism is what the good old U.S.A. is all about, right? Ahem, Right?

Well, maybe not, considering the recent flurry of "English Only" policies cropping up in places of business. From medical centers to radio stations to meat packing plants, companies have instituted rules barring workers from using any language but English while on duty—and some employees have actually lost their jobs for not following these policies to the letter.

Jordania Reed, for example. She was fired from Driftwood Convalescent Hospital in Gilroy, Calif., for violating the nursing home's strict English-only rule. She didn't address a patient in Spanish, but when she was overheard talking to a co-worker in her native tongue—boom! She was out of a job.

Whether this was legal is open to debate. The director of the nursing home says he was following federal health regulations that say patients should be cared for in their own language, but it seem like a mighty stretch of those regulations to say that a short exchange in another language between co-workers in the hallway or the cafeteria is detrimental to a patient's health. Where is the neglect?

Guidelines established by the Equal Employment Opportunity Commission say English-only rules can be imposed only in cases of "business necessity," whatever that means. Court cases have further muddled the issue. In some instances, such as the Puerto Rican warehouse worker in New York City who lost his job when a supervisor overheard him talking in Spanish about ordering a pizza, the worker was reinstated. In other cases—e.g., the Filipino nurse who challenged an English-only policy at the Pomona Valley Hospital Medical Center—the judge ruled in favor of the company.

So which is it? Obviously, an employer should have the right to tell workers they have to be able to communicate with the customers in a language everyone understands. But for someone to lose a job for saying "Que pasa?" instead of "How are you?" is ludicrous—and downright un-American.•

COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable organization which is devoted to research leading to a cure for polycystic kidney disease, known as PKD. I am speaking of the Polycystic Kidney Research Foundation.

The PKR Foundation was founded in 1982 by Joseph H. Bruening. PKD is a hereditary disease and there is no cure. The PKR Foundation first identified and then targeted investigators with innovative ideas and provided them with funds to develop new clinical treatment approaches and to set the groundwork for a genetic cure. Resources devoted to PKD research has significantly improved over the last 10 years. In 1982 only $100,000 a year was spent on PKD research. Now, more than $3 million is invested in PKD research.

Over the years PKD treatment has improved tremendously. There have been improved diagnosis and treatment of PKD. We have discovered better ways of controlling high blood pressure caused by PKD and improved care of children with the disease. The PKR Foundation is dedicated to determining the cause, improving clinical treatment, and discovering a cure for polycystic kidney disease.

Mr. President, I would like to extend my sincere congratulations to the Polycystic Kidney Research Foundation and commend them for their leadership and vision on this very important issue and I request that the Kansas City Star article on the PKR Foundation be printed in the RECORD.

The article follows:

COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

It happens almost every time strangers sally into Jared Grantham's old ground-floor laboratory. They spy the grotesque specimen bottled on his shelf, blistered and as big as a melon.

"What is that thing?"

"It's a kidney," Grantham replies.

"What's wrong with it?" they ask.

"Polycystic kidney disease," the University of Kansas Medical Center physician replies kindly but a bit sadly. Because he knows what they'll say next.

"Never heard of it."

Such is the frustration of Grantham, a world-leading researcher in what arguably is the Rodney Dangerfield of genetic diseases.

Mention muscular dystrophy, cystic fibrosis, sickle-cell anemia or Huntington's disease, and people nod. Sure, they've heard of them.

But talk about PKD—the most common lethal inherited illness in the United States,

dwarfing all those other illnesses—and you get blank stares.

"It's our biggest problem," Grantham said. "People don't know anything about it."

The people who do know, however, are waging a slowly growing international campaign centered in Kansas City to make the public aware. Kansas City might be considered PKD Central. And a big reason is the late Allene Bruening's kidneys.

"The family was just riddled with it," said developer Joseph Bruening, Allene's husband.

So the Bruenings knew well what to expect.

"I wanted to do something," he said.

GETTING AS BIG AS A FOOTBALL

About 600,000 Americans are believed to have the disease—costing taxpayers $300 million a year in Medicare dialysis and transplant costs—but research money is meager.

Half of all people who inherit PKD never have serious problems. For the other half, though, the disease is slow and methodical, probably causing high blood pressure, but mostly going unnoticed for years.

Deep inside the smooth organs, the kidney's normally wire-thin nephrons—tubes that filter urine and other fluids—are growing bubblelike cysts.

Thousands of these fluid-filled blisters—some pin-size, others grapefruit-size—eventually may consume the kidneys in a repulsive froth.

The kidneys become huge and puckered, sometimes growing from the size of a large pear, about 5 inches long, to the size of a football. People with the severe disease often look fat or pregnant. If the kidneys fail, people can die. Most, like Bruening, keep their bodies free of poisons with proper diet, medication or years of dialysis. Still others get kidney transplants.

So in 1982 when Joseph Bruening read an article in The Kansas City Star about Grantham's work on PKD and the fact that virtually no research was going on, Bruening contacted Grantham.

"I wasn't just going to sit there," Bruening said. "I figured I wasn't going to spend the rest of my life wringing my hands."

The Polycystic Kidney Disease Research Foundation was started with Bruening's financial backing several months later as the only organization in the country dedicated to the disease.

In 1982, about $100,000 was spent on PKD research. Today more than $3 million is spent. Thirteen PKD support groups have been formed in other cities.

"In 1982, there were perhaps two or three, maybe four, well-known researchers doing work in PKD," said foundation President Julian Dyke. Now there are more than 100.

Although it's still too early to say research in the area is booming—the Muscular Dystrophy Association, by contrast, spent $21 million supporting 500 researchers last year—the foundation sure is making a loud pop.

"It has played a major role in the understanding of the disease," said Vincente E. Torres, PKD researcher at the Mayo Clinic in Rochester, Minn.

THE GENETICS OF PKD

Most important is how scientists are zeroing in on the genetics of PKD. Researchers in 1985 found the general location of one gene that probably plays a significant role in causing PKD. Now they're working to isolate it, unravel its molecular sequence, so maybe it can be cloned, deciphered, even manipulated. The hope is that all this would lead to a greater understanding of how PKD works and maybe to treatments.

But because only half of the people who inherit the PKD gene ever suffer kidney failure, scientists surmise there's more afoot than genes.

At KU Medical Center, a small tear of PKD scientists are delving into PKD's biolchemistry, particularly how cysts form.

Some of their work, for example, suggests that one or more unknown proteins, growth factors, may be spurring the cysts to grow like a cancer. This very analogy is prompting still others at KU Medical Center to probe whether cancer-causing genes may be involved in PKD.

Beyond that, rats and mice with the disease soon may help answer mysteries about the role of diet and environment.

"I can take 10 patients with PKD, but the genes will be expressed at different times and in different circumstances." Grantham said. "It could be different environments, the food they eat, the drugs they take that will be a factor. That's what we can pursue now with the rats."

At places such as Yale University, the Mayo Clinic and laboratories in Japan, Australia and Germany, scientists are churning out an impressive body of work, almost all started in the last decade.

At the Oregon Health Sciences University in Portland, one foundation-supported researcher is working on new ways to drain the fluid from large painful cysts.

'NOT A SEXY DISEASE'

So much is happening, in fact, that in June more than 200 international PKD scientists flew to Kansas City for a symposium to unveil their work.

"It was fantastic," Dyke said.

Only no one covered it. Not the newspapers. Not television.

Dyke and Grantham simply shake their heads.

"I guess it's not a sexy disease," Grantham said.

Dyke suggests that PKD may go unnoticed simply because of the subject. Unlike the heart—the perceived center of life—or the brain—the center of intellect—the kidneys don't carry such emotional appeal.

The fact that many people with PKD don't get symptoms until a later age, say 50 or so, also doesn't help. The misperception is that old people are falling apart anyway.

Lawrence Elzinga, a PKD researcher in Oregon, suggests that PKD's image might suffer the stigma of being a genetic disease and, again, the wrong conclusion that "there's very little you can do about it."

Whatever the reason, PKD boosters want it changed. Right now they're looking to recruit a high-profile spokesman, maybe an athlete or actor, to champion their cause. They were happy to get a public service announcement from Paul Newman while he was in town filming "Mr. and Mrs. Bridge."

To tug on America's heart strings and purse strings, they also are focusing more on a rare and deadly childhood form of the disease. Infants born with the recessive form of PKD, as opposed to the genetically dominant adult form, often die in infancy or early childhood.

"It hits them out of the blue," Grantham said.

A child is featured on the front flap of one of the foundation's latest brochures. But that's about it for marketing moves.

But once the medical break-through comes—mainly through genetic research—PKD's time will come. It's the science that will sell, foundation officials say, just as it did with cystic fibrosis about a decade ago.

So until then, they plan on creeping forward—lobbying Congress, supporting research—even if, for now, few people hear them.

"It would be an understatement to say it (PKD) is not well-known," Dyke said. "But our day will come."

AGRICULTURAL EMBARGOES

• Mr. KERREY. Mr. President, last month Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a long line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United State-Soviet agreement in effect at that time.

According to a November 1986 publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed 1 week after the Soviet's invasion of Afghanistan. President Carter cited the

threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoes oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it is understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It is also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.●

TELEVISION VIOLENCE

● Mr. SIMON. Mr. President, to the credit to TV Guide, that publication has been focusing attention recently on the whole question of television violence and what it does in our society.

In a free society we have to have answers for this problem that are short of censorship. Anthea Disney, editor in chief of TV Guide, had an op-ed piece in the Los Angeles Times that I ask unanimous consent to insert into the RECORD at the end of my remarks.

TV Guide had sponsored a discussion of this and a special publication on the question of television violence, as well as the article in TV Guide.

I ask unanimous consent to insert these in the RECORD, also, and I urge my colleagues and staff members here on Capitol Hill to read both.

We're at the halfway point of the law, which authorizes the television industry to get together, without violation of the antitrust laws, to establish standards.

I hope something happens on a voluntary basis.

Mr. President, at this point, I ask to insert the articles into the RECORD.

The articles follow:

[From TV Guide]

IN ONE DAY IN ONE CITY, 1,846 ACTS OF TV VIOLENCE—THAT'S ENTERTAINMENT?

(By Anthea Disney)

Imagine the following label affixed to your television set: Warning—Watching Television May Be Hazardous to Your Children's Health.

If that sounds radical, consider the studies that convincingly demonstrate a correlation between the frequent viewing of violence and aggressive behavior in youngsters.

A new study commissioned by TV Guide shows that there's more violence entering our homes than ever before. It's coming from many more sources—home video, pay-per-view and cable, as well as from broadcast networks and local stations. The primary offenders are music videos, reality shows, cartoons and promos for violent theatrical movies.

In a single, random day (April 2) of television programming tracked in Washington for TV Guide, 1,846 individual acts of violence were observed. (We defined violence as "any deliberate act involving physical force or the use of a weapon in an attempt to achieve a goal, further a cause, stop the action of another, act out an angry impulse, defend oneself from attack, secure a material reward, or intimidate others.")

Of the programming monitored, cartoons were the most violent category, with 471 violent scenes in just one day.

21% of all the violence—389 scenes—involved a life-threatening assault 362 scenes involved gunplay.

Cable networks averaged three times as much violence as the "Big Three" commercial networks. Specifically, music videos proved to be a greater source of televised violence than previously imagined. MTV showed as much violence as the three commercial networks combined.

It has been estimated that by the time a child graduates from elementary school, he or she will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television. In her book, "Deadly Consequences," Dr. Deborah Prothrow-Stith, assistant dean of government and community programs at the Harvard School of Public Health, points out that inner-city children may be more vulnerable to the effects of violence on television. These kids not only watch more TV because they spend more time indoors—the streets are dangerous and there are few other recreational choices; they also have fewer male role models countering the TV super-hero who's solving problems with violence.

So what can we do, short of censorship but beyond hand-wringing?

Why not treat TV violence as a public health issue, as we do already with cigarette smoking and drunken driving? Think how much those campaigns have changed people's attitudes and behavior and, most important, saved lives. to take the same approach with TV programming would involve an intensive public education campaign and strenuous encouragement of the television industry to be sensitive to the problem and deglamorize physical force and the people who resort to it.

As Peggy Charren, president of Action for Children's Television, said to us, "You have to help parents understand that that box in the living room is not always a friend of the family."

It's up to parents to make the effort to watch what their children are watching so that they can screen out overly violent programs and discuss what the make-believe acts of violence would mean in real life. Kids often don't seem to understand the true repercussions of a violent act; on TV, there frequently are no repercussions.

This fall, a number of popular shows will have the Los Angeles riots in their plot lines. If the new season reflects TV at its best, episodes on the riots will illuminate the conditions that led to the violence, not trivialize them and sensationalize the effect in images that may again become reality.

Many programmers and producers do really care about the results of the shows they air. But they live by the "overnights"—the Nielsen ratings, which define a success or a failure in television terms—and under that kind of pressure, the slope from relevance to sensationalism is a slippery one. But if, through education and the proper treatment by the industry, TV violence becomes viewed as distasteful and inappropriate, hopefully any meaningless violent act will end up with the same inglorious appeal as a drunk killing people on the highway.

[From TV Guide, Aug. 22-28, 1992]

IS TV VIOLENCE BATTERING OUR KIDS?—NEW STUDY, NEW ANSWERS

SUMMING UP: WHAT WE CAN DO

The American Psychological Associaton suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with the characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

Other possible steps

Urge the broadcast, cable, and home video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable industry executives to take full advantage of The Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all information media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; and then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry allowing parents to "lock out" channels and programs containing high levels of violence.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."

[From TV Guide, Aug. 22-28, 1992]

HOW MUCH VIOLENCE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into

American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from the broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? How is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one-day in the life of TV—and convened an expert panel whose comments begin on page 12.

To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day of American television.

During 18 hours (6 A.M.-midnight) on April 2, 1992, in Washington, D.C., the center taped, tabulated, computerized, and analyzed the programs on 10 channels, the affiliates of ABC, CBS, NBC, Fox and PBS, one non-affiliated station, WDCA, plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness; no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime. The results of the study were an eye-opener. In those 180 hours of programming, we observed:

A total of 1,846 individual acts of violence; 175 scenes in which violence resulted in one or more fatalities; 389 scenes depicting serious assaults; 362 scenes involving gunplay; 673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts; 226 scenes of menacing threats with a weapon.

Newer program forms like music videos and reality shows, it turns out, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence.

News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters.

In fictional programming alone, we found more than 100 violent scenes per hour across the 10 outlets studied. Well over a third of all the violence (751 scenes) involved some sort of life-threatening assault. Cartoons were the most violent program form, with 471 scenes.

(A note: child experts agree that violent cartoons are inadvisable for very young children, 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of super-hero-style cartoons that feature more "human" characters than earlier Tom & Jerry type fare; these realistic cartoons may have an even stronger influence on children.)

Promos for television shows were next (265), then movies (221), toy commercials (188), music videos (123), ads for theatrical films (121), TV dramas (69), news (62), reality shows like "Top Cops" and "Hard Copy" (58), sitcoms (52), and soap operas (34).

The outlet purveying the most violence on that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes. The rest of the list:

WTBS—321 scenes (18 per hour).
HBO-257 scenes (14 per hour).
USA Network—209 scenes (12 per hour).
MTV—202 scenes (11 per hour).
Fox—182 scenes (10 per hour).
CBS—175 scenes (10 per hour).
ABC—48 scenes (three per hour).
NBC—39 scenes (two per hour).
PBS—37 scenes (two per hour).

(WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.)

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to theatrical films with violent content.

Thus, the study's conclusion: violence remains a pervasive, major feature of contemporary television programming and it's coming from more sources and in greater volume than ever before.

CAUSE

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

One of the most ambitious and conclusive studies (conducted by Dr. Leonard D. Eron and others) examined a group at ages 8, 19, and 30 in a semirural county of New York State. The findings: the more frequently the participants watched TV at age 8, the more serious were the crimes they were convicted of by age 30; the more aggressive was their behavior when drinking; and the harsher was the punishment they inflicted on their own children. Essentially the same results emerged when the researchers examined another large group of youths for three years in a suburb of Chicago.

And when they replicated the experiment in Australia, Finland, Israel, and Poland, the outcome was unchanged: as Dr. Eron states it, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels, and all levels of intelligence."

[From TV Guide, Aug. 22-28, 1992]

VIOLENCE ON TELEVISION; HOW MUCH VIOLENCE IS THERE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? Is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one day in the life of television. We also mustered the best experts we could find for a symposium—titled "The New Face of Television Violence"—to explore the import and the seriousness of what seems a burgeoning crisis. To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day. Thursday, April 2, 1992, was chosen for several reasons: Thursday is a heavily-viewed night of television by a wide cross section of America; the prime-time shows on that evening tend to be popular, well-known series. We wanted a weekday rather than a weekend, to avoid sporting events. And April is not a sweeps month.

Thus, during 18 hours (6 A.M.-midnight) on that day in Washington, D.C., the Center taped, tabulated, computerized, and analyzed the programs on 10 channels: the affiliates of ABC, CBS, NBC, Fox, and PBS; one non-affiliated station, WDCA; plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness: no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime.

The results of the study were an eye-opener. In those 180 hours of programming, we observed:

1846 individual acts of violence—purposeful, overt, deliberate behavior involving physical force against other individuals.

175 scenes in which violence resulted in one or more fatalities.

389 scenes depicting serious assaults.

362 scenes involving gunplay.

673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts.

226 scenes of menacing threats with a weapon.

Newer program forms, such as music videos and reality shows, we discovered, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence. News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters. In fictional programming alone—which accounted for 95 percent of the total—we found an average of 185 scenes of violence per channel. That works out to more than 100 per hour across the 10 channels we monitored.

Well over a third of all the violence (751 scenes) involved some sort of life-threatening assaults. Many scenes showed attacks with knives, clubs, bombs, and other weapons. Victims were terrorized and traumatized by all manner of assailants. And violence came in a wide variety of program forms. Cartoons were the most violent, with 471 scenes. (A note: child experts agree that

violent cartoons are inadvisable for children 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of superhero-style cartoons that feature more "human" characters that earlier Tom & Jerry-type fare; these realistic cartoons may have an even stronger influence on children.) Promos for TV shows were next (265); then movies (221); toy commercials (188); music videos (123); commercials for theatrical movies (121); TV dramas (69); news (62); reality shows like "Top Cops" and "Hard Copy" (58); sitcoms (52); and soap operas (34). The outlet purveying the most violence that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes.

The rest: WTBS—321 scenes (18 per hour); HBO—257 scenes (14 per hour); USA Network—209 scenes (12 per hour); MTV—202 scenes (11 per hour); Fox—182 scenes (10 per hour); CBS—175 scenes (10 per hour); ABC—48 scenes (3 per hour); NBC—39 scenes (2 per hour); PBS—37 scenes (2 per hour). (WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.) HBO showed "Paint It Black," "To Sleep with Anger," "Tales from the Crypt," and other films.

An important finding of the study is that music videos are a far more fecund source of TV violence than previously imagined. The 144 videos that MTV showed in those 18 hours bore as much violence as the Big Three commercial networks combined, and they came from such youth heroes as Guns N" Roses ("Live and Let Die," "Don't Cry"), Jon Bon Jovi ("Blaze of Glory"), Bruce Springsteen ("Human Touch"), Aerosmith ("Janie's Got a Gun"), Van Halen ("Right Now"), Ugly Kid Joe ("Everything About You"), and Metallica ("Enter Sandman").

CBS was the most violent of the major networks—much of the difference between it and the other two coming from "Top Cops," with its re-creations of violent crimes. An afternoon slate of cartoons and an unusually violent string of prime-time plot lines in series such as "Drexell's Class" and "Beverly Hills," 90210 boosted Fox's total. By far, more violent incidents took place in fiction rather than non-fiction shows, but newer program forms such as reality-based series are now beginning to contribute significantly to television's freight of violence. "Top Cops," "Street Stories," "Inside Edition," "Hard Copy" and "A Current Affair" accounted for 58 violent moments; the news programs added 62 more.

The makers of commercials and promotional announcements for theatrical movies and TV shows, it now appears, have clearly adopted the tactic of utilizing the most action-packed moments of their entertainments to grab viewers' attention. Thus, we observed 386 scenes—containing violence—in ads for movies such as "Thunderheart," "The Power of One," "McBain," "Newsies," and "The People Under the Stairs," and in promos for TV series like "The Commish," "Columbo," "Knots Landing," "Mann & Machine," "Hunter," "Mystery," "MacGyver," "Counterstrike," and "Dallas." Serious forms of violence topped the list of the most frequently presented modes of violent behavior.

	Number of scenes	Percent of total
Serious assaults (excluding use of guns)	389	21
Gunplay	362	20
Isolated punches	273	15
Pushing/dragging	272	15
Menacing threat with weapon	226	12
Slaps	128	7
Deliberate property destruction	95	5
Simple assaults	73	4
All other types	28	1
Total	1,846	100

Since most of the programming in our one-day snapshot of television went out nationally via broadcast and cable networks, we deem it generally representative of what the country as a whole saw on that day. One reason for conducting the study on District Cablevision in Washington, D.C.: it's the hometown TV supplier to such major lobbying groups as the National Association of Broadcasters, the National Cable Television Association, the Association of Independent Television Stations, and the Radio-Television News Directors Association, as well as the Corporation for Public Broadcasting, the Federal Communications Commission, Congress, and the White House. We now have a fair and documented idea of the violence quotient that those influentials are seeing every day on their TV screens.

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to the theatrical films with violent content. Thus, the study's conclusion: Violence remains a pervasive, major feature of contemporary television programming; and it's coming from more sources and in greater volume than ever before.

DOES TV VIOLENCE CAUSE REAL VIOLENCE?

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

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THE EXPERTS SPEAK OUT

To learn the latest, the best, and most authoritative thinking on the subject of violence on television, TV Guide invited a blue-ribbon panel of experts (see opposite page) to convene in New York before an invited audience in the auditorium of the Center for Communication, a nonprofit media forum that cosponsored the event.

Neil Hickey, senior editor of TV Guide, was the moderator. A transcript of the panel's remarks, edited for space, follows:

TVG. The subject of medial violence is one that's suddenly brand-new again. Very little research exists on the ramifications of the televised violence that's arriving on home screens from such relatively new sources as home video, pay-per-view, direct broadcast satellites, premium channels, and others.

According to the U.S. Justice Department's most recent crime report, the United States has one murder every 22 minutes, one violent crime every 17 seconds. France, to take just one example, has two homicides per 100,000 population. The United States has 9.4. The U.S. murder rate quadruples that of Europe's and is 11 times higher than Japan's. CBS News once delivered a anecdotal piece of evidence about how our society changed in one 40-year period: "In 1940, the seven top problems in public schools as identified by the teachers were: talking out of turn, chewing gum, making noise, running in halls, cutting in line, dress-code infractions, and littering. In 1980, the top seven problems in public schools were: suicide, assault, robbery, rape, drug abuse, alcohol abuse, and pregnancy.

Let's start our discussion with a brief quote from a 1992 survey by the American Psychological Association called "Big World, Small Screen." It says: "Since 1955, about 1000 studies, reports, and commentaries concerning the impact of television violence have been published. . . . The accumulated research clearly demonstrates a correlation between viewing violence and aggressive behavior—that is, heavy viewers behave more aggressively than light viewers. Children and adults who watch a large number of aggressive programs also tend to hold attitudes and values that favor the use of aggression to solve conflicts. These correlations are solid." Any comment on that?

SLABY. Yes, the research really shows that television violence is a contributing cause to violence in our society. Years of research evidence have gone into establishing television violence as a contributing cause, and the word "cause" is not used lightly by scientists. It's now used strongly by almost all the professional groups that have examined the research evidence.

TVG. Then, thank heavens, we don't have to plow through all those 1000 studies to make the point here that a well-established link exists between violence on television and aggression behave in real life.

GERBNER. There's no question that the cult of violence makes a contribution that occasionally triggers violent behavior. Television, in my opinion, is one of the factors, but to attribute the violence in our society to television alone is a form of scapegoating—considering that we have an undeclared civil war in our cities, growing joblessness into which our young people are graduating, all of which has a direct relationship to the sense of anger and frustration that many people feel; all of which relates to our using violence as a solution to problems by people who otherwise cannot get ahead or get attention.

Also, television trains us to be victims. Our studies, as confirmed by many independent investigators, show that the most pervasive, long-term consequence of growing up in a media cult of violence is a sense of perva-

sive insecurity, what we call "the mean-world syndrome." It's a sense of feeling vulnerable, of dependence, of needing protection. So you have most people feeling dependent and victimized, and others whose best, or sometimes only, opportunity to get attention or get ahead is to commit violence.

TVG. Senator John Glenn, during hearings on violence prevention in March of this year, said, "The United States is the most violent 'civilized' country in the world." In 1991, we had 26,250 murders, an all-time high. Let me also quote briefly from Dr. Prothrow-Stith's book *Deadly Consquences:* "Just as our nation has more violent crime than any other industrialized nation. so too is our popular culture more violent than that of other countries. Our movies, our broadcast talk, our television drama, our children's TV, our toys, our sports, our music for adolescents, our broadcast news are awash in violent words and violent pictures. In the media world, brutality is portrayed as ordinary and amusing."

PROTHROW-STICH. I think that the impact of television violence is small on most of us, but it's quite large on some of us. And I agree that it's one of the factors, particularly among urban poor children who don't have male role models countering the TV superhero who's solving problems with violence. I think for some it is a significant factor and I thing the impact is pretty direct.

TVG. Just a bit more quotation before we push on. Dr. Leonard Eron of the University of Illinois is chairman of the Commission on Violence and Youth of the American Psychological Association. In testimony before Congress this year, he said that there is no longer any doubt that viewing a lot of televised violence is one of the causes of aggressive behavior, which may lead to crime and violence in the society. He also said that television violence has an effect on young people irrespective of age, gender, class, or intelligence level. He added: "The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. . . . The casual effect of television violence on aggression, even though it is not very large, exists. It cannot be denied, or explained away. . . . We have come to believe that a vicious circle exists in which television violence makes children more aggressive, and these more aggressive children turn to watching more violence to justify their own behaviors. . . . Practically, it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually. . . ." He estimates that fully 10 percent of the actual violence in our society is attributable to the viewing of violence on television. It's also been estimated, by others, that by the time a child graduates from elementary school, he will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television.

SLABY. Recently, we've begun to look at several different types of effects: there's the "aggressor" effect, which may increase the likelihood that someone will become aggressive. But also there's the "victim" effect, as Dr. Gerbner has pointed out—the idea that you become fearful and see the world as a mean place, and perhaps take up arms to protect yourself and thus become involved in violence. A third is the "bystander" effect—being a passive accepter of violence, or actively cheering it on, or becoming emotionally or otherwise desensitized to it. And there's a fourth effect that's now being identified: namely, that watching violent television sometimes leads to an increased appetite for more violent activities—joining gangs or otherwise involving oneself in violence.

WEINMAN. I think the first thing we need to do, before we can continue to talk about TV and violence, is define what we mean by "television." We're accustomed to having a box-like thing that we call the television set. For years, it basically brought us programs mostly from ABC, CBS, and NBC, plus some independent stations and PBS. But now what we have, I believe, is gigantic confusion. The same box also delivers cable programs, plus shows from new networks like Fox.

TVG. This symposium, for a good reason, is called "The New Face of Television Violence." And we're defining "television" as anything and everything that comes through the television screen into the home, from whatever source: the networks, local stations, cable, premium channels like HBO and Showtime, pay-per-view channels, direct broadcast satellites, laser disc players, videocassette players. There's more violence streaming through the television set just in the last few years—because several of these sources are, effectively, brand-new—than ever before in television's history. Local news programs, to attract ratings, continue to traffic in homicide, bloodshed, gun battles, riots, arson, assault. Music videos on networks like MTV show heavy-metal groups engaging in brutal acts, and rap groups formenting violence. The new courtroom television channel televises live the trial of Jeffrey Dahmer, with the most lurid descriptions of his bestial acts.

WOLF. I hate to be the fly in the ointment here, but I've seen a lot of research over the last 15 years, and to say that the case is closed on the effects of TV violence is incredibly misleading.

WEINMAN. That's right, there isn't really a consensus. I mean there's a giant amount of questions about whether there's a correlation, whether there's causation, whether if there's a causation it's imitative or desensitizing, which direction it's in, and above and beyond that, what are the specific programs researchers are looking at.

When you look at last year's TV landscape, for example, the programs that children were watching were things like Full House—very simple sitcoms. There's actually very little violence on the networks according to operational definitions of television.

CHARREN. How about cable?

WEINMAN. Cable is a different subject.

TVG. Let's point out here that ABC, CBS, and NBC have standards and practices departments, headed by people like Dr. Weinman, which give a certain level of protection for the viewer against egregiously violent scenes. But premium-cable channels, pay-per-view channels, and many basic-cable channels do not, and certainly the home-video industry does not. So a lot of violent programming is pouring through those sources, completely unedited in most cases. Dr. Althea Huston, who is co-director of the Center for Research on the Influence of Television on Children, at the University of Kansas, testified before Congress that " . . . cable and videotape recorders . . . have altered our television experience drastically . . . Children and adults have easy access to R- and X-rated films, many of which contain very graphic, explicit violence. Children aged 10 and 11 regularly watch films, such as 'Friday the 13th' and 'The Texas Chainsaw Massacre,' that are intended for an older audience." She went on to say, "I do not mean to suggest that violence on broadcast television is no longer a problem. It is . . . But cable and commercial videotapes have introduced a new level of more serious violence, often with sexual overtones, that makes this issue more pressing than ever . . . " And, of course, there is practically no research yet into how these new levels of violence on cable and home-video are affecting us.

CHARREN. I wanted to say that whether or not TV violence has an effect is irrelevant, really, in terms of strategies. Even if you can prove that it has an effect on causing you to be more aggressive, what are you going to do? I have taken the position for 24 years that, yes, it has an effect, but in a democracy you still shouldn't censor it. So not being a researcher, I don't care whether it has an effect or not.

GERBNER. Well, I do. And not only do I care whether it has an effect, but I care about trying to characterize accurately this new age into which our children are born. There has never been a situation like this. They are born into homes in which the TV set is on seven hours a day. They start as infants. Most of the stories they hear are not told by the parents, the school, the church, or neighbors. They are told by a handful of conglomerates who have something to sell.

That has a powerful effect. An average of six to eight acts of violence—physical, overt violence, hurting or killing people—per hour in prime time. Two entertaining murders a night. And children's television programming on the weekend is saturated with violence. The number of cartoon programs has increased over the last three years from 31 to 40, and the number of violent acts per hour has risen from 25.5 in 1988 to 32 last year—an all-time high. It's all supposed to be funny. But humor is the sugar-coating that hides the pill of power, of how to put people in their place. There has never been anything like this. They may have been some more bloodthirsty years, but after hearing the figures, I doubt it.

But there's never been the type of expertly choreographed brutality, images of violence, that we have at the present time. It surrounds us from infancy. This has never happened before. There's no question it influences the way in which we've been socialized into our roles. It has an atmosphere, an environmental effect. This is a symbolic environment. And what we're dealing with is a kind of pollution, the byproducts of an industrial civilization that we have to understand and take care of, and let's not deny it.

LEONARD. I'd like to make one point. I agree with a great deal of what Dr. Gerbner is saying. But look, this particular culture has always been extremely violent compared to European nations. Before there was ever any television, our kill ratio was much higher than England's. The way we dealt with our labor problems was a lot more violent. The Ku Klux Klan was a lot more violent. The cult of the gun has been extremely important for our pulp fiction from the very beginnings of the country. The cult of the frontier, the cult of the superhero, have been part of our popular literature. The old-time cowboy movies, which you can now see almost every night of the week on TBS, are one shooting after another.

Do we have more explicit violence, and is that better or worse? I don't care; I really don't care, because I don't think it's nearly as important as the other things going on in this society that encourage violence. I'd like to point out that the only country in the world that watches more television than the United States is Japan. The programs are surprisingly violent. It is samurai, it is the science-fiction, Godzilla thing. Japanese pop-

ular culture is full of the vilest pornographic comic books that you have ever seen—unlike anything we could find here, even behind the counter. The Japanese movie industry is the major distributor throughout Asia of rape and snuff films.

And yet all this watching of television and all this emphasis on violence doesn't have the effect of murder and mayhem in the culture at large that it does in our country. And I think you have to look for the causes. It's not TV that's killing people. It's guns. It's a drug epidemic, and it's the fact that since 1980 we've cut more than 60 percent of our federal aid to big cities and we've allowed our public school system to degenerate into overcrowding and inadequate teaching. We've thrown away whole portions of this society, and that they should respond violently makes sense.

I noticed the week after all that violence in Los Angeles that for the first time I was seeing very interesting and heretofore unknown black people on my TV screen talking about aspects of the society that I'd never heard about. Violence did one thing. It got those people onto the TV screen for the first time that I've seen them! And I was very glad for it.

GERBNER. We did a comparative study and found that Japanese violence, unlike ours, is not happy violence; it's painful, it's awful, and it teaches a very different lesson.

WOLF. I just want to put something in perspective here, because again we seem to be devolving into knee-jerking reactions about this. Violence as entertainment has been around as long as we have. The ancient Greeks—if you look at the myth of Medusa, it wouldn't be allowed on prime-time television. There's nothing more violent in the history of literature than when Perseus took his mirror and looked on the face of Medusa so that he would be protected from actually experiencing the violence.

Now we can get into all kinds of psychological claptrap about why people enjoy watching drama or melodrama that has life-and-death effects. I am not claiming that fictional violence is what's happening in the world, but in reality, it is. And people have wanted it from the Middle Ages, from the Greeks to the Romans to Milton, Shakespeare, and everybody else. "Hamlet" is one of the most violent stories ever conceived. But people have wanted to see this and they will continue to want to see it.

The real problem here is—I have an 8-year-old and a 5-year-old child. They've never seen any of the shows I've ever produced. They shouldn't be watching them. They're not allowed to watch Saturday morning cartoons.

PROTHROW-STITH. Why not?

WOLF. Why not? Because they're extremely violent.

PROTHROW-STITH. Do you think it has an impact on them?

WOLF. I don't know. But I don't think that 5-year-old little girls should be watching superheroes beat the crap out of people.

PROTHROW-STITH. Should little boys?

WOLF. The issue here is, when are you going to stop blaming the media and start looking at the home environment, and the fact that parents are supposed to monitor what their children are watching?

PROTHROW-STITH. It's not an either/or. It's not guns or media or parents or poverty.

WOLF. No, but when you blame television in a society that is the most violent on earth, that has taken the six-shooter and made it an object of erotic desire for a hundred and fifty years, to claim now that it's television that is setting people on this course from the time they were born is unrealistic.

GERBNER. This is argument by setting up straw men to knock them down. We were very careful to point out that we are not blaming television alone. Television is, at best, a contributing factor. Let me offer the Gerbner theory of the three-legged stool. You cannot ask which leg of a three-legged stool makes it stand up. It takes all three legs. You remove any one of the legs and the stool will collapse. We're dealing with a syndrome to which there are many contributing factors. We happen to be talking about just one of them, but let us not assume it's the only one, or, under all circumstances, the primary one. To make it the only one is, I agree, an evasion of our responsibility for the condition of our cities. Equally harmful is to say that it makes no contribution. It's one of the legs of the three-legged stool. But the notion that, sure, there is violence in fairy tales, there is violence in Shakespeare, and therefore we shouldn't be concerned about it, is a powerfully misleading notion.

We have to make a distinction between violence that is selectively used, violence that is handcrafted to show its tragic consequences, to show the pain and to show the suffering and the tragedy that follows. That's not what we're talking about. We're talking about mass-produced, cheap, industrial violence that's injected into every home whether they like it or not, for children to grow up on and to condition their view of the world. That is an entirely new phenomenon. It's not like Shakespeare, it's not like fairy tales. It's not even like Westerns. And that, I think, is the critical, or at least the most troublesome, aspect of the situation.

CHARREN. Let me say, please: here, I am the child activist. Let me say that this is a price you pay for freedom of speech. What we have in this country now is a diverse system of getting programming into the home. We have cable, we have home-video, we have fiber optics coming with 200 channels. When you have that kind of diversity of sources, you're going to get some stuff that's terrible. The fact is that, for adults, the top 10 programs on network television always look kind of benign to me.

The fact that children are attracted to ghastly programs is true. When you let them, they will rent from the video store the worst bloody stuff that ever hit the market. And that diversity is where we're at now. And it's all very well and good to talk about this incredibly violent culture that we have, but I don't know how we can make all of this stuff coming onto our screen completely benign. You have a lot of new sources feeding us, some of which are bad, some of which, like CNN and C-SPAN, are very good.

WEINMAN. I just want to piggyback on something said earlier. There are many sociologists in this country who have pointed out that what we're really seeing is a culture in despair, an underclass that doesn't feel they'll ever have the satisfaction of buying a lovely home, of having the fabulous paycheck, the lovely office, and everything that goes with that. So picking up a gun is not simply a solution to a problem. It's a quick mechanism to some level of satisfaction. And that is a terrible tragedy in our culture. That's a much larger tragedy than the issue of television. We could all shut off our TV sets for a year and see if the violence disappears.

One of the easy ways that kids used to feel adult-like years ago was simply the first cigarette. Unfortunately, when adulthood appears that it's going to come without a job, many youngsters are picking up the gun, are engaging in violent activities—not as a solution to any particular problem, but as the way into adulthood.

SLABY. Well, beyond all else, television is a teacher. We know that because advertisers pay several billion dollars a year in order to get the teaching effect and to sell their products. So it's undeniable that it's a very powerful, pervasive, and effective teacher, particularly of young children. That's not to say that there aren't other lessons that children learn in society, in their homes, from their peers, and so on. But we can't deny that television does have this power and this effect. The real question here is, what could television be doing that it isn't doing? And the tragedy, I think, is that it is such an effective and powerful teacher, and it's teaching the wrong message to young children.

TVG. In that connection, Dr. Carole Lieberman, who is chairperson of The National Coalition on Television Violence, has pointed out that since everybody agrees that *Sesame Street* can teach the alphabet, why don't TV people admit that children can learn the ABC's of murder and mayhem from gratuitously violent entertainment? "Violence sells," she says. "So does crack cocaine. Does that make it OK?"

GERBNER. I want to use what Peggy Charren said as a springboard, because—although it hurts me, and because I advocate the same premises of freedom and diversity—I come to the directly opposite conclusion. First of all, most of the highly-rated dramatic programs are nonviolent. Then why is violence produced? I'll tell you why it's produced. Because income doesn't come from popularity. Television income comes from cost-per-thousand. If you can cheapen the product, you don't need to have the most popular programs and you can still make money.

So violence is a cheap, industrial ingredient. It reduces time for writing. You talk about the proliferation of channels as diversity. Well, what if most of these channels program the same cheap type of fare? You find that the actual content has been reduced in diversity. And what they're getting is not the most popular product.

TVG. In the June 10, 1992, issue of the Journal of the American Medical Association, a doctor named Brandon S. Centerwall says that since television "is in the business of selling audiences to advertisers," they're mostly interested in attracting big audiences, and matters of social responsibility are not high on their list of priorities. "And there is no formula more tried and true than violence," he writes, "for reliably generating large audiences that can be sold to advertisers."

Senator Paul Simon of Illinois has claimed that the competitive pressures on broadcasters have "spawned an 'arms race' in TV violence from which none will retreat for fear of losing ratings points. As in all arms races, the public is the loser."

WOLF. I don't know who Dr. Gerbner has been speaking to, but what he's saying is absolutely fallacious. The most expensive form of entertainment ever devised is the one-hour television drama. If he is talking about the reality shows, and people doing those cheaply, that is a different discussion. they are news-oriented, reality-based. But to say that people who make fictional dramas are putting violence in because it's cheaper is just untrue!

GERBNER. I recognize that some fictional dramas and motion pictures can be very expensive. What I'm saying is——

WOLF. There are no cheap hour dramas on television.

GERBNER. Well, cheaper per capita.

WOLF. Well, that's incorrect, Doctor!

GERBNER. It's very cheap per capita. It's a good investment and that's why it's so profitable. It's profitable to put on violence instead of other, more diversified, creative solutions to problems that require more talent, more time, and more money. Violence is a formula that's relatively cheap to inject into programs.

WOLF. That is incorrect, and I think that's a very simplistic statement!

GERBNER. Then it seems we disagree, right?

LEONARD. Writers are cheap, but the exploding cars, they're very expensive.

CHARREN. It may be the most expensive, but it's certainly some of the most profitable.

WOLF. Excuse me, that's also incorrect.

WEINMAN. That's absolutely incorrect.

WOLF. The most profitable shows on television are situation comedies and reality shows, not the hour dramas. I do these shows, I know what the costs are.

PROTHROW-STITH. Don't tell me you're producing things that are not profitable. Miami Vice?

WOLF. Miami Vice has been off the air for three years. I used to do it.

PROTHROW-STITH. Was it profitable?

WOLF. No, it is not profitable. Excuse me, it is not profitable.

PROTHROW-STITH. When it was on the air, it wasn't profitable?

WOLF. It made profits for the network. I work at Universal. I worked on that show.

PROTHROW-STITH. What are we saying here, it made profits for the network?

WOLF. I don't know. You're throwing out statements here that have no . . .

GERBNER. Did it make money for you?

WOLF. No. I made a salary, but I certainly have never seen a penny of profits.

PROTHROW-STITH. Well, that's money. But somebody profited from Miami Vice being on television.

WOLF. The network. And it made not as much as Cosby or any of the other sitcoms.

PROTHROW-STITH. Let me move to another aspect—to the different way we think of sex in the media versus violence in the media. Do we know that a 5-year-old watching intercourse is going to be harmed in some way? No, we don't know that. There are no casual relationships established. Yet we make sure, as best we can, that sex is not portrayed to our children. We don't do that with violence. People are making money off of violence and are callous about it, and I think we need to start calling some people to task.

It's helpful for me to have a public health perspective on this problem, because I can look at media violence as a risk factor. It's not the only risk factor. Poverty is a risk factor, and poor children watch more television. But I wouldn't be surprised if we found out that it's the four hours or more per day of television-watching that poor children are doing that's a significant part of the problem of violence. So I think we've got a big issue here. I use smoking, and the effort to prevent smoking, as an analogy. We went from thinking it was the most glamorous thing in the world to finding it offensive and unhealthy. I think we can do that with violence. I like the question, what can television do?

WEINMAN. Well, first of all, we can't continue on this premise that the reason we see violence on television is money. There are responsible people at all three networks who are not callous. That's why we have in place a set of guidelines that deal not only with sex, but, very specifically, with violence. One of the seminal, important issues we deal with every day is, how do you find a balance between sanitizing violence and sensationalizing it? We come from a very responsible point of view.

And I think we need to understand that the only TV outlets that have people in very tough jobs every day making informed and yet subjective decisions about violence are the three networks. That is the only place where viewers can depend on any level of comfort. I'm not saying complete comfort, but they know that what is coming through that tube from ABC, CBS, and NBC has been screened by people with a moral point of view. Do we make mistakes? Yes.

The bigger issue is that 6-year-olds are going in to see "Terminator 2" and no one is stopping them; that 13-year-olds are renting slasher movies. Critics are not coming down on the kinds of productions that Mr. Wolf makes. They're talking about slasher movies that kids are renting in the local video store, and that kids are able to hit the pay-per-view button and get similar material.

You bring up Miami Vice. The USA Network has shown one episode of Miami Vice that we never put on the air. We lost $900,000 because we thought, for a whole bunch of reasons, that the content was not handled well and we did not want to take responsibility for it. And that appeared unedited on the USA Network. HBO movies are uncut. At 8 at night there are R-rated movies. I don't want to appear too defensive, but when you talk about the TV landscape—about bombs and R-rated movies—it gets back to the question: where are the responsible people who have guidelines and are trying to do the right thing? Only NBC, CBS, and ABC.

TVG. There's a little booklet called Program Standards, published by NBC, and I know the other networks have similar ones. It says, in part: "Violence should not be depicted as glamorous or shown as an acceptable solution to problems. The negative consequences of violence should be stressed. To mitigate violence, action sequences should emphasize unrealistic settings, fantasy weapons, and superhuman feats . . . Particular care must be taken in scenes where sex is coupled with violence. Rape must be portrayed as an act of violence, not a sexual act." In view of those guidelines, I'd like to know how the interaction works between Dr. Weinman and Mr. Wolf. Dr. Weinman's job is to review Mr. Wolf's scripts for objectable content before they get on the air. Now, he is a producer of very, very successful television programs. In effect, he's an 800-pound gorilla.

WEINMAN. Nine hundred, this year.

TVG. OK, nine hundred. So he comes to you and says, "Look, if you take this violent scene out, you'll ruin my show! I'm going to have you fired!" What happens then?

WOLF. Let me answer, because it's very interesting. I think that what's instructive is that Roz and I have never failed to reach agreement, that there have obviously been spirited discussions.

WEINMAN. Very late at night.

WOLF. Very late at night, very early in the morning. It goes on and on. And some episodes have taken literally weeks to get into shape for broadcast approval. My feeling is, if you're going to show someone being shot, then show them writhing on the ground in pain, see them in a hospital three days later, still writhing in pain. Don't make it glamorous. Don't have people get shot and then seemingly wake up the next morning and their arm isn't even in a sling. The cops on Law & Order will go five years without ever firing a gun. We deal with the effects of guns on that show. If anybody thinks the networks are allowing producers to put anything and everything on television—that's fallacious. It's a 150-channel universe now, and it's wrong to tar the Big Three networks, who are, I believe, the only ones acting responsibly.

GERBNER. Let us take a few seconds to pay our respects to producers and creative people, the ones on the front lines of television practices, for the wonderful work they are doing. They represent the conscience of the networks and they often do magnificent programming. But let us not let the system itself off the hook. Don't forget that most American television series and motion pictures are produced for the global market. More than half of total revenue comes from outside the United States. And in the trade, the slogan is, "Violence travels well, humor doesn't." Humor is culture-bound; it needs translation. But violence doesn't need much explanation. It has some kind of inner relevance to human interests, and therefore from the point of view of global marketing, is an excellent commodity and highly profitable.

SLABY. There's a prior question here that I'd like to come back to. It's all well and good to hear about Roz and Dick's midnight talks about what is edited out and what is not edited out. But the prior question is, who controls the airwaves? One little-known fact is that the American people own the airwaves and they don't know it.

The networks sometimes try to foster the notion that they're giving people just what they want, and that television is the greatest democratic ballot box in the United States. The fact of the matter is, this is a myth. It's a myth that we control the airwaves by turning off our set or switching channels. It's a myth because we're not all Nielsen families. It's a myth that every vote counts equally because what really counts are the demographics of the viewers. Poor viewers don't count. Children don't count, except on Saturday mornings.

TVG. Dr. Prothrow-Stith, you mentioned in your book Deadly Consequences that children in inner cities watch more television because they have little money to do anything else, the streets are dangerous, and there are fewer recreational opportunities.

PROTHROW-STITH. I think one of the things that came through quite clearly in the Los Angeles revolt was that revenge was seen as necessary and anger was justified. They were basically teens who have learned that if you think you are on the side of right and have a cause to justify, violence is the way to do that.

WEINMAN. Where did they learn that from?

PROTHROW-STITH. That's what characters like Rambo do. When they get angry, they blow people away. I'm thinking specifically of the Rambo movie where his daughter was kidnapped and he blew away close to 300 people getting his daughter back.

SLABY. That was "Commando," not "Rambo."

LEONARD. Are you saying they did that because they had seen movies like "Rambo"?

PROTHROW-STITH. What I'm saying is, that they have learned that violence is the way to solve problems. And the challenge I would put to the TV industry is to show, in an appealing way, how people can solve their problems and achieve success nonviolently.

TVG. That rarely happens these days in the big-hit theatrical movies, which every-

body agrees are the most violent in the history of the film industry. A New York Times movie critic counted 74 dead in "Total Recall," 81 dead in "Robocop 2," 106 dead in "Rambo III," and 264 dead in "Die Hard 2." [In early August 1992, an accused serial killer of six women in New York state said he was copying scenes in "Robocop 2."] All those movies show up in home video. All five of the Oscar-nominated films this year had scenes of violence, some of them extraordinarily vivid: "The Silence of the Lambs," "Bugsy," "JFK," "The Prince of Tides." And "Beauty and the Beast" was by no means a nonviolent movie. Those, too, are starting to appear in video stores.

GERBNER. But let's go back to the Los Angeles situation. I think Ted Koppel was right, for once, anyway, when he said that live, unedited telecasting of the riots spread the virus from one part of the city to another. I think it was done in a reprehensible way. I think it's done for ratings. I think it's something they have to think about very seriously. The riot took place in the context of a cult of violence, of a civil war in our inner cities; and the lesson for broadcasters in such situations is to be very careful about live, unedited, real-time telecasting because it makes people react instantly in ways that can be exploited.

WOLF. It's chilling what you're suggesting. This is out and out censorship.

CHARREN. There's a point to be made about the looting that went on in Los Angeles and how that relates to television. The advertising that interrupts most TV programs conveys the message that everybody can afford these products. But most of those inner-city people can't. And a lot of those people who left their houses and looted stores were not reacting to the Rodney King tape, but were saying, "Now I can get mine. Where is it written that I can't have all these things that television tells me I need, but which I can't afford?"

WEINMAN. But how much power does television really have? I, for one, don't believe it has as much power as our academic colleagues would like us to believe. I wish it did, because some of our advertisers would be a hell of a lot happier than they are.

WOLF. Commercial television exists as a life-support system for commercials. That's why it's called commercial television. The desire for objects advertised on television is much more destructive to children and adolescents than it is for adults. Adults do have some discriminatory ability. We see a Rolls-Royce advertised on television, but we're not going to go racing out and buy one.

But the bulk-loading of commercials in children's programs is an enormous problem. And maybe this is paddling my own oar, but I think that's much more destructive to children than violence on TV late at night. The children's shows on Saturday morning are a different issue. They are too violent, and that's something that has to be corrected, but I don't know how you do it. Not legislatively, because that's censorship.

TVG: Speaking of cartoons, somebody has suggested that the Rodney King jury may have watched too many "Tom & Jerry" cartons as kids, and as a result they didn't think that bashing somebody with a stick really hurts. So they acquitted the police. There's also a feeling that Rodney King may have seen so many Burt Reynolds movies and The Streets of San Francisco episodes that he thought car chases with cops are fun.

But I want to ask Dr. Weinman about the NBC series I Witness Video. There are something like 16 million camcorders in consumers' hands right now, and some of that amateur tape shows up on local and national television, and some of it is quite violent. It's a whole new source of TV violence. When I Witness Video came on NBC last February, it showed a replay of murders that had been captured on tape by amateur camcorder operators. We wrote about it in TV Guide at the time, saying, "For the first time in TV history, a major network started programming death as entertainment." How about that, Dr. Weinman?

WEINMAN. It doesn't relate to my department. That's a program that is produced under the NBC News rubric, with journalists making judgment calls on what they think is solid programming. I think the whole question about tabloid, reality-based programs is a whole other issue.

TVG. Yes, and they are a new and extemely popular program form, which very often show vivid scenes of violence. Series like America's Most Wanted, Unsolved Mysteries, Top Cops, Inside Edition, A Current Affair, Hard Copy.

WEINMAN. I think so, but the only good news, I think, is that there are very few kids watching those kinds of programs.

TVG. What does it tell you that, except for 60 Minutes, the most popular programs in the 1991–92 television season were all sitcoms and thus almost completely nonviolent? Roseanne, Murphy Brown, Cheers, Home Improvement, Designing Women, Coach, Full House. Since comedy is so popular, why telecast violence at all?

LEONARD. As much as I have my doubts as to how important television violence is to violence in the culture at large, I have my doubts as to how important television is to the culture at large. I'd like to see Dr. Gerbner do a study—similar to his violence profiles—on how much hugging there is on television. Because I think that hugs are all over prime time, perhaps far more than they are in our own families.

I would like to see a study made of nonviolent conflict-resolution programs like M*A*S*H, obviously one of the most successful programs in the history of television. It's on twice a day, every day, everywhere in the country. And yet, we're not the least bit more pacifistic in the culture, as far as I can tell.

So if we're talking about what happens on television and how it influences the culture, we have to talk about all the things that are on television. We surf, we pick and choose. We want to laugh sometimes, we want violence and quick and easy solutions at other times. We want news, or we want the greatest of all violence, a hockey game.

TVG. Yet another source of TV violence, and a fairly recent one, are music videos of the sort played on MTV by groups like Guns N' Roses and N.W.A. Dr. Prothrow-Stith has written that "the subjects of heavy-metal songs are sex, violence, death, Satan, and alienation. The creators of heavy metal and rap are the first generation nurtured on television's steady diet of fictional and non-fictional mayhem." She adds that "in rap song after rap song, young black men brag about owning guns, using guns and killing" and that "sex, violence, and black pride are the most common subjects of rap" songs. "As in heavy metal," she says, "women are sex objects and the objects of rage." There aren't any studies showing cause-and-effect with music videos, but what do you advise?

PROTHROW-STITH. My favorite strategy is the strategy of making that sort of thing unpopular. If I didn't have the smoking, the cholesterol, and other public-health successes in mind, it would seem unrealistic. I think about our efforts around drunk driving. It was a grass-roots effort, saying, not only is this not funny, we want the TV industry to help through sitcoms and other shows to teach our children that this is bad and dangerous behavior.

So I think we can make violent music videos unpopular. People recognize that the music itself is nice, upbeat, kind of bopping music. The lyrics, though, are often horrible.

TVG. What about Michael Jackson's video in which he bashes and destroys a car with a crowbar for no apparent reason?

PROTHROW-STITH. Wasn't there a public outcry about that that caused them to edit the video?

WOLF. No, it was his grabbing his crotch, not destroying the car.

CHARREN. Yes, the public did scream bloody murder about it. They're more concerned about their Jaguars than their children.

TVG. I happen to know the answer to this question, but is there anybody on this panel who favors formal censorship of TV programs to minimize violence?

GERBNER. The only censor we should really speak to is Dr. Weinman.

WEINMAN. I don't want to become pedantic, but I don't think that what I do is censorship. It's not dissimilar from what happens in the publishing industry every day, and that relates to taste. We are running a commercial business in which we are trying to be responsive to our audience. Fortunately, it's a fairly easy thing to do in some ways, because every morning you get the ratings and you know how many people watched your shows and whether or not they liked them.

There is no question that if we were simply trying, in a crude way, to put on whatever the marketplace would bear, that we would air very different sorts of programs. We're in the business of making certain that, with the knowledge we have, we're putting forth programming that we believe to be responsible. That's very different from government censorship, and censorship of news.

WOLF. Three years ago, several producers, myself among them, were approached by a network—specifically. NBC—and asked whether we wanted them to do away with the standards and practices department. I was quite vehement about it. No, I didn't want that, because, for better or worse, I don't want that responsibility. I don't want the blame. And I don't consider it censorship. I consider it a business decision, and a way to make sure that the product has the most chance of staying on the air. There is a difference between governmental intrusion into the broadcast process and broadcasters making sure that their own house is in order for business reasons.

TVG. But is everything with regard to the violence issue done merely for a business reason? Is there a moral issue involved here, or is everything just economics and money?

WOLF. I think that most producers of shows that have survived have a kind of internal moral gyroscope, so that they are not just catering to the basest instincts of the audience. This isn't bread and circuses.

CHARREN. The thing is, censorship would be terrific if I made all the decisions about what goes on and is taken off.

TVG. Peggy Charren, you were one of the people principally responsible for the Children's Television Act of 1990, which requires that TV stations, as a condition of their license renewal, report what positive steps they've taken to air worthwhile children's programs. Can that new law be used to reduce violence in children's programming?

CHARREN. No, the Act cannot be used to be content-sensitive. That's not the kind of law I would have tried to put in place through Action for Children's Television. It's too much a question of judgment. You know—which program passes and which program doesn't. I think that you can't have the government making content-sensitive regulation, and that's what it would be.

On the other hand, there are things we can do to educate parents to be more careful about what their children watch. I'm trying to put through—and I think it may even work—a media-literacy merit badge for the Boy Scouts and Girl Scouts. It's a way to teach kids that the violence you see on television is not the solution to problems.

GERBNER. Well, there is another law on the books, which may or may not provide an opportunity, and that's Senator Paul Simon's bill, formally called the Television Violence Act. What it does is provide an exemption for the networks and cable companies, for a period of three years, from any prosecution under the antitrust laws if they agree to some kind of self-regulatory mechanism pertaining to violence. We're halfway through that three-year period, and I think that this fall, the networks and cable companies are going to make some kind of a progress report. It's a toothless law, but it provides an opportunity for some progress on the question of media violence.

TVG. Yes, but Senator Simon made a speech on the Senate floor on June 30 lambasting the networks for not taking advantage of the Television Violence Act. He said he wasn't sure if they were "just making motions so it looks like they are doing something so we do not pay any attention in Congress to what is occurring." And he said that he continues to get statements from TV-industry people insisting that television violence doesn't do any harm.

WEINMAN. There are lots of food items that really are not good for children. Does that mean that parents should not be allowed, by law, to purchase those foods for their children; or that children should be forbidden by law to snack before dinnertime? It's a frightening prospect.

CHARREN. Sounds like a great idea.

GERBNER. We have that now. Children aren't supposed to be sold alcohol and tobacco.

LEONARD. I don't want to see a three-year exemption so that the networks can get together and decide how they're going to handle these problems. I don't want anything more that looks to me like censorship, no matter whether you call it business decisions or whether you call it taste. I speak as the kind of First-Amendment absolutist that I know Peggy Charren is, too. I think that violence and sex and political dissent are all in bed together, and if you start messing with one, you end up messing with the rest of them. We already have on television right now too many gentlemen's agreements that have, in effect, wiped out political dissent.

PROTHROW-STITH. Why is violence the only area where we're not doing that?

LEONARD. Well, we are. We're doing it all the way along the line in little things. But let me finish. This is what happens when people get together and decide what the country needs to be protected from. It is exactly the thing that I think is wrong with political correctness on too many college campuses. I think there should be offensive speech. I think there should be trouble. I think that obscenity should be allowed to us just as much as subversion should be allowed to us! And I don't think anybody should get together and say, here's how we can work it out!

WEINMAN. We do have to pose a question here, and I do it with all due respect to my academic colleagues. Who on this panel would like to tell me what specific, currently running programs you find too violent? I think some of the comments being made here about violence would have been valid in 1980, but we've learned a lot. You just don't see a television landscape across the networks with violent programming. You just don't. We don't have a proliferation of violence, we don't allow programs that glorify violence. If anything, we could probably be criticized for making it too sanitized. We don't show programs that are graphic and in which the heroes are the bad guys.

PROTHROW-STITH. There's MacGyver, there's In the Heat of the Night, there are detective shows over and over.

TVG. The National Coalition on Television Violence puts out a monitoring report occasionally, and the most recent one says that the most violent network shows—for the spring of 1991—in order, were: Young Riders, The Flash, In the Heat of the Night, Black Jack Savage, Top Cops, MacGyver, America's Most Wanted, American Detective, DEA, Hunter, and Unsolved Mysteries. All of those had 20 or more violent acts per hour, and Young Riders had 55.

GERBNER. Excuse me, let me say something here. It's ironic and very curious that Dr. Weinman, who is really the only censor we have . . .

CHARREN. What about [Senator] Jesse Helms?

GERBNER. Excuse me, Jesse Helms is not running a network. He's a legislator. Let's not mix up a lot of things that don't belong. But here we have NBC, a private corporation that has total control, total censorship—some of it highly desirable, some of it perhaps ineffective. But what is ironic is that it's John Leonard who says that's OK, let's not mess with it. And some people applaud.

LEONARD. I did not say that!

GERBNER. In effect, you said, let's not get into the act. Let's not mess with it. And First Amendment absolutists applaud that as an extension of the First Amendment. I think that's defeat of the First Amendment! It's using the First Amendment as a shield for censorship!

LEONARD. I don't know what on earth you're talking about. I don't like Dr. Weinman's censorship! I don't like any censorship! That's exactly what I said and I tried to say it as clearly as possible.

GERBNER. Well, OK, if I made a mistake, correct me.

LEONARD. I have corrected you!

GERBNER. You said, let us not get into the act, in respect to something that is a public trust. Keep the public out of the public trust. That's the position you've taken. I think that's a wrong position!

TVG. All right, let's get right down to it. Should anything be done to lessen gratuitous brutality, murder, and mayhem on television, from whatever source: networks, cable, home video? Do the broadcasters' rights of free speech on the public-owned airwaves supersede the public's right—and desire—for some modicum of protection from gratuitous violence coming into the home?

PROTHROW-STITH. Well, censorship is not the only possible solution.

TVG. Some very simple things that parents can do are suggested by the American Psychological Association. First, watch at least one episode of the programs the child watches to know how violent they are. Also, when viewing TV together, discuss the violence with the child. Talk about why the violence happened and how painful it is. Ask the child how conflict can be solved without violence. And explain to the child how violence in entertainment is "faked."

CHARREN. There are a number of ways to educate. We can educate children, we can educate parents. We can have seminars like this. You can try to help parents understand something that this panel has tried to articulate: namely, that it's important for parents to pay attention to what their children watch on television.

I sometimes tell parents: suppose a complete stranger came into your home carrying two bags—one containing a lot of products for sale, and the other a lot of stories. And he said to you, "Look, you look tired. Why don't you just leave, and I'll talk to your kids here on the couch." How many of us would say "Go right ahead?"

You have to help parents understand that that box in the living room is not always a friend of the family. And there are a million ways we can do that, which we're not presently doing. And the media can help.

TVG. Is there any use that might be made of the Motion Picture Association of America ratings system, to call attention to movies with inordinate violence when they're shown on television?

CHARREN. Yes, they could use words instead of letters like PG–13 and R. Why don't they say, "some violence," "some sex," "some sex and violence"?

SLABY. As a matter of fact, TV Guide does that in its listings for the premium-cable channels like HBO and Showtime. It uses the simple term "violence," and that can help parents decide which movies to watch and which not.

GERBNER. That's good for highly educated, upper-middle-class parents who control the set. Most parents not only don't control the set, but depend on its as a baby sitter. Most children are left alone much of the time. It's their parents who set the style in the home, and most parents do not look at either ratings or advisories.

SLABY. It's only a start to have truth in labeling, but it is a start.

GERBNER. Yes.

SLABY. In fact, when I looked at the cable programs listed this last week in TV Guide, and did a quick count, I saw that among those that were rated, more than half of them had violent content. So we're talking about the really new look, the new face of media violence. We need to include cable and VCRs in this. We hear Dr. Weinman talking about what the networks have done, and they have done a great deal recently, but in addition, we need to bring in what cable can do and what filmmakers can do, and get them together so they're not just pointing their finger at everyone else and saying, "My house is in order, the next guy's isn't."

GERBNER. Yes, education is very important, but it's like saying there are problems in our environment, so let's teach children to wear gas masks, and maybe not to breathe too much. It's not enough.

CHARREN. The best place to handle how kids relate to that television screen is at the ballot box in November, by putting people in power who care about our kids.

LEONARD. Or you feed everybody; then they will actually be able to pay attention in school and they'll grow up to have a more interesting imagination.

PROTHROW-STITH. Stop, stop, stop! You're both right! It's not an either/or thing. You're

got to have policy that protects people, and you're got to have education to help people deal with the situation. Once again, it's helpful for me to take a public-health look at this problem and ask, what changed our attitude about smoking? How did we do that? It was education in the classroom. It was working with the media. We banned the advertising of cigarettes on television.

PROTHROW-STITH. We have to use health education, relating to violence, in the classroom—the same way we did with smoking. We have to use the media to deglamorize violence, to show the reality of it, and to show that nonviolence can be productive.

Another strategy is liability, and I know that's opening up a can of worms. In the case of smoking, no suit has yet been brought successfully against that industry.

GVG. How would liability work with regard to television violence? You mean that if a specific crime were proven to be inspired by a specific television program, the network and the producer could be taken to court and have to pay damages?

GERBNER. It's a very tricky question.

WEINMAN. It is tricky.

PROTHROW-STITH. It's the notion of copycat—if a causal relationship can be established in a particular case.

TVG. That was attempted in 1974, after three teenage girls attacked a 9-year-old and raped her with a bottle. They'd seen something similar on an NBC drama called "Born Innocent." The mother of the victim brought an $11 million suite against NBC, but the U.S. Supreme Court dismissed it, saying that networks can't be held responsible for TV-inspired violence unless they incited it deliberately.

There was some data published in the New England Journal of Medicine that seemed to prove that depictions of suicide on television are often followed by a significant rise in teenage suicides. And there was the situation where 35 males, between ages 8 and 31, killed themselves playing Russian roulette—imitating a scene in "The Deer Hunter," which they'd seen on television.

PROTHROW-STITH. I think that the media can expect that the public may come around to demanding the same regulations for television as are in place for other professions. Most professions have a self-policing mechanism. In medicine we have peer review, and there is also a government component. You wouldn't want doctors and hospitals to be unlicensed and unregulated. And I think that people are going to want the same controls for the TV industry.

CHARREN. But the potential for closing down free speech in this country from ideas like this—liability for speech—is so horrendous that I'd rather put up with the violence on television.

PROTHROW-STITH. Well, there is a middle ground, and if we reach it without censorship, we'll be in a lot better shape. And I would love the initiative to come from the media.

WOLF. But you know, what's amazing is that we're sitting here and we're giving the viewing public absolutely no credit at all. None. And you know, what I've found over the years is that the audience is the best measure of a successful or an unsuccessful idea. And the notion that there ought to be a group of people who would get together and lay down guidelines, or groups that would regulate in some amorphous way. . . . You're just opening the door. I agree with John Leonard one thousand percent. There is no partial censorship.

GERBNER. But there is such a group of people. The only difference is that they're anonymous, unselected.

WOLF. Who are these people? Who do you think they are? Do you think there is a cabal out there deciding what we're going to watch?

GERBNER. No, not a cabal. They are called network vice-presidents, and they meet all the time.

WOLF. Who meets? Excuse me, sir, who meets? Do you think that the heads of the networks get together and decide what shows they're going to put on?

GERBNER. Not necessarily with each other. They know what they're doing.

WOLF. What are you talking about? Oh, that's ridiculous! If you wrote a book that said that, sir, you were completely misinformed!

GERBNER. Anybody who thinks that large, national corporations work with no direction is even more naive than I think.

WOLF. As a working member of this industry, I can tell you that's patently ludicrous! It is the most competitive business environment in the world. They will kill for a ratings point. And if people were dissatisfied, they wouldn't watch.

GERBNER. Wrong. People in every country watch whether they're dissatisfied or not.

CHARREN. There's almost no information-based programming for kids on commercial television in this country, and it's the biggest blot on the landscape of American broadcasting that ever was.

TVG. What does that have to do with the problem of violence on television?

CHARREN. It relates because we could use that kind of program to help kids understand what televised violence really is—and about the place of media in the world and in their lives. The kinds of things you expect a communications system to do in a democratic society, and which it does for adults but does not do for its children. And that is outrageous and disturbing and very sad.

TVG. The aforementioned APA passed a resolution that says, "Whereas, the great majority of research studies have found a relationship between televised violence and behaving aggressively . . . be it resolved that the American Psychological Association: one, encourages parents to monitor and to control television viewing by children; two, requests industry representatives to take a responsible attitude in reducing direct, imitatable violence in 'real-life' fictional children's programming or violent incidents on cartoons and in providing more programming for children designed to mitigate possible effects of television violence, consistent with the guarantees of the First Amendment; and, three, urges industry, governmental, and private foundations to support relevant research activities aimed at the amelioration of the effects of high levels of televised violence on children's attitudes and behavior."

SLABY. I think that public education is the missing ingredient. All of us at this table could agree that major things about media violence could be done on television in all of its forms regarding public education about violence prevention—informational programming, educational programming that is entertaining and teaches critical viewing skills, programming that is consistent with the mandates of the Children's Television Act. There's a great deal that's known about media violence. And there are very good suggestions about what might be done to teach the public about guns, alcohol, drugs, and their relation to violence. And the media can play a major role in that area, consistent with what we've already found in other public-health areas. Public-health campaigns are very successful when television is used as a springboard.

LEONARD. I need to say something here, as somebody who actually watches a lot of television. And that is that prime-time commercial television has been more responsible than any other part of this culture on precisely these matters. It's been the miniseries and the TV-movies about date rape, about child abuse, about alcoholism and drunk driving, AIDS, marital rape, abortion. It's been television, not the movies, not the newspapers, not the magazines, not the schools, and not the parent-teacher associations. It has been television—perhaps out of some vestigial liberal conscience—that has devoted two, sometimes three, sometimes four television movies, week after week, to just these issues. And it is amazing

CHARREN. There's one little, tiny thing that television can do that won't hurt anybody's income and will make a lot of parents much happier. And that is to stop putting on the air as promotional announcements the most violent 30 seconds of upcoming movies and miniseries. And running those promos adjacent to children's shows. It's an industry problem.

TVG: It appears that you're perfectly right about that. In our content analysis of a day-in-the-life of television, we found that commercials for theatrical films and upcoming TV-movies and miniseries were second only to cartoons in the amount of violence they purvey.

PROTHROW-STITH. NBC was going to show a movie called "Street War" a week after the Los Angeles riots. They pulled that, and instead put on "Kindergarten Cop." Now, I'm assuming they pulled it because the newspapers said it would be insensitive to show kids burning things in the streets right after the L.A. event. But "Kindergarten Cop" is no mild movie. I mean, the hero solves a problem violently. And there are many, many times in that script where they could have solved that problem differently.

GERBNER. You asked about practical and logical things that can be done. I'd like to add two or three more. First, we should urge parents not to use television as a form of punishment or reward, because that teaches indiscriminate viewing. I think we should urge parents to participate in children's viewing, so that they know something about the programs they criticize, so that they can tell children: that's not the only way to look at life. I think that teaching critical viewing and analytical viewing should be a central task in our schools. It's fresh approach to the liberal arts. Working on these fronts can make a significant contribution to a more reasoned and broader perspective from which to assess not just television violence, but the particular role it plays in industry policy.

TVG. As part of those viewing skills, shouldn't it be taught that violence can really hurt, that there's no such thing as violence without consequences? In your book, Dr. Prothrow-Stith, you accuse the mass media of lying about the physical and emotional realities of violence. In "real life," you write, "the impact of a moment of violence reverberates through time. Years later, parents are still mourning the lose of a child. . . . On film or videotape, violence begins and ends in a moment. 'Bang, bang, you're dead.' Then the death is over." Then you question whether the 12-and 14-year-olds "who are shooting each other to death in Los Angeles, Chicago, and Washington, D.C., really understand that death is permanent unalterable, final, tragic?" And you conclude, "Television certainly is not telling them so."

PROTHROW-STITH. We had a young man in the emergency room at Boston City Hospital who was surprised that his gunshot wound hurt. And I thought, boy, he's really stupid, anybody knows that if you get shot, it's going to hurt. But it dawned on me that what he sees on television is what when the superhero gets shot in the arm, he uses that arm to hold onto a truck going 85 miles an hour around a corner. He overcomes the driver and shoots a couple of hundred people while he's at it.

It's important, I think, to differentiate the kind of violence you see in a movies like "Boyz N the Hood," "Glory," or "The Killing Fields," where you are saddened by it, and where the pain is obvious, where there are consequences to the violence. In "Lethal Weapon 3," on the other hand, you are excited and happy and applauding as the mayhem goes on.

SLABY. Exactly.

WOLF. I agree with you. I'd go further. Dr. Weinman and I occasionally have arguments because when I depict violence on a show, my desire is always to show it much worse than the network or the advertiser have any desire to see it. If somebody gets shot—and I've seen people who were shot—they should be writhing on the ground screaming in pain, with gallons of blood running out of them. We're not allowed to show that. I agree that if you show violence, show it the way it is, do not glamorize it.

TVG. Another miscarriage seems to be that women are too often the victims in TV scenes of violence—so much so that many youths think that sexual violence is permissible, since they see so much of it on television. That's the conclusions of Dr. Edward Donnerstein of the University of California at Santa Barbara. Violent TV and film material, he points out, is written almost exclusively by white males. And it's men—not women—who want violent entertainment. And it's men who commit most crime.

GERBNER. I ask my students to watch three hours of prime-time programming and to write down who it is who commits violence—how many men, how many women, who is the victim. You discover that you are entering a world in which there is an unwritten policy that is very consistent, that is unfair, that is unjust, that is highly prejudiced, that encourages violence and encourages victimization on a very unequal scale, showing certain people, mostly women and minorities, that they are more vulnerable.

WEINMAN. I don't want to get too nitpicky, but I would question your particular three hours.

GERBNER. Any three hours.

WOLF. I find that hard to believe. I've never seen statistics like that.

GERBNER. But that's what the public sees.

WOLF. You're cooking the books! You're throwing out statistics that are meaningless!

GERBNER. Not to the American people. They are meaningless to those who are paid by the industry!

WEINMAN. Excuse me, I had the floor! We cannot expect any cultural appendage, including television, to look different from the rest of society. It is a reflection. It is a mirror image. Hopefully, there are times when we actually put programs on that enlighten and do more than entertain, for example, "The Burning Bed." By and large, what you see on television and in the movies is basically what people are interested in watching, and these are cultural reflections. So, for example, the fact that women are victimized more on television than men unfortunately is a truth in the world we live in.

Is television perfect? Absolutely not. It is more of a reflection of the entire culture in which we live. Still, we have responsibilities, which is why we have guidelines, a standards and practices department; which is why we work closely with the producers to monitor what goes on the air.

I can tell you that most producers who have successful programs on television come to it with a giant amount of intelligence and, in most cases, integrity. And when you point out to them that perhaps they are trying to put on something that may be too violent or too sexual, they are reasonable, sensible people who have their own children and are not interested in living in a world where violence is a daily occurrence.

PROTHROW-STITH. But we treat violence and sex very differently. We have no evidence that watching sex does any damage to children, and yet we go on and on about the sexual content of television and movies, and about regulations relating to sex. And I would just appreciate it if we treated violence the same way we treat sex.

GERBNER. Styles change, but I must tell you that when you talk about the main elements of television storytelling, including violence, it's been extremely consistent. In this last season that we have studied, the 1991–92 season, prime-time violence on the three major networks appears to have declined slightly for the first time in 25 years. Children's weekend programming, however, has become more saturated with violence.

This is not a temporary aberration. This is a question of policy, and the policy has to be addressed ultimately. Sooner or later, as with other environmental policies, we have to realize for the first time that we are in a new age. It's no longer a selective medium. Children are born into it. We have a responsibility for enriching that climate in which they live, learn, and grow.

PROTHROW-STITH. We protect our children from a variety of things via regulatory mechanisms, and I think we need to do some protection in the area of violence—particularly of those children whose parents aren't able to, or don't, do it. And I think that if the industry, particularly the networks, continues to be as sensitive as they have been to this problem, and if that spills over into the movie industry, we'll be successful. When it's unpopular, it won't make money. And when it won't make money, we won't have this panel.

GERBNER. Many years of study have led me to the conclusion that broadcasting policy is held very tightly by a handful of men imposing rather strict controls. If there is only one thing I would say to do, it is—hire more women, both on-screen and off. And the minute you do that, the world will begin to change and be more fair, more just and less violent.

LEONARD. Theodore Sturgeon was once told that 90 percent of science fiction was crap. He said, yes, 90 percent of everything was crap. Ninety percent of television is crap. And we have more crap coming. We have lots more channels, but it sometimes seems it's just like a credit card that allows you to multiply your opportunities for disappointment.

I think that the proliferation of cable channels has been, on the whole, more nonviolent than violent, except for the premium-cable channels and, of course, the VCR stuff that you bring into your home. For the 10 percent of television that isn't crap, I would like to see it more brilliantly educational. But the best kind of education on television isn't going to do any good if it's going into a broken home in a bombed-out neighborhood where there aren't any schools and there aren't any parents and there isn't any food and there isn't any expectation of a decent future. Whom are these images out there in the ether to help? We begin, as always, with providing bread and jobs, and then a culture begins to create grander cultures in its imaginary forms. That's where I would begin.

SLABY. I was going to say that one thing that resonates with me is the rather sad commentary that Dick Wolf says his children aren't allowed to watch any of the programs he has made, or even any of the Saturday morning programs. I think television could be on the side of solving the violence problem, and doing it in a variety of ways—not only programming like "The Burning Bed," which sensationalizes at the same time that it teaches, but informational and educational programming as well.

I think that we American citizens would like to be proud of our programs, and would like to see the industry pull together with researchers, and all of us get together and solve this problem once and for all. Certainly, Congress is calling for the industry to solve it. And I think the American people are calling for us to solve it as well. And the crime, if there is a crime, is that television has such potential that it's not using to try to solve this problem of violence. And I would like to see that happen in the next decade.●

[From TV Guide, Aug. 22–28, 1992]

A MESSAGE FROM SENATOR PAUL SIMON, CHIEF SPONSOR, TELEVISION VIOLENCE ACT

I checked into a motel room late one night a few years ago after a long day of appointments in Illinois. I flipped on the room's TV set, hoping to catch the late news. Instead, I saw an actor being sawed in half with a chain saw, in vivid color.

The scene unsettled me that night. I wondered what it would do to a 10-year-old or to a 14-year-old. When I returned to Washington, I asked my staff to gather studies on television violence. They discovered nearly 3000 scholarly articles and studies on the harmful effects of television violence on children and adults.

On the other side, many in the television industry argue that TV violence does no harm. They are essentially claiming that exposure to violence in a 25-minute program has no impact, while exposure to a 30-second commercial has great impact. The obvious answer is that TV is a powerful sales medium, whether the product is soap or violence.

As I dug deeper, I found, first, a remarkable consensus in several research fields about the harm excessive TV violence does to children and adults; second, confirmation that our television is more violent than ever before and may be the most violent of any industrialized society; and third, that self-regulation not long ago was an accepted practice in the American television industry, but it was made illegal through new interpretations of the antitrust laws.

As the problem became clearer, the question then became: in a free society like ours—one that shuns government censorship and has a commercial television industry—are we powerless to protect ourselves and our children from the harm caused by excessive TV violence? I believe the answer was partially found in the Television Violence Act, a bill I introduced that cleared Congress and was signed into law by the President at the end of 1990.

The Television Violence Act provides a limited three-year antitrust exemption so that members of the industry (covering all aspects of TV—broadcast and cable—from the creative side to programming decisions) can discuss and develop voluntary, industry-wide guidelines to reduce the amount of violence on TV.

Use of this legal leeway is voluntary, not mandatory, so it will need people in the industry to spark this process to life. To date, while we've seen some action quite frankly, there hasn't been as much as I'd hoped for. Industry members have been able to come up with creative reasons to explain why they aren't using this law. Let's be honest; if television executives wanted to make it work, they could. The cable industry may turn out to be a surprising exception. The National Cable Television Association has commissioned an extensive study of TV violence in cable programming, due later this year. But the rest of the industry seems to be in a test pattern, hoping the law will lapse before the public notices.

We're midway through the three-year exemption period; the clock runs out on the new law next year. Public discussions like this one; sponsored by TV Guide, are exactly what's needed now to give this issue the attention it deserves, while there's still time for the industry to act.

Television can appeal to the best in us or to our worst instincts. This law makes it easier for television to appeal to the best in us.

[From TV Guide, Aug. 22-28, 1992]

SUMMING UP: WHAT WE CAN DO

The American Psychological Association suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

OTHER POSSIBLE STEPS

Urge the broadcast, cable, and home-video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable-industry executives to take full advantage of the Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public-health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all informational media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry, allowing parents to "lock out" channels and programs containing levels of violence they consider objectionable.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."•

THE 65TH ANNIVERSARY OF THE JEWISH COMMUNITY CENTER OF ATLANTIC COUNTY

• Mr. LAUTENBERG. Mr. President, I rise today to honor the Jewish Community Center of Atlantic County which is celebrating its 65th anniversary this year.

In 1927, a group of dedicated individuals realized that there was a need for a recreational facility for the surrounding area and founded the JCC which was housed in Atlantic City until 1963. It was then moved to Margate to better serve its members in nearby communities.

The JCC serves all ages with various programs to help meet the need of families and individuals in the community. For example, working parents enroll their infants in the child care program. Children from ages 3 through 5 enjoy preschool in a caring environment. Senior citizens find comfort within its walls by meeting with friends for social outings and functions. Additionally, JCC has offered a latchkey program for 6 years which provides a place for children to go after school when their parents are not home.

Mr. President, in its 65 years, the Jewish Community Center of Atlantic County has played an important role helping people with everyday pressure and problems and in strengthening and bringing families closer. I commend the JCC and all its staff and volunteers for their efforts to meet the changing needs of community residents. I congratulate the JCC as it celebrates this significant milestone. May it continue to serve the citizens of Atlantic County for years to come.•

CONTEMPT FOR THE CONSTITUTION

• Mr. SIMON. Mr. President, for too short a period, the Chairman of the National Endowment for the Arts was John Frohnmayer, an appointee of a Republican administration, who handled a very difficult job with a sensitivity and a delicacy that I appreciate.

But he was unwilling to compromise on the basic issues of free speech. And that cost him his position.

Recently, I read in the Los Angeles Times his comments about the Republican platform and its relevance to the Constitution.

There will be those who say "sour grapes."

My own feeling is that it takes an appreciable amount of courage for someone in John Frohnmayer's position to stand up and write what he has written.

I urge my colleagues in the Senate and House to read his comments, not simply for whatever political response they may cause in this election, but to cause all of us to be more sensitive to basic constitutional principles in the future.

I ask to insert his article in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Los Angeles Times, Sept. 16, 1992]

PERSPECTIVE ON POLITICS: CONTEMPT FOR THE CONSTITUTION

(By John E. Frohnmayer)

The Republican platform is now available in print for public scrutiny, which it richly deserves, for it is a document worthy of the convention that spawned it—a dismal and bloodless exercise in name-calling and blame-shifting. But most dismaying to those of us who would like to feel a part of the Republican Party, it juxtaposes patriotic rhetoric with utter contempt for our Constitution. Consider just seven examples:

The First Amendment says, "Congress shall make no law respecting an establishment of religion . . . . " The Republican platform says, "We believe our laws should reflect what makes our nation prosperous and wholesome: faith in God . . . . " How could the First Amendment be more directly contradicted and rejected? Martin Mayer, president of the Christian Action Network, said, "If I didn't know any better, I would assume the platform was written by the religious right." The Rev. Pat Robertson's group bragged that it controlled 28 of the 100-plus delegates to the platform committee. It shows.

The platform calls for control of blasphemy, in particular through the projects funded by the National Endowment for the Arts. Leave aside that the art the platform's authors consider blasphemous might be interpreted differently by others of equal faith. Both the free-exercise clause and the establishment clause of the First Amendment prohibit such laws. To punish a blasphemer, one must first define the religious dogma that the law would protect. Obviously, that cannot be done in fealty to the Constitution.

The religious infiltration of the Republican platform, and thus Republican politics, is hardly isolated. The President excoriated the Democratic Party for not including God in its platform. Prayer in schools and aid to parochial schools (promoted as school choice) restate the theme in the platform. Aside from the constitutional invasion (a significant aside, indeed) this surrender of politics to religion is deeply troubling. If you think that unifying religion and politics is a good idea, just look at countries like Iran where thousands of citizens were killed in the process of government doing just this.

On to the fourth example of the platform's excesses: The Constitution, and particularly the Bill of Rights, protects the dissenter, the unpopular idea. The platform, a cleansed and starched ideal of monolithic family values, is as American as the Playboy centerfold—airbrushed, stapled and sexless. Appreciation of individual freedom is a major theme, but the platform disclaims, in the same breath, divergent lifestyles (read: homosexuality), abortion and those "waging guerrilla war against American values." As Justice Robert H. Jackson said in 1945: "Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the

existing order." When Republicans so surely "know" what is right and wrong (and that phrase appears repeatedly), the rest of us, including those Republicans who are so thoroughly disenfranchised by this platform, deserve to be uncomfortable.

The Republicans' attempt to prohibit abortion constitutes such an absolute in their hierarchy of values that they don't even want it mentioned in schools. What ever happened to free speech? Rust vs. Sullivan, the abortion counseling case, was used by a high-ranking member of the Administration's Justice Department to justify government license to determine which books could be shelved in a federally supported library.

Further: The line-item veto sought by President Bush and supported in the platform is a direct attack on the doctrine of separation of powers. A line-item veto cedes legislative power to the executive, diminishing the checks and balances so carefully preserved by the Constitution.

Example No. 7: The platform cries that the legacy of liberalism has elevated criminal rights above victim rights. "Criminal rights"—the right to confront one's accuser, to have a jury of one's peers, the right to legal counsel, the protection against self-incrimination—are not "criminal rights" at all, but rights of all citizens. Nobody is for criminals; but intelligent people certainly are for the Constitution and its guarantees against abuses by the government.

I just can't resist two more howlers. Protection of private property rights is a hot topic that appears at least four times in the platform. "Every rule that reduces the value of private property is what our Constitution calls a "taking,' " it proclaims. Who says? What about zoning and comprehensive land-use planning? Those are just a couple of instances in which reduction of value—or an owner's expectation of value—are not "takings" at all. And the second howler: "Protection of environmentally sensitive wetlands must not come at the price of disparaging landowners' property rights." In other words, the government shouldn't be able to preserve the environment (for all of us) if a landowner objects. The Fifth Amendment doesn't say that the government can't pursue the greater good. It only requires due process and payment if property is taken.

Religious zealots did write this platform—zealots who have forgotten that the Kingdom of God on Earth is spiritual, not political. Religion is allegiance to the unenforceable, a moral code that results from faith, not a morality that is crammed down our throats by the muscle of the government. The framers of our Constitution understood this distinction. The Republican Party has lost it entirely.

The Republican platform is a grim reminder of this Administration's willingness to accommodate, indeed to embrace, the hard right. George Bush has bought this line completely, and if he wins, it will be his mandate.

This platform sets out a choice for those of us who are moderate Republicans: Support the party or support the Constitution. It's not a hard choice. I will vote for Bill Clinton.●

UNION TOWNSHIP COMMUNITY ACTION ORGANIZATION'S 25TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise today to recognize the Union Township Community Action Organization [UTCAO] which will be celebrating its 25th anniversary with a banquet on October 23, 1992. UTCAO has grown from a small service agency to a successful, multiservice private nonprofit community action organization. Serving the Vauxhall and Union Township community, the services it provides makes a difference in the live's of our inner city residents every day.

UTCAO was founded in October 1967 by a group of concerned citizens in order to resolve many of the social problems experienced by community residents. Today, UTCAO provides various important services including Head Start, infant/toddler, and day care programs, senior citizen programs, and summer youth employment.

Mr. President, at the banquet, the UTCAO will be recognizing some of the caring individuals who serve as role models for all. I also congratulate these outstanding, dedicated individuals who have donated much time and effort to help people. They are an inspiration to many.

I commend these recipients as well as the entire staff at UTCAO for their commitment and continuing effort to the Vauxhall/Union Township community. Without their help and the ongoing support and contributions made to UTCAO by business, industry, and the community at large, many individuals and families would be at a great loss.

Congratulations to Union Township Community Action Organization, Inc., as it celebrates this significant milestone.●

WAR'S TOLL DOESN'T END WITH LAST BOMB

● Mr. SIMON. Mr. President, one of the most effective writers in America today is Chicago Tribune columnist, Mike Royko.

How he comes up with consistently good columns day after day after day, I do not know, and I say that as one who has done a fair amount of writing in my lifetime.

Frequently, he is simply entertaining, but more frequently, he is both entertaining and insightful, prodding our conscience in the process. Then, occasionally, what he has to say is simply sobering.

Recently, he had a column about the children of Iraq. One of the things that disturbed me throughout Desert Storm was our insensitivity to casualties on the other side.

Compare the speech that George Bush gave to the Nation—when he launched the attack on Iraq's forces after their indefensible invasion if Kuwait—with its total lack of concern for the other side, with Abraham Lincoln's second inaugural address, with its great sensitivity for the casualties and the suffering on the other side.

I urge my colleagues to read the Mike Royko column, and I ask to insert it into the RECORD at this point.

The column follows:

[From Chicago Tribune, Sept. 25, 1992]

WAR'S TOLL DOESN'T END WITH LAST BOMB

(By Mike Royko)

There was this squib of a news story that came over the wires the other day. It wasn't much longer than a baseball box score or an interview with a rock star about his next tour. It said:

"Boston (AP)—The death rate among Iraqi children rose dramatically in the months after the gulf war, largely because of an outbreak of diarrhea caused by disabled water and sewage systems, researchers reported today.

"In the first seven months of 1991, about 46,900 more children died than would have been expected, according to a study in the New England Journal of Medicine.

"It said the death rate for children under 5 was triple that before the war.

"The study was conducted by Dr. Alberto Ascherio of the Harvard School of Public Health and other researchers from the United States, England, New Guinea and Jordan. It was paid for by the United Nations Children's Fund.

"The researchers said they worked independently of the Iraqi government."

That's it. About 15 lines of type.

But then, it's old news. The war has been over for a year and a half. The parades have ended, the yellow ribbons have been taken down, and the last proud, chest-thumping speech has been made.

Still, if you like numbers, 46,900 is an interesting figure. And you can play with it in different ways.

For example, there are baseball and football stadiums that have a seating capacity of about 46,900.

So we might try picturing one of these stadiums with every seat occupied by a child 5 years or younger.

Try it. Close your eyes and imagine Comiskey Park in Chicago or Shea Stadium in New York with a little kid in every seat.

That's a lot of noisy kids.

Now, imagine that somebody pulls a switch and sends a jolt of electricity into the seats and every one of those 46,900 noisy kids dies.

That would be a lot of dead kids. So you'd better open your eyes, since it isn't a pleasant thing to imagine.

Or we can look at it another way. The biggest hotel in the world is in Las Vegas. It has 4,000 rooms.

So if you put 11 kids in each room, you'd have stuffed the place with 44,000 kids. Put the extra 2,900 in the grand ballroom.

Let's imagine that someone pushes down on a plunger, setting off a huge explosion that blows the hotel away, really flattens it.

Now that would rate more than a squib of a story. It would be front-page headlines all over the world: "Hotel explodes killing 46,900 children."

Which just shows that bad water leading to diarrhea and other intestinal disorders, doesn't have the same dramatic impact of an explosion, although the results are the same.

Or we can play with the number another way.

The average daily attendance at Disney World is 72,233.

Of course, all 72,233 people aren't there at the same time. Some come in the morning and are gone by mid-afternoon. Some come in the afternoon and leave when the big parade is over.

So let's take a guess and say that at about 2 o'clock on an average afternoon, there are about 46,900 people there, many of them children.

And a terrible thing happens. A giant meteor comes roaring out of space and lands smack dab on Disney World, leaving nothing but a giant crater. (Scientists say something like that could happen, but it's a zillion-to-1 shot, so don't change your vacation plans.)

Now that would be a super-big story. It would stun the world and would go down in history as one of the greatest disasters.

Which shows that if you want to make history, get hit by a meteor instead of stomach cramps.

Which also shows that there is more to modern wars than that which the Pentagon allows us to see on CNN.

What we see on TV is kind of fun, all those videos from high above of targets far below suddenly blossoming like tiny flowers when a bomb lands. The graphics are not yet as good as Super Mario 4, but maybe by the next war, they'll catch up.

And we see the parades, the strutting politicians, and the cheering sports bars that have become cheering war bars.

But what we don't see is described in the full report by the doctors who made this study:

"The destruction of the supply of electric power at the beginning of the war, with the subsequent disruption of the electricity-dependent water and sewage systems, was probably responsible for the reported epidemics of gastrointestinal and other infections.

"These epidemics were worsened by the reduced accessibility of health services and decreased ability to treat severely ill children."

In other words, we don't see those invisible but deadly killers in the water or the children screaming because their stomaches hurt and their fevers are raging. And we don't see them weaken, fade, then die.

But who would want to see a doctor like that, anyway?

In a classic understatement, the doctors concluded: "War is never good for health. But the full effect of war and economic sanctions on morbidity and mortality is difficult to assess, and the number of civilian casualties caused indirectly is likely to be underestimated.

"* * * During the gulf war, it was suggested that by using high-precision weapons with strategic targets, the Allied forces were producing only limited damage to the civilian population.

"The results of our study contradict this claim and confirm that the casualties of war extend far beyond those caused directly by warfare."

Forty-six thousand nine hundred kids. Give or take a few tots.

So what color ribbon do we wear for that triumph?•

JOSEPH D. KIMBREW, AN OUTSTANDING HOOSIER

• Mr. LUGAR. Mr. President, it is with great pride that I salute Joseph D. Kimbrew, an outstanding Hoosier who, for the past 36 years, has served with distinction the city of Indianapolis as a firefighter. In 1987, he became the first African-American fire chief for Indianapolis.

Born in Indianapolis, Chief Kimbrew attended IPS 42 and graduated from Crispus Attucks High School. Prior to his firefighting career, Joe served in the Army and later worked at Fort Benjamin Harrison Finance Center in accounting. He credits his father with instilling in him the qualities that led to his success. Joe Kimbrew rose through the ranks of chauffeur, lieutenant, captain, district chief, and deputy chief of service, and administration.

Chief Kimbrew has served on the board of directors of the Greater Indianapolis Firefighters Federal Credit Union for the past 10 years. He holds a lifetime membership in the NAACP.

In 1968, Joe Kimbrew became the first firefighter to receive the Firefighter of the Year Award, which was presented by the business community. He is a member of the Red Cross Hall of Fame for heroism and was just recently designated a "Distinguished Hoosier" by the Governor of Indiana.

On February 1, 1992, a tribute was paid to honor this great Hoosier, who in his 36 years of service never had an absence due to illness, for his contributions to expanding emergency medical services and providing leadership to firefighters of Indianapolis. His loyal wife, Carolyn; son, Joseph, Jr.; and daughter, Tracey, were present to offer their accolades to the career of this fine man. I ask my colleagues to join me in saluting this great Hoosier.•

COLUMBUS DAY CELEBRATION

• Mr. D'AMATO. Mr. President, I rise today to honor the great explorer Christopher Columbus on the occasion of the quincentenary of his first voyage to the New World from Palos, Spain. To many of us, this seminal voyage is the most important event in recorded history. In honor of this pivotal event, Columbus Day is widely celebrated in cities and towns throughout the country with church ceremonies, festive parades, fireworks, and other educational and cultural events. Mr. President I wish to add my jubilant voice in celebration of this great day for all Americans.

In his age, Columbus stood as a pioneer of progress and achievement. He battled great odds with remarkable determination in order to reach the New World. Wave after wave of immigrants from many nations have displayed similar courage and determination in finding freedom and opportunity in America.

Each year people all over America reaffirm their faith in the future and declare their willingness to face unknown tomorrows with confidence and determination on Columbus Day. On that day people take a break from work and celebrate five completed centuries of American life.

The numerous observances of Columbus Day are only part of the tribute our Nation pays to this great explorer. Statues honoring Christopher Columbus adorn many localities, and many cities and towns are named in his honor. Many other memorials exist throughout our country and the world honoring Christopher Columbus, including commemorative stamps and coins. He is also the hero of numerous plays, operas, novels, and poems.

The celebrations for the quin- centenary thus far have been rather elaborate and include the Columbian World's Fair in Seville, the International Specialized Exhibition in Genoa, and the summer Olympic games in Barcelona. Columbus, OH, hosts the centerpiece of U.S. celebrations, AmeriFlora '92. The month of July found the greatest assemblage of tall ships in both the New York and Boston harbors in honor of Columbus' quincentenary. Each year the Knights of Columbus sponsors a wreath-laying ceremony at the Columbus Fountain at Union Station in Washington, DC.

Every city in the Nation will pay tribute to Christopher Columbus and the quincentenary of his discovery of America and remember the part of our heritage that includes the great Age of Discovery. It is my hope that October 12, Columbus Day, will be properly celebrated all over my great State of New York, the entire country, and the whole world.•

10TH ANNIVERSARY OF NEWTON'S APPLE

• Mr. WELLSTONE. Mr. President, I rise today to speak on behalf of the public broadcasting television program "Newton's Apple." This season marks the 10th anniversary of this award-winning science program.

In October 1983, "Newton's Apple" began it's first season of introducing children and their parents to the varied disciplines of science. Through the past 10 years this educational-science show has successfully interested both kids and adults in all types of science—household science, backyard science, and laboratory science.

On "Newton's Apple" science is more than a topic from a textbook—it is a fun activity. Working scientists and respected professors chat with host David Heil, and naturalist, Nancy Gibson. Topics covered in the past have included a segment which asked "What does it feel like to step in quicksand?", and last year field reporter Peggy Knapp took a tour of a domed stadium to learn just how it is kept domed.

The program has been recognized on numerous occasions for its presentation of both complex and simple scientific information in an interesting and understandable fashion. "Newton's Apple" has received awards from the American Association for the Advancement of Science, the National Society of Professional Engineers, Parent's Choice Awards, and the American Academy of Family Physicians Journalism Awards. In addition, "Newton's Apple" has been nominated twice for

an Emmy, receiving the award in the children's category in 1989.

I think "Newton's Apple" is a wonderful example of public television at it's best. Public television programming such as this provides important educational informational programming to adults and children in their homes.

All Minnesotans can take pride in the accomplishments of this program. "Newton's Apple" is produced by Twin Cities Public Television and KTCA-TV, in St. Paul-Minnesota, through a grant from the Minnesota-based 3M Corp.

On behalf of myself and all of my colleagues in the Senate, I commend those involved in "Newton's Apple," particularly host David Heil, who is also associate director of the Oregon Museum of Science and Industry, field reporter Peggy Knapp, naturalist Nancy Gibson, executive producer Richard Hudson, series producer Kathryn Scott, and vice president for national and cultural production Gerald Richman. I congratulate them all on this, the 10th anniversary of the show.•

WOMEN IN THE SCIENCE AND ENGINEERING WORK FORCES

• Mr. SIMON. Mr. President, on September 29, the House passed H.R. 3476, the Advancement of Women in Science and Engineering Work Forces Act, by Congresswoman CONNIE MORELLA. I hope my colleagues will join me in supporting swift passage of this important measure in the Senate.

This bill would establish a commission, modeled on the Glass Ceiling Commission, to research and evaluate the recruitment, retention, and advancement of women in science and engineering professions. It would analyze the roadblocks that prevent women from advancing in these fields and disseminate its findings to educators and employers to use to recruit and retain women in these fields.

The data on women in science are alarming. Only 24 percent of scientists are women, and only 8 percent of engineers are women. There are only 4 tenured professors in the top 10 math departments. Only 6 percent of the scientists listed in "American Men and Women in Science" are women. We need to ensure that women have the opportunity to advance in these fields.

I am pleased that the cost of the bill will be nominal, with the primary cost being to disseminate the information.

I have been working with Congresswoman MORELLA's office and the congressional women's caucus in an effort to ensure that this important bill is passed before we adjourn. I am pleased that my colleague from Tennessee, Senator GORE, who has a strong interest and record on this issue and chairs the Commerce Subcommittee to which the bill was referred, has joined us in working for passage of this bill.

I hope our colleagues will join us in supporting this important legislation.•

COMMENDING THE SAMUEL U. RODGERS COMMUNITY HEALTH CENTER

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a health care provider whose service is matched by few. I am speaking of the Samuel U. Rodgers Community Health Center and its fine staff.

Samuel U. Rodgers Community Health Center tirelessly provides the best health care possible to the less fortunate underserved segment of the Kansas City, MO, community. I have worked very closely with Dr. Rodgers and his impressive staff to expand Federal resources for the quality care they provide. The Rodgers Center is to be looked upon as a model for community health centers nationwide.

The care and concern that Samuel Rodgers pays to the children of Kansas City is especially commendable; it is vital to get children proper immunizations. The Rodgers staff provides nutritional programs, preventive care, early identification programs, adolescent pregnancy counseling, and programs to address child abuse and neglect and substance abuse. I am impressed with the broad range of services the Rodgers' staff has dedicated itself to providing in order for children to live healthy and productive lives.

The Rodgers Center has set October 5 aside to celebrate its first annual children's day in observance of the National Child Health Day. Samuel U. Rodgers Community Health Center symbolizes the importance of this day.

Mr. President, please join with me to honor the dedicated health care providers, support staff, and volunteers of the Rodgers Community Health Care Center. We salute those whose enthusiasm and deeds bring good to the community in ever-increasing measure. When we give of ourselves, we experience the renewing power of life.•

TRUTH IN LABELING ON ESTONIA

• Mr. DECONCINI. Mr. President, all of us are aware of the tragedy of Bosnia-Hercegovina, and the policy of ethnic cleansing being undertaken by Serbian forces to drive non-Serbians out of Bosnia. The term ethnic cleansing has become synonymous in Bosnia with a gruesome campaign of slaughter and atrocities reminiscent of the horrors of World War II.

That is why I was extremely disturbed to note a recent report that a Russian Foreign Ministry press spokesman, Mr. Yastrzhembsky, had warned Estonia and Latvia against policies that could lead to "sliding down the slope to the practice of ethnic cleansing."

Mr. President, no doubt animosities exist on the part of some Estonians and Latvians toward their respective Russian communities.

But ethnic cleansing? Are we to believe that these two tiny nations with a long tradition of tolerance and peaceful relations between their ethnic minorities are about to embark on a policy of ethnic cleansing against their Russian minorities, with the huge Russian nation on their eastern borders?

How gullible does Mr. Yastrzhembsky believe world opinion is? Or is Mr. Yastrzhembsky simply trying to get the Russian peoples' minds off their own problems by trying to create an enemy next door?

Mr. President, a staff delegation of the Helsinki Commission, of which I serve as cochairman, recently visited several cities in Estonia's heavily Russian-populated northeast region to gauge the mood of the population, to discuss the issue of human rights with Russian-ethnic officials there, and to observe the September 20 elections. I would take this opportunity to say that the delegation was ably assisted by Ambassador Frasure and his staff at our Embassy in Tallinn.

In any event, I would like to quote from some of the findings of the staff delegation:

> Some Russians deeply resented being unable to vote, and Russians generally would have preferred to receive the option of automatic citizenship. At the same time, most Russians are clearly more focused on economic issues. They were more worried about possible unemployment and rising prices than voting in this election.

And further:

> Commission staff members were also struck by the widely held belief among Estonia's Russians—both ordinary people and the local political elite—that they and their concerns were being manipulated by politicians in the Russian capital.

I wish to emphasize that none of the Russians interviewed indicated that they feared physical violence at the hands of the Estonians. Nor did the delegation find any evidence that the Estonian Government was planning to forcibly deport Russians. Tallinn certainly has other ways to employ its limited resources.

Now I do not want to create the impression that voting rights are not important as a matter of principle, regardless of what other concerns may be on the minds of the citizenry. Arguments can be made that the Estonian Government should have approached the citizenship and voting issue differently. And certainly the Estonian Government will now, having freely elected a President and National Assembly, have to deal directly and forthrightly with all the issues, economic and political, that concern the Russian minority.

But to charge that Estonia, and its neighbor Latvia might slip down the slope to ethnic cleansing, is irrespon-

sible, and hardly conducive toward solving the genuine problems that both Balts and Russians face in their newly independent countries.●

HOOSIERS HONORED BY LIVING LEGENDS IN BLACK

● Mr. LUGAR. Mr. President, I would like to take this opportunity to recognize 12 outstanding Hoosiers, recently honored by the Living Legends in Black, Inc., for their numerous contributions to the Indianapolis community. The following Hoosiers were acknowledged at the Living Legends in Black annual banquet:

Rev. Dr. T. Garrott Benjamin, Jr.: Reverend Benjamin is the senior pastor, of the Light of the World Christian Church, in Indianapolis, IN. He is also the founder and president of Heaven on Earth Ministries, Inc., which produces the "Benjamin" television broadcast aired on the national LeSea Network and the Armed Forces Network to provide ministry outreach via satellite to military bases and naval ships around the world.

Rev. Fr. Boniface Hardin, O.S.B.: Reverend Hardin is the founder and president of Martin University, in Indianapolis, IN, the first and only African-American university in the State of Indiana.

Sam H. Jones: As the president of the Indianapolis Urban League and a 34-year veteran of the Urban League movement, Mr. Jones is an active professional, social, civic, and education advocate within the Indianapolis community.

George H. Rawls, M.D.: A highly respected clinical surgeon, Mr. Rawls is an active volunteer in numerous social and community affairs and an authority in the field of clinical surgery and medical treatment.

Lehman D. Adams, D.D.S., F.A.G.D.: As a recognized leader in the field of oral surgery, Adams is an active participant in various community and social causes for the continued empowerment within the African-American community.

Willard B. Ransom: A highly respected Indianapolis attorney, Mr. Ransom is a long-term participant in the civil rights and African-American economic development movements with extensive experience in drafting and lobbying for civil rights and other legislation in the Indiana General Assembly since 1946. He has played a major role in the passage of all significant civil rights legislation in Indiana.

Landon Montel Turner: Former Indiana University basketball star, Mr. Turner demonstrated inner strength and courage following a paralyzing car accident. The Indianapolis native is currently a motivational speaker uplifting audiences across the country with his message of overcoming life obstacles.

Rev. Dr. Andrew J. Brown: Known as the father of the Indiana civil rights movement, Mr. Brown initiated and orchestrated many social and racial awareness campaigns. Mr. Brown is the founder of the Indiana Black Expo, currently recognized as the largest African-American cultural event in the country.

William "Bill" A. Crawford: A member of the Indiana General Assembly, House of Representatives, since 1972, Mr. Crawford has been instrumental in the increased social and political awareness within the African-American community. He is active in various activities addressing school desegregation, education equity, penal reform, prisoners' rights, unemployment, community revitalization, community economic development, civil, and human rights issues.

Joseph Taylor: A professor emeritus of sociology, special assistant to the vice president, Indiana University Purdue University at Indianapolis [IUPUI], Mr. Taylor instituted the desegregation plan ordered for the Indianapolis Public Schools [IPS] system in 1973. A longstanding community, social and educational leader, Taylor is an active participant in various educational, civic, and social causes.

Woodrow Augustus Myers, Jr., M.D.: Senior vice president and corporate medical director, the Associated Group, Indianapolis, IN, Myers is an active state and national advocate for the prevention and treatment of acquired immune deficiency syndrome [AIDS], minority health, and public health.

Linda Clemons: Founder and president of such national community recognition programs as Living Legends in Black, the National Association of Women of the Rainbow, and the National Association of African-American Entrepreneurs, Clemons is an active community leader and motivational speaker concerned with the increased social, educational and economic empowerment of African-Americans across the country.

I ask my colleagues to join me in saluting these fine citizens for making Indianapolis, IN, a great city to live in.●

FAIRMONT STATE COLLEGE'S 125TH ANNIVERSARY

● Mr. ROCKEFELLER. Mr. President, today, I want to express my sincere congratulations to Fairmont State College, as the school celebrates its 125th year of higher education.

This educational institution, in Fairmont, WV, was first a teachers' school, established in 1865. It began in classrooms occupied in the basement of the Methodist Protestant Church and was known as the Fairmont State Normal School. The school sought to provide the community with qualified primary and secondary teachers since there was a shortage of teachers at that time. Staffed by only a principal and a teacher, the school enrolled 83 students in its first year.

In 1867, the institution was renamed Fairmont State College and a university curriculum was added to the teaching school. After relocating several times, the college found a home at its present campus in 1916, and 4 years later was transformed into a true college from its secondary status. In 1931, the name was changed to Fairmont State Teacher's College, concentrating once again on the principles and goals upon which the school was founded. During World War II, in 1943, the administration decided to concentrate fully on general purpose education and became accredited to offer bachelor of science and bachelor of arts degrees. The name was changed back to Fairmont State College, and it remains so named today.

Fairmont State College is the largest college, in West Virginia, currently educating over 6,500 students—including its community college enrollment. A broadened curriculum has attracted many nontraditional students, among them those who are the first member of their family to complete a college education and adults seeking to complete higher education degrees. This is an extraodinary achievement for the individual students, a tribute to Fairmont State College's leadership, and a genuine contribution to the community and the State of West Virginia.

The current president of the college, Dr. Rob Dillman, has pushed to provide greater academic opportunities at the school by implementing an honors program and revising the general education requirements that contribute to a well-rounded education. In 1993, the college will open their Mid-Atlantic Aviation Training and Education Center, which will educate and train students in aviation maintenance. This is but one example of how Fairmont State College is preparing students for today's increasingly competitive marketplace.

Fairmont State College is dedicated to its goal of stimulating the cultural, intellectual, and economic development of north central West Virginia. The college is actively involved in the community, and the students benefit from the close ties that have ensued.

I have a longstanding commitment to higher education, as does Fairmont State College. Education is one of the pillars of our society. Through education we have the opportunity to teach our children to become the leaders of tomorrow. It gives me great pleasure to commend Fairmont State College for its outstanding achievements in educating the people of West Virginia, and wish this fine institution continued success.●

TRIBUTE TO JEAN W. STIMPHIL

• Mr. D'AMATO. Mr. President, it is my pleasure to rise today to pay tribute to an exceptional New Yorker who has been a role model for minority small business owners for years. Mr. Jean W. Stimphil, president and chief executive officer of Armrest Security Patrol, Inc., in Brooklyn, NY who has been named region II Minority Small Business Person of the Year.

In the competitive field of security guard and patrol agencies, it's common for only the larger firms to survive. Yet one small, minority firm, Armrest, is decidedly challenging that notion as it prepares to celebrate a decade of service with expected annual sales of almost $3 million. This, from a firm that began as a dream and grew to where it now employs 148 full-time workers.

With Jean Stimphil at the helm, Armrest continues to provide the public and private sectors with uniformed or plainclothed officers for services that include area patrols, armed or unarmed guards, bodyguards, or other more routine alarm responses.

Armrest, which has been enrolled in the U.S. Small Business Administration's [SBA] business development program since 1987, owes its success in part, because of its commitment to intensive employee training. Developing skills such as report writing, crowd control, first aid, and security and firearm handling, all contribute to create productive employees. This training helps prepare these individuals for the rigors of guard duty or other pursuits outside the firm.

This is a minority firm that ensures at each opportunity that other historically underutilized businesses, whether they sell uniforms, beepers, radios, or cars, benefit from their good fortune. Armrest continually relies on other minority suppliers for much of their supplemental needs.

Even with his sizable business demands, Mr. Stimphil is also active in his community. With memberships in such organizations as the Brooklyn Chamber of Commerce, the Minority Purchasing Council of New York and New Jersey, the Caribbean Business Exchange, the Caribbean Action Lobby, and the Caribbean Chamber of Commerce. Mr. Stimphil has consistently shown himself as a leader of his community.

Mr. President, during these days of economic hardships, small business has a hero. New York is very proud of Mr. Stimphil as he sets a great example of how minority small businesses can lead the way to economic growth.

President Bush has designated the week of September 27–October 3, 1992, as "MED Week" to honor America's minority entrepreneurs for their contributions to the Nation's economy. I ask my colleagues to join me in congratulating Mr. Stimphil, as he accepts this prestigious award and wish him luck as he continues to make New York proud.•

TRIBUTE TO STANLEY STRADER

• Mr. LUGAR. Mr. President, I would like to take this opportunity to honor Mr. Stanley Strader for his service to the Indianapolis southside community on the city-county council.

Stan Strader served with distinction for 12 years from the 23d District. He was chairman of the Community Affairs Committee and a member of the Housing Task Force, where he was outspoken for the inclusion of the poor. He is a straight shooter, an excellent debater, and a committed public servant.

Many will remember him as a member of the Wa-To-To-Wa-Simbas, Young Lions, and the impact they had on the southside of Indianapolis. In each instance, he was creating a positive atmosphere for others to prosper and grow.

During his tenure on the council, he held the first hearings regarding the infant mortality issue which his committee tackled with vigor; he worked extensively with the Barrington area on the development of the clinic and health center. He was responsible for over $20 million going into the 23d District, which enhanced the way of life for many citizens. He sat on the Community and Economic Development Policy Committee for the National League of Cities. He has raised moneys for the Indianapolis Urban League annual Bowl-A-Thon for 4 years.

Stan has spoken to numerous organizations in several States utilizing his own brand of logic and wisdom. The Indianapolis Star termed him to be one of the outstanding black role models in the city of Indianapolis.

His ability, his leadership, and his humor will be missed by those who have worked closely with him. I join all of the citizens of the Indianapolis in saluting this great Hoosier, while wishing Stan and his wife Diane the best as he starts his new career.•

SENATE VETERANS AFFAIRS COMMITTEE ROOM

• Mr. SPECTER. Mr. President, an article by Mr. Mark Bowden of the Philadelphia Inquirer on September 27, 1992, contains a poetic description of the Senate Veterans' Affairs Committee room which, I think, my colleagues will find interesting and worthy of note in the CONGRESSIONAL RECORD:

* * * marbled walls rise to a high white ceiling sketched with gold inlay, from which is suspended an intricate and enormous colonial chandelier with a cascade of dazzling prisms and frosted glass bowls to soften the glare from its flame-shaped bulbs, which illuminate three long gleaming mahogany tables arranged in a U on a rich blue rug flecked with tiny tan diamonds, all framed and reflected by a mirror the size of Montana in a baroque bronzed frame, large enough to reflect the egos of the 11 assembled members of Congress, aging white men all, well-tanned, tailored and tonsorially top-notch United States senators, members of the Senate Veterans Affairs Committee, who are posing for their annual portrait.•

DEADBEAT DADS

• Mr. D'AMATO. Mr. President, today I rise to urge my colleagues to support legislation that will provide an incentive for deadbeat dads to keep current on their child support payments. Deadbeat dads will finally get the credit they deserve—no credit at all.

This legislation, the Ted Weiss Child Support Enforcement Act of 1992 (H.R. 6022) requires credit reporting bureaus to include information on delinquent child support payments by deadbeat dads.

Right now, some States—including New York, allow child support enforcement agencies to report information about delinquent child support payments to credit reporting bureaus. Simply allowing child support enforcement agencies to report delinquent child support payments leaves open the possibility that delinquent dads may escape detection if this information is not reported to the credit bureau.

That is just not good enough. Dads who don't pay up should have their credit turned down. This bill would ensure that once a deadbeat dad was a total of $1,000 behind in child support payments, the delinquency would become a part of his credit history.

Most divorced women depend on child support payments in order to survive. Dads need to take this obligation to provide child support seriously. If dads cannot find it in their hearts to help their kids, they may change their minds when they find a hole in their pocket.

Mr. President, the economic security of children of divorced parents is an issue that is extremely important to me. I was the first original cosponsor of legislation that would make it a Federal crime to engage in interstate flight to avoid paying child support. Fathers who deliberately neglect their responsibilities would face fines or prison sentences under this bill. This bill, S. 1002, has passed the Senate and awaits action in the House of Representatives.

Deadbeat dads will certainly think twice about ducking their child support obligation knowing that this information will become part of their credit history. Mr. President, this legislation has widespread support—among mothers who are struggling to make ends meet as well as the credit bureaus that will be required to provide this information.

I urge my colleagues to pass this important legislation to make deadbeat dads who do not care enough to finan-

cially support their children feel it where it hurts—in the pocketbook.●

INTRODUCING A NEW PUBLIC TELEVISION SERIES ENTITLED "THE WEST"

● Mr. DECONCINI. Mr. President, I rise today in support of a promising public television documentary whose mission is as grand in scale and scope as the land itself: the documentary is titled "The West." With rich history and book-like detail, this seven-part series will begin with the first European encounters with Native Americans and end with the birth of Hollywood in the early 1990's. This epic period in American history will unfold in living rooms—and later schoolrooms—across the country, illuminating the trials and tribulations of a cast of fascinating people.

WETA-TV channel 26, Washington's flagship public television station, is coproducing the series with Ken Burns and Stephen Ives, the highly qualified team who produced the acclaimed PBS series "The Civil War." General Motors, who sponsored the "Civil War," is again taking the corporate lead and helping to fund "The West."

"The West" promises a compelling account of what life as it was experienced by European explorers, the Indian Nations, American frontiersmen, cowboys, lawmen, and women and children. We will watch in awe as one historical event takes place after another before an unparalleled backdrop of the beautiful western landscape; the Great Plains, the rugged Rockies, and Sierra Nevada Mountains, the vast Sonoran and California deserts, table mesas and canyons, and the Pacific coast.

The first three episodes are titled "Rendezvous," "Yearly Multiplying Millions," and "Eureka!" During this time span of 70 years, beginning with the arrival of Anglo-Saxon explorers and their first encounters with native Americans, we will learn about an array of characters that, over time, animate the West. We will hear testimony from a narrator describing Francisco Vasquez de Coronado, the first white man to set eyes on the majestic Grand Canyon.

The explorers, Lewis and Clark, opened up the wild frontier for millions of settlers to move across in search for new opportunities. And the famous triumphant discovery of gold by John Sutter at his saw mill in Northern California marks the beginning of yet another migration to the West.

The last four episodes take us from 1861 through the dawn of the 20th century and the Hollywood era. Their titles are: "A Good Time To Go To War," "Fight No More Forever," "A World Destroyed," and "Oh Give Me A Home." These episodes explore the bold effort to tame and conquer the challenges of the West. The Civil War dominated the early part of this period, 1861 through 1865, and the war's significance had a profound effect on the development of the West, as the divisive nature of the era was continued by the seemingly endless conflicts between and among settlers and the Indian nations.

Ranchers like Granville Stuart and cowboys like Teddy "Blue" Abbott will capture our imaginations about what it was like to live in the Wild West through personal and unique biographies. With the continuing onslaught of new settlers, the land and its resources became exploited as axes fell on forests and mountains and rivers were harvested in the search for coal and other minerals.

Mr. President, I believe that "The West" will be a compelling public television event for all Americans, whether or not they are native westerners. Without a doubt, "The West" will enrich our understanding of an epic period that defines American history, and I am looking forward to watching it. ●

EMBARGOES

● Mr. KERREY. Mr. President, earlier last month, Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a longe line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United States-Soviet agreement in effect at that time.

According to a November 1986, publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed one week after the Soviet's invasion of Afghanistan. President Carter cited the threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoed oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it's understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It's also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.●

TRIBUTE TO MAJ. GEN. CHARLES C. ROGERS

● Mr. ROCKEFELLER. Mr. President, I rise today to speak about a great man, a true hero of our time, and a role model in every sense of the word. Maj. Gen. Charles C. Rogers, a native of Claremont, WV, a graduate of West Virginia State College, and two-star general, was the highest ranking African-American ever to receive the eminently regarded Medal of Honor.

As commanding officer of an infantry battalion in Vietnam near the Cam-

bodian border, then Lieutenant Colonel Rogers won the Nation's highest medal by leading his outnumbered and heavily bombarded troops to withstand a vicious assault. Although seriously wounded, he refused to withdraw. Rogers was awarded the Medal of Honor following this noble display of all that the medal embodies: leadership, courage, strength of will, and of course—honor—all of which crystallized in this one man.

Charles Rogers' career was punctuated by many honors and merits; he was decorated with the Legion of Merit with Oak Leaf Cluster, Distinguished Flying Cross, Bronze Star with V Device and Three Oak Leaf Clusters, Purple Heart, and Parachutist Badge. The Medal of Honor, however, was the crowning glory of his exemplary 33-year career in active military service, and a perfect symbol of his uncommon valor and distinction, as a man, and as a soldier.

And while Major General Rogers did not prove victorious in his most recent, and final battle—with cancer—his struggle was equally as valiant and his glory surely remains undiminished.

In tribute to his timeless courage and heroism, I have taken part in dedicating the Cotton Hill Bridge in West Virginia to our fine West Virginian son, as a symbol of his constancy and stalwartness, and to ensure that Charles Rogers' essence remains a special part of the State of his birth, and that his spirit dwells in that niche of our hearts and minds that we carve out for remembrances of the noble and true.

Maj. Gen. Charles Rogers has been, and will continue to be, a role model and an inspiration to countless numbers of individuals, young and old, in and out of the military, and of all ethnicities, who are warmed by his courage and who recognize his heroism as something rare and beautiful.•

A TRIBUTE TO DANIEL B. GRADY

• Mr. CRANSTON. Mr. President, I would like to take the opportunity to recognize an individual from my State whose life work has contributed greatly to a goal shared by all members of this body—a decent home for all Americans. Daniel B. Grady has dedicated his life to making this goal a reality. The homeless and disadvantaged, the thousands of families that struggle to get by—all have been empowered through his efforts to provide and maintain suitable living environments across this country. Dan Grady has championed this cause. He is a man of vision and foresight.

An MIT graduate, naval architect and marine engineer, Dan Grady transfered his brilliant technological skills from sea to land after World War II. In the 1950's, his concept of mass produced prefabricated housing components became a national standard for cost effective multifamily housing. But Dan has more than technical skill—he also has a keen political mind. He has provided affordable housing through the effective and responsible use of government programs. This is government working at its best and Dan deserves our praise.

I owe a particular debt of gratitude to Dan for his advice and good counsel through the years. As the Housing Subcommittee chairman, I've looked to Dan for his wisdom and action on many, many occasions. Dan has been committed to providing adequate housing to all Americans, especially those of low- and moderate-income. And I'm proud to have been part of that commitment.

Mr. President, I've asked for this time today not only to call attention to the accomplishments of this man but to extend to Dan and his family our best wishes and prayers. As I speak today, Dan Grady is at home fighting the greatest fight of all, the fight for life. Less than 6 months ago, he was here in Washington to receive the highest honor that can be bestowed upon a builder—induction into the Hall of Fame of the National Association of Homebuilders—and today he is at his home in La Jolla fighting what I truly hope will be a winning battle against cancer.

I've known and worked with Dan professionally, but our relationship is more than that—he is a trusted friend. When I faced my own bout with cancer, Dan was behind me, giving me the strength to survive and surmount the illness. I now hope to do the same for him.

God willing Dan will win this fight and return to help us in our ongoing efforts to solve the unmet housing needs of this country. When individuals like Dan Grady are among us, our own lives are ennobled. Today I ask the members of this body to honor Dan for what he has given to this Nation as a dedicated housing professional and for what he, in his life's work and deeds, represents. On behalf of Dan, his family, friends and colleagues, I thank you for this time.•

UNEMPLOYMENT COMPENSATION

• Mr. BRADLEY. Mr. President, today's unemployment figures suggest that the precipitous third dip of this recession may have leveled off, but they offer little hope to Americans who are still seeking work after 10, 12, or 16 months out of a job. An unemployment rate that is virtually unchanged means that the economy is not creating new jobs for all those who have lost jobs month after month over the last 2 years. And while the jobless rate stagnates, actual jobs are being lost, not created, at a rate of 57,000 in September and twice that the previous month.

With all the attention that the media pays to minute changes in these statistics, I rise today to call our attention to a group of Americans we are in danger of forgetting: Those people who have been working, almost full-time, for many months, at finding a job. Many have steadily dropped their expectations for salary, for interesting work that uses their education, for full-time work, or for a job near home. They have done everything right, they are willing to do anything, and yet they are no closer to finding work than when the recession first knocked them onto the jobless rolls in 1990 or 1991. In my office 2 weeks ago, I met a young woman from New Jersey, well-spoken and well-qualified, who showed me a 10-page computer printout, in the tiniest typeface, listing every job she had applied for, with no luck. I admire her and those in the same situation for their amazing diligence, but after 2 years, this long recession is putting inevitable stresses on their families, their pride, and their sense of the future.

For a while, and despite the numerous hurdles put in the way by President Bush, we were at least able to hold these families together, fed and sheltered, by extended unemployment insurance, 33 weeks in my State on top of the regular benefit of 26 weeks and a small extension paid for by the State. But the most recent emergency extension we passed, in order to minimize the cost and avoid another Presidential veto, simply extended the 33 week extension to people who exhausted their regular State benefits after July. It did not extend benefits for those who could not find work after exhausting all their State and Federal benefits.

Thus those who had been out of work longest began, for the first time, to lose unemployment benefits altogether. The largest number lost their benefits on July 4, a date that many of them consider a particularly cruel joke given what the American dream has meant for them in the 1990's. In New Jersey, more than 40,000 long-term unemployed lost all their benefits in July. Nationwide, more than a quarter of a million workers lost their benefits. Both today's statistics and these workers' experience makes clear that our economy is not creating enough jobs to absorb them back into the work force.

I rise today to commend my colleagues from Massachusetts, Senators KENNEDY and KERRY, for calling our attention to this problem and putting forth a remedy. They have introduced a bill, S. 3053, which would provide those who have lost all their benefits with an additional 13 weeks of unemployment assistance. Thirteen weeks to tide those who have been out of work the longest over for another 4 months, by which time I hope we will see a real turnaround, is very little to ask. Yet the magnitude of the problem is clear from the cost of this modest measure: about $5 billion. Under current budget

rules, even though there are enough funds saved as intended in the Federal trust fund to provide these benefits, we will need to find a tax increase or entitlement cut elsewhere in the budget to offset this cost.

Last week, the Senate passed a tax bill that raised $30 billion in new taxes, and sent $25 billion right back out the door in tax breaks for special interests. I fought to take $4 billion of the revenues raised and use it for the urban economic recovery that the bill was supposed to promote, but my view did not prevail. By the same token, we could have used just $5 billion of the new revenues for continued unemployment benefits rather than special-interest tax breaks, but we do not seem to have our priorities straight.

We will not have another chance before January to do the right thing for the unemployed. Today's numbers provide no hope that things will steadily improve after we adjourn. I would like to take this opportunity to ask Senator BENTSEN and the Finance Committee staff to work together with Senator KENNEDY to find an offset for this extension that is both good policy and acceptable to the Senate. If they can find it in the last days of this session so that we can tide people over while we are out, that would be ideal. More realistically, I suggest we use the recess to look at ways to pay for this extension so that if the job market remains stagnant in January, we can act promptly to get more assistance to those who have been out of work the longest.

I applaud Senators KENNEDY and KERRY for putting forth this proposal. I would prefer that it included a way to pay for itself, so that it would not risk increasing the deficit that is itself dragging our economy down. I hope that we can work together and with the Finance Committee in the coming days or weeks to turn it into a bill that is fully paid for so that it can be enacted quickly.•

CONFERENCE COMMITTEE AGREEMENT ON S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

• Mr. DURENBERGER. Mr. President, I regret that a longstanding previous commitment required me to be absent from today's vote on the motion to end debate and to move to a vote on the conference committee agreement on S. 2. Had I been present, I would have voted to oppose that motion.

Because of my strong interest and involvement in this legislation in the Labor Committee and on the floor, I also wanted to take this opportunity to place on the record my reasons for this position and my intention to oppose the conference committee's report should it come to a vote.

At the same time, Mr. President, I wanted to take this opportunity to renew my commitment to working with the President, with Secretary Alexander, and with my colleagues on both sides of the aisle to design a positive and effective National Government role in support of education improvement and education reform.

Before I do that, however, I would like to thank our chairman, the distinguished Senator from Massachusetts, for his vision and for his leadership on this legislation over the last 18 months.

He and I have worked very hard over this past year to make this legislation a bipartisan vehicle that helps promote real and meaningful change—a vehicle that recognizes the essential role that States can and must play in initiating real education reform.

We were joined by others on this side of the aisle in this effort—including Senator LIEBERMAN, Senator KERREY, and Senator NUNN, and by many others on this side, as well.

So, when this bill passed the Senate last January, it was a bipartisan bill I could easily support.

The Senate's version of S. 2 included explicit authority for States to use Federal funds to help start new schools, including new charter schools like those now emerging in Minnesota.

And, when it last left this body, S. 2 explicitly recognized a role for States in expanding parent choices and in promoting real reform in how we teach and learn in our Nation's public schools.

Unfortunately, Mr. President, the Democratic majority in the House of Representatives did not share that vision for real reform in American education.

The House majority refused to explicitly recognize a State role in starting new schools or encouraging new ways of organizing and managing public schools outside the traditional local education agency monopoly.

The House Democratic leadership would not allow the word "choice" to be even included in the bill—not even the more limited extension of choice among public schools and between public school districts that the vast majority of Americans now either has or is eagerly demanding.

In fairness, Mr. President, I must acknowledge that this failure to acknowledge the importance of States in promoting school choice and new schools is not attributable only to the House Democratic leadership.

The Bush administration has also contributed its share of rigid lines drawn in the sand. In particular, the administration's insistence on premising its education reform initiative on a traditional and outdated definition of public and private education has also helped preclude passage of meaningful education reform legislation in this session of Congress.

REWARDING THE STATUS QUO

Beyond the politics and polarization, Mr. President, a quick reading of this bill identifies my single biggest concern with the conference committee's agreement on S. 2.

At least $8 out of every $10 authorized by this legislation, must go to existing public schools through local public school boards and administrators. That was a condition insisted on by the House majority. Unfortunately, it is not a formula for promoting real education reform.

In fact, this insistence on rewarding the status quo is a 180 degree turn from the direction that real education reform is now taking in virtually every State in this Nation.

This doomed strategy for reform also ignores the leadership and the initiatives we have seen from President Bush and Secretary Alexander over much of the past 4 years.

And, finally, this conference committee agreement reflects a degree of election year partisanship that has no place in crafting legislation so important to the future of America's children, and to the economic future of this Nation.

In considering this legislation, Mr. President, I believe it is important to point out this is not an affirmative statement of Federal support for education reform.

This legislation was crafted as a direct challenge to the American 2000 initiative launched by President Bush 18 months ago. It has been described in negative, more than positive, terms—by what it doesn't include, rather than what value it will add to our Nation's schools.

There is no question that some good could come from individual school initiatives funded by this piece of legislation.

But, to those most strongly supporting this bill I would only ask, "Is this where you would put the next $800 million in new Federal funding to improve the quality of education in this country?"

I don't think the answer to that question would be "yes."

And, so, Mr. President, I cannot in good conscious support this conference committee agreement. I take this position with great sadness and considerable reluctance. But, I believe we can and must do better.

We will have that opportunity to do better in next year's reauthorization of the Elementary and Secondary Education Act. I intend to be deeply involved in that reauthorization—a process which must also take place in a less partisan and more productive environment.

LEGISLATION IGNORES BUSH INITIATIVES

Mr. President, as a way of reinforcing the importance of using Federal policy to support State level education initiatives, I want to use this opportunity to comment briefly on several aspects of Minnesota's education reform agenda.

But first, I would like to remind all of us that, regardless of our disagree-

ments about means—the underlying goals of this legislation must be traced to the Charlottesville summit and to the leadership we've seen on education from President Bush and Education Secretary Lamar Alexander over much of the past 4 years.

By drawing together the chief executives of the 50 States, and by clearly articulating 6 national goals for education, President Bush placed a new focus on the Nation's interest in improved quality through real education reform.

And, by launching the America 2000 initiative 18 months ago in St. Paul, MN, President Bush challenged all of us in the Congress to join with him, and with the Governors and legislatures of our States, in a new Federal-State partnership to help achieve those goals by the end of this century.

I wish there had been more recognition of that leadership in this bill, Mr. President. In particular, I wish there had been more explicit authority in this legislation for States to help start new schools and to help facilitate parent choice among schools.

Because of the importance of these two types of innovations, I would like to take a few minutes to offer just two examples of how they are being implemented in Minnesota—with growing interest in the first of those two innovations in a number of other States, as well.

SCHOOL CHOICE AND CHARTER SCHOOLS

Mr. President, Members of this body who follow education issues closely know that I have spoken a number of times over the past 2 years on the merits of Minnesota's leadership in allowing school choice and in encouraging the development of more—and more diverse—school choices.

I honestly believe that, had we more closely followed the lead being taken by Minnesota and a number of States, we would have made much more progress this year in reaching consensus on this bill, and in reaching consensus on a new national government role in encouraging education reform.

That lack of consensus is most obvious in the legislative logjam we've experienced this year over public and private school choice—a logjam that has left me and many other supporters of education reform at the national level deeply disappointed.

My own strategy to break that logjam has been to try to get past the conventional thinking, to get past the partisanship, and to change the focus of the debate.

One premise I've adopted in accepting that challenge is that we'll never agree on a new national government role in education unless we're first willing to redefine what we mean by American public education.

I also believe it's unwise to raise expectations about new break the mold schools funded at the national level—whether they're funded by Federal tax dollars or by private donations or private investors—unless there's also a legal and financial infrastructure out there in the States that can sustain and replicate new schools on an ongoing basis.

Fortunately, we're starting to see developments in the States that make me optimistic that we can refocus the debate and that we can redefine what we mean by American public education.

In Minnesota, we're gradually learning that public education should be defined by outcomes—and by principles and values—not by rigid and imput oriented mandates and rules.

As long as publicly defined outcomes are met—and as long as core principles and values are not violated—we're learning that public education can be delivered in an amazing number of ways.

Minnesotans are also coming to realize that the list of core values and principles we've traditionally associated with public education really isn't all that long or complicated.

Public education does not charge tuition and is universally available.

Public education is nonsectarian.

Public education does not discriminate on the basis of race, or sex, or physical or academic ability.

And, public education is accountable to both taxpayers and the electorate.

Public education is not defined by how many hours there are in the day, or by how many school days there are in the school year, or by who hires the teachers, or by who owns the buildings.

Once we're willing to redefine public education, a lot of what's been holding up the education reform debate here in Washington doesn't really need to be an issue.

Under this broader definition of public education, parents and teachers and community groups should be able to own and run new public schools.

Each school can be tailored to meet the differing needs of the kids it serves.

Accountability can be maintained through contracts that define outcomes—contracts that don't get renewed if those outcomes don't get met.

And, finally, public education can serve the interests of kids—of student/learners—and, not be overly preoccupied with the interests or convenience of adults.

One way to implement this broader definition of public education is through charter schools.

Under a new law passed just 16 months ago, Minnesota's charter schools must be authorized by a local school board and the State board of education. They must employ certified teachers and may not teach religion or charge tuition.

Minnesota's charter schools may not discriminate on any basis in admitting students. And, they must have a outcomes-based contract with their sponsoring school district—a contract that may be terminated if the agreed upon outcomes aren't met.

Once they meet these conditions, Minnesota's charter schools are exempt from all other rules and mandates except health and safety regulations. And, they receive the same combination of State, local, and Federal aid that they'd receive as a traditional public school.

Proposals for new charter schools are emerging throughout Minnesota. They're all different.

And, despite continued resistance on the part of some parts of the education establishment, four Minnesota charter schools have now been approved to begin operations during the next year.

The first of those schools, called the City Academy, was authorized by the St. Paul School Board. It began operations on September 8 and will focus on dropouts and other hard to reach learners between the ages of 13 and 21.

City Academy will be run year round from a community center in an inner-city neighborhood. Students participated in the development of the proposal, which has received substantial startup funding from the Northern States Power Co., the Twin Cites principal privately owned electrical utility. Initial enrollment will be limited to about 30 students.

Three other Minnesota charter schools have also been approved by local school boards and by the State board of education.

They include a Montessori elementary school in Winona, an environmentally oriented K–12 school in the northeastern Minnesota communities of Toivola and Meadowlands, and a specialized middle school for deaf students to be located in the Twin Cities area.

At least a dozen other charter proposals are at various stages of consideration, including several that have been denied approval by their local school boards or the State board of education.

Minnesota's charter school movement could also get a major boost under a New American Schools Development Corporation grant that will help start as many as 10 new schools in the next year, with at least some of those schools likely to use Minnesota's charter schools law.

Although it has the first such law, Minnesota isn't the only State using charter schools to help redefine what we mean by public education.

Just last week, Gov. Pete Wilson signed a bill allowing the startup of 100 new charter schools in California.

Credible charter school proposals have also been offered in Connecticut, Michigan, Massachusetts, and several other States as part of broader education reform initiatives.

And, Detroit's board of education is taking a slightly different approach by allowing individual schools to opt-out

of direct management by the district's central administration.

These reform proposals are all different. But, the objectives behind them are all the same, to maximize the choices that students have by empowering parents, teachers, and communities to start and run less regulated, outcome oriented public schools.

In moving ahead to implement these objectives, we have a lot to learn. But, charter schools offer one promising way to meet all those objectives within the parameters of a new and broader definition of "public education."

And, at both ends of the current logjam over public and private school choice we would be wise to listen and learn from what's going on—out there—in the States we all represent here in Washington.

SCHOOL CHOICE SHOULD BE INFORMED CHOICE

Mr. President, Minnesota has the well-deserved reputation of doing more than any other State to give parents the right to choose the public school that their children attend.

Minnesota was the first State to allow high school juniors and seniors to take college courses at State expense.

Minnesota was the first State to offer interdistrict school choices to every student under Minnesota's open enrollment program.

And, with charter schools, alternative learning centers, and contract programs with private, nonsectarian schools, Minnesota has made it possible to better tailor learning environments to the diverse learning needs of today's students.

With this much choice and diversity in place, it's only natural that attention is now focusing on how to assist parents and students make wise choices. Without good consumer information, any program designed to use the marketplace to achieve desired objectives cannot fully succeed. And, the important investment we are making in the educational future of this Nation's young people makes choosing right an absolute necessity.

MINNESOTA'S SCHOOL CHOICE ADVISOR

That's why one important part of Minnesota's ongoing school choice strategy is to begin establishing a statewide system of student assessment and parent information and referral networks that will help parents and educators match students and schools.

As Minnesota Education Commissioner Gene Mammenga has said, "Although we were first to enact and implement statewide parent choice in selecting schools, we must now empower parents further by ensuring that the essential information is available for making informed choices."

Minnesota's answer to that challenge—called School Choice Advisor—is actually a public/private venture being developed by the Minnesota Department of Education, School House magazine and PeakSolutions, a computer software and data base development company.

School Choice Advisor is designed to be an educational tool for both parents and schools. Like information and referral programs for other public services, it involves collecting and processing information on characteristics and programs in each of the State's schools.

But, it also will interview both parents and students to determine their interests and needs and the kind of programs they want and will benefit from.

Parents and students will benefit from a program like this by being able to make better informed school choices. And, Minnesota Department of Education officials are making special efforts to involve low income parents in this program by making it easily accessible and free of charge.

Schools will also be able to use the parent/student assessment information being gathered to help assess what they have available and to adapt and add programs that parents and students want and need. The information be very helpful to the State department of education and State policymakers in planning and evaluating the needs and capabilities of the State's schools.

OPPORTUNITIES IN NEXT YEAR'S REAUTHORIZATION

Finally, Mr. President, I would prefer to think of today's vote, not as an end, but as the beginning of a commitment by this body to define a positive and effective role for the National Government in supporting real education reform.

With that objective in mind, let me take a moment to briefly look ahead to next year's reauthorization of the Elementary and Secondary Education Act, and the opportunity that reauthorization represents as we continue to work toward a national consensus on education improvement and education reform.

I'm personally hoping, Mr. President, that next year's reauthorization won't simply be an exercise in fixing and fine tuning existing Federal education programs. Nor do I hope that next year's reauthorization will focus only on the size of the Federal Government's financial commitment to education or only on an endless debate over how that commitment is distributed fairly among the States.

My hope is that next year's reauthorization will help develop the new consensus on the National Government's role in education reform that was so sadly lacking in the conference committee report we are considering here today.

For my part, I'd like to suggest several goals for the reauthorization—goals that I personally intend to involve Minnesotans from all parts of the State in refining and translating into sound legislative proposals.

The first of those goals, Mr. President, is that we work to remove impediments to State and local reform initiatives that are now part of Federal law and Federal regulations. That may be our most important goal—to get out of the way of states and local schools that are on the cutting edge of change.

A second goal is to give further Federal support to States that are promoting school choice, through support for programs like Minnesota's school Choice Advisor and by allowing funds for chapter I and other Federal categorical programs to more easily follow whatever parent choices are authorized by State law.

A third goal, Mr. President, is to more explicitly assist States that are encouraging the emergence of more—and more diverse—school choices through startup funding for new schools, including charter schools and other innovative State programs that empower teachers, parents, and community groups to start and run new schools.

A fourth goal for next year's reauthorization is to encourage the entire community to assume more responsibility for organizing and financing the delivery of health and social services through schools. There are many important issues to be weighed in tackling this goal, Mr. President. But, I believe we must take on that challenge if we are to both focus our education resources where they belong and address the myriad of social problems that inhibit learning and that we've all too willingly dumped—without adequate support—or our schools.

A fifth goal, Mr. President, is to elevate the Federal Government's role in researching and evaluating the hundreds of education policy innovations we are seeing around the country. In particular, we need to assist the move we're now seeing toward defining, monitoring, and measuring educational achievement based on outcomes.

Mr. President, a sixth goal for next year's reauthorization is encouraging grassroots community support for motivating students and helping them and their families meet the rising cost of going to college. Later this week, I intend to introduce a bipartisan proposal to help achieve that goal through a national organization based in Minnesota called dollars for scholars.

And, finally, Mr. President, a seventh goal for this coming Congress is to further encourage a concept known as service learning. We can do that not only through the Elementary and Secondary Education Act, but also as we improve and reauthorize the National and Community Service Act we passed just 2 years ago. Many of our States are now discovering the value of practical volunteer experience in the community as part of an academic curriculum. We can and must do more to support those initiatives and we will have

that opportunity through both these important reauthorizations next year.

Mr. President, this is not meant to be an all-inclusive listing of goals for next year's reauthorization of the Elementary and Secondary Education Act. But, this listing is intended to affirm my own strong commitment to using that reauthorization to continue moving toward a national and bipartisan consensus on the Federal Government's role in support of the education reform efforts now going on around the country.

We need to be active and positive participants in shaping that consensus, in the interest of both this Nation and its future. We have neither the time—nor the minds—to waste.●

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time between the recess of the Senate this evening and reconvening on Saturday, October 3, be counted against the 30-hour time limitation of postcloture.

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

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12:30 p.m. on Saturday, October 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately following the Chair's announcement, the Senate then proceed to the consideration of the conference report accompanying H.R. 5677, the Labor-HHS Appropriations bill under the conditions and limitations of the previous unanimous-consent agreement.

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

PROGRAM

Mr. MITCHELL. Mr. President, it had been my hope that at this point I would be able to announce to Senators that there would be no rollcall votes tomorrow. We will, under a previous agreement, take up the Labor-HHS appropriations bill at 12:30 p.m., or as soon thereafter as the measure is received from the House.

It is my understanding that there has been no request for a recorded vote on that measure. There is an agreement limiting the time on the measure, and I expect that to pass without a recorded vote.

Following that, it is my intention to exercise the authority granted to me under a previous unanimous-consent agreement to proceed to consideration of the Department of Defense authorization bill. There has been no request for a recorded vote on that measure, and it is my hope that we will be able to complete on that measure within the time limitations in the agreement and that we will complete action on that measure without the necessity for a recorded vote.

Throughout the evening, negotiations have been underway regarding the substance and process for handling the pending National Institutes of Health authorization bill. Although the Senate has voted by an overwhelming margin to proceed to consideration of that bill, 85 Senators voting in the affirmative, 12 in the negative, under the rules of the Senate, the 12 opponents, although they constitute a very tiny minority of the Senate, are able to prevent action on the bill by further delays. That is what is occurring. I regret that very much.

The time is running on postcloture, and we will resume discussion of the matter tomorrow. I am unable to state at this time what the outcome of those discussions will be or what will occur with respect to that measure tomorrow. I regret this very much.

I accept the fact that under the rules of the Senate, 12 or 6 or 1 Senator can hold up the overwhelming majority of other Senators. I think that is especially regrettable in view of the importance of this legislation. But that will be the subject for debate possibly tomorrow, possibly later during the weekend.

I will, following consultation with the Republican leader, make a further announcement with respect to the schedule after tomorrow at this time. But as of now, we are going to deal with the two bills to which I previously referred. We will continue to be proceeding postcloture on the National Institutes of Health authorization bill. It is my hope that that matter can be resolved but if not, why, we will proceed under the rules as appropriate.

Mr. SIMPSON. Mr. President, I thank the majority leader, and indeed he has tried diligently to resolve this matter, and I want the majority leader to know that we have tried diligently on this side to assist him. We are ready and did present a proposal which was very near to acceptance and has to do not with the NIH issue here—that will be resolved as the Senate rules will determine—but it has to do with the energy bill and the possibility of objections with regard to that.

So I then assume and ask the majority leader that the time will continue to run on the issue of the motion to proceed here. It will expire approximately 8:30, 8:45 tomorrow evening.

Mr. MITCHELL. Mr. President, I have not calculated the time precisely. It will be 30 hours after cloture was invoked. But it will be sometime during the day tomorrow.

Mr. SIMPSON. And then is it the Senator's intent—and we will be very pleased to assist on this side of the aisle processing the conference committee reports—not to have a Sunday session?

Mr. MITCHELL. I had made no decision in that regard. It is my hope not to have a Sunday session, but if it proves to be necessary to advance the National Institutes for Health authorization bill, that may be necessary. It depends in part upon the progress of that matter. We will have to wait and see what happens tomorrow.

Mr. SIMPSON. And at any time that takes place, then there will be a cloture motion filed with regard to the bill itself?

Mr. MITCHELL. That is correct.

Mr. SIMPSON. And we will go to a vote on that, a rollcall vote, and if cloture is obtained, which is likely in view of the previous vote, we will go forward with the 30 hours and be able to then work out an agreement to process conference committee reports?

Mr. MITCHELL. That is my hope.

Mr. SIMPSON. I thank the leader.

RECESS UNTIL 12:30 P.M. TOMORROW

Mr. MITCHELL. 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 previously ordered.

There being no objection, the Senate, at 10:24 p.m., recessed until Saturday, October 3, 1992, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1992:

DEPARTMENT OF DEFENSE

SEAN CHARLES O'KEEFE, OF VIRGINIA, TO BE SECRETARY OF THE NAVY, VICE H. LAWRENCE GARRETT, III, RESIGNED.

THE JUDICIARY

WILLIAM P. DIMITROULEAS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES C. PAINE, RETIRED.

HENRY W. SAAD, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE HORACE W. GILMORE, RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JENI BROWN NORRIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MARY SHANNON BRUNETTE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) DOUGLAS J. KATZ, U.S. NAVY, [redacted]

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE COMPETITIVE CATEGORY OF ENGINEERING DUTY OFFICER OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) EDWARD STILLMAN MCGINLEY, II, [redacted] U.S. NAVY.