SENATE—*Tuesday, March 3, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. To the Supreme Judge of the world, we today make our petitions, and the Senate will be led in prayer by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson, please.

PRAYER

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

Let us pray:

To every thing there is a season, and a time to every purpose under the heaven * * *.—Ecclesiastes 3:1.

Eternal God, we thank You for the wisdom of Solomon concerning time. Deliver the Senate from the tyranny of the urgent, the squeaking wheel which demands attention while the engine is breaking down and the body disintegrating. In a society where everybody expects Government to solve every problem, individual or corporate, protect the Senators from the kind of intimidation which robs them of objectivity and diverts concentration on those issues to which they can and should address themselves.

Patient Lord, mindful of the cliches, "Haste makes waste," and "The hurrier I go, the behinder I get," save the Senators from majoring in the minors and minoring in the majors. Help them enjoy the exquisite leisure of God.

In the name of Jesus who was never in a hurry yet finished the cosmic work He came to do on schedule. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the order, the Senator from Arizona [Mr. MCCAIN] is to be recognized for up to 10 minutes and the Senator from Wyoming [Mr. SIMPSON] or his designee is recognized to speak for up to 5 minutes.

Is there morning business? Does any Senator seek recognition?

Mr. KERRY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. I thank the Chair.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. KERRY. Mr. President, I would like to say a few words this morning in support of the Corporation for Public Broadcasting reauthorization, S. 1504, which is the Public Telecommunications Act of 1991. I believe the most helpful way I could say a few words about this act and our effort to have cloture on it, Mr. President, would be to point out some of the contributions that public broadcasting has made to enriching the lives of Americans and particularly what it has done in Massachusetts.

We are very privileged to have in Massachusetts several public broadcasting radio stations, WBUR in Boston, WFCR in Amherst, and WGBH in Boston, and we have some of the most active and well-known operations in the entire public television system, WGBH television in Boston and WGBY television in Springfield.

Since public broadcasting service makes these stations available to viewers in every State, programs that have been produced by the WGBH Educational Foundation are now familiar to viewers throughout the entire country, and these shows have become staples upon which millions of Americans have come to rely for programming of the highest quality.

I am sure many of my colleagues are familiar with the wide range of television series that WGBH has given us: "Nova," "This Old House," drama on "Masterpiece Theater," special programs like the series on "LBJ" and the civil rights series on "The Prize" and "Front Line," which is one of the very few sources of serious news documentaries still available on public television. And the list goes on.

But WGBH, which produces these programs, Mr. President, does not stop at producing programs in the public interest. What sets this station and other public broadcasting stations apart from the commercial and cable television industry is the fact that public broadcasters have taken broadcast technology and found ways to adapt it to serve traditionally unserved audiences.

WGBH, for instance, pioneered closed captioning 20 years ago, giving millions of deaf and hard-of-hearing Americans access to television for the first time. Thanks to these efforts, today 100 percent of the prime time programs are captioned. With the same interests in mind for the 11.5 million Americans who are blind and visually impaired, WGBH adapted the new stereotelevision technology and in 1990 created Descriptive Video Service, which provides programs and actions and settings, for the first time allowing blind viewers access to this medium which has become so central to our lives.

WGBH continues to produce new uses for broadcast technologies. A good example is interactive "Nova." Using the science television series, it has created interactive video disks for students in middle schools. This allows them to direct their own exploration of topics in science. This powerful teaching tool takes broadcast technology directly into the classroom for hands-on learning.

Mr. President, there simply is not any equal for the public service role played by public television through stations like WGBH and WGBY. It is imperative that we assure our citizens continued equal access to this kind of quality. It is something that other media simply cannot match. Cable television is not a substitute. Indeed, many of the programs that are airing on cable came from public television, and cable reaches only 60 percent of our homes, leaving 30 to 40 million Americans without access to their programs. Many of our citizens simply cannot afford cable, and their only direct access to cultural educational resources is through public broadcasting.

So as we contemplate and confront the coming changes in the field of communication, I believe it is imperative that we reserve a place for this kind of public service. Frankly, that is the reason I inserted into the cable television bill language providing that direct broadcast satellite systems will reserve between 4 to 7 percent of their system capacity for public broadcasting stations.

Mr. President, there is no question that public broadcasting plays a special role in our society and in our schools, and whether it is through programs like "Sesame Street" or the "Civil War," all Americans have learned a great deal from it. I hope my colleagues will vote for cloture on the motion to proceed and will support the

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

bill that is presented by the Commerce Committee.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. McCAIN] is recognized under the order for up to 10 minutes.

Mr. McCAIN. I thank the Chair.

PARKING FOR DISABLED INDIVIDUALS

Mr. McCAIN. Mr. President, there is an old antiwar song that I remember from the sixties called "Where Have All the Flowers Gone?" A refrain that goes throughout that song is, "When will they ever learn?" I wonder, Mr. President, when the Congress is going to learn that we ourselves should subject ourselves to the same laws that we pass and impose on the American people, always for good reason.

Unfortunately, time after time we do not do so, and the subject I wanted to address this morning has to do with the Americans With Disabilities Act. In fact, the Congress of the United States is not only not in compliance, but it is making little effort to come into compliance with the law which places, although justifiably, a very heavy burden on the towns, cities, municipalities, and businesses throughout our country.

Mr. President, on January 26, 1992, the Americans With Disabilities Act mandated the removal of physical barriers in public and commercial facilities to promote access for the disabled. As one of the authors of that landmark act, I am calling on the Committee on Rules and Administration to promulgate and institute new guidelines to ensure that the Senate is in full compliance with the law of the land.

As businesses—especially small businesses—across the country attempt to comply with the law, I believe it is only appropriate for the Senate to be a leader in accessibility standards.

Last month, my office hired an individual who uses a wheelchair. Upon doing so, we reassessed the accessibility of my office and made several changes to make my office fully accessible. At the same time, however, I discovered that Senate and Capitol facilities in general are not fully accessible to the disabled.

The current situation is an egregious example of the Congress once again setting separate, much more lenient, standards for itself than we have imposed on the remainder of society. We must rectify this situation.

The Senate must lead by example. The public trust in this institution is at an all time low. Yet the Senate still acts as though no law applied to it.

Since coming to Congress, I have repeatedly called on the Senate to lead our Nation by example and live within the laws we pass. Last year, the Senate made great strides in this area when it adopted legislation to extend civil rights protections to Capitol Hill employees. I think that was a very positive and important step in the right direction.

However, Mr. President, the Senate must do more to comply with the ADA.

First, the Senate is operating in complete disregard of regulations that govern parking for disabled Americans.

The Uniform Federal Accessibility Standards, as promulgated by the Architectural and Transportation Barriers Compliance Board pursuant to the Architectural Barrier Act (Public Law 90-480) clearly sets forth standards for the number of parking spaces that must be designated for disabled individuals.

There is no justifiable reason for the Senate to be out of compliance with these regulations.

Mr. President, according to the Senate Parking Office, the Senate controls 4,029 parking spaces. Of those 4,029 spaces, 4 are designated for disabled parking. Specifically, there is one space per office building and one for the Senate side of the Capitol. There are also spaces under the control of the District Government near the U.S. Botanical Garden designated for use by the disabled.

The spaces near the Botanical Garden provide little in the way of access to the Capitol and our office buildings. I think that any Senator here would find the task of pushing a wheelchair around the Capitol Building and up Capitol Hill a daunting task.

Additionally, visual surveys by my staff have shown that on many occasions, automobiles that do not bear disabled plates have been parked in the three designated spaces.

The Uniform Federal Accessibility Standards mandates "if parking spaces are provided for employees or visitors, or both, that accessible spaces, complying with [paragraph] 4.6 shall be provided * * * in conformance with the following table." The table, Mr. President, calls on a Federal facility with 4,029 spaces to have 50 designated spaces. Four, the total amount the Senate currently offers, is clearly less than 50.

Mr. President, to be fair, the Parking Office has stated that the four designated spaces are for visitor use, and that employees who have documentation from a physician and a letter from a Senator will be accommodated to the best of the Parking Office's ability. However, we do not allow the private sector or other agencies to simply accommodate individuals.

The law is clear. The regulation governing private and public sector buildings is clear. The Senate, however, has wrongly chosen to ignore it.

I would like to point out, however, that the Senate has made considerably more progress than the other body in this area. According to maps provided to my staff by the Congressional Special Services Office, the House has zero spaces designated for disabled use.

I am very cognizant that the Senate Office Buildings are not new construction and that we have an obligation to preserve the architectural integrity of the Senate and the grounds. But I think my colleagues will agree that these reasons are not sufficient for the Senate to so blatantly ignore the law.

I cannot tell the small business owners located in a historic building in Phoenix, or Prescott, or Tucson, AZ, to ignore the law and simply accommodate the parking needs of disabled individuals on a case-by-case basis.

Second, the Congressional Special Services Office, the Office created to service the needs of disabled visitors to the Capitol, is itself inaccessible to many individuals with physical disabilities. Last year, the Architect of the Capitol correctly began to expand the office space of the Congressional Special Services Office. The work is just now being finished. The CSSO's large workload clearly merited this expansion.

However, it is an effrontery to the Senate and to every disabled American that this Office was expanded in a manner that made it inaccessible to many with mobility impairments.

The ADA states that alterations to existing places of public accommodation and commercial facilities must be made in a manner that makes those facilities accessible to the maximum extent feasible. Why then would the Special Services Office actually be expanded in a manner that makes it inaccessible?

There are still many areas where the Capitol and the Senate are lagging far behind, or even ignoring, Federal regulations. The Old Senate Chamber, for example, remains completely inaccessible to the physically disabled.

Additionally, signage directing disabled Americans to the location of accessible entrances on the Senate side of the Capitol is clearly lacking.

I am confident that the Rules Committee, under its able leadership, will do what is right to correct this situation. I hope they will act soon. I have written to the Rules Committee, and I believe that this will be corrected.

At the same time, this should not have happened to start with. We should bring ourselves into compliance, and we should make the American people fully aware that we are willing to live under the laws, rules, and regulations that we have passed and that are imposed on them.

Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alabama [Mr. HEFLIN].

TVA'S NATIONAL FERTILIZER AND ENVIRONMENTAL RESEARCH CENTER

Mr. HEFLIN. Mr. President, a few weeks ago, I spoke on the Senate floor

concerning my strong opposition to the administration's plan to eliminate funding for the Tennessee Valley Authority's National Fertilizer and Environmental Research Center located in Muscle Shoals, AL. I would like to reiterate my opposition today, with particular emphasis on the importance of the center to our competitiveness in world trade.

The TVA Center is one of the most successful and beneficial Government operations in existence. It has patented over 250 fertilizer process innovations which have led to 705 patent licenses. As the map next to me shows, these patented processes are being used today to produce fertilizer in 578 plants located in 39 States around the country. This is why three-fourths of the fertilizer used annually in the United States is made with technology pioneered by TVA scientists at TVA's National Fertilizer Center.

U.S. agriculture is a worldwide model of productivity and efficiency. Our farmers make up only one-tenth of 1 percent of the world's population, yet they produce 25 percent of the world's food supply. This productivity has permitted the United States to become the world's leading producer of agricultural goods, exporting more than 40 billion dollars' worth of agricultural products each year. In addition, before the establishment of TVA and its fertilizer center in 1933, the United States was highly dependent upon imported nitrogen fertilizers. Today, the center is credited with the fact that the United States is now the world's largest exporter of fertilizer and fertilizer technology.

America is preeminent in world agricultural trade today because of the investments in agricultural research we made in the immediate past. However, if we fail to invest today in our future economic well being, we will lose our competitive advantage.

As the graph next to me shows, our major economic competitors have been investing a much larger share of their national wealth on public investments such as research and development, and are enjoying a higher annual rate of productivity growth as a result. Given this fact, I believe it would be unwise to cut our investment in research and development at this time. It would not be desirable to risk losing our competitiveness in world trade.

The value of the taxpayer's investment in TVA's Fertilizer Center is impressive and documented. The accumulated total benefit to the economy has far exceeded the total cost of the program. Findings of a recent study concentrating on the savings attributable to selected fertilizer center innovations over a 48-year period revealed a benefit-to-cost ratio of 20.5 to 1. In other words, the center provided over $20 in benefits to the economy for each dollar of appropriated funds invested.

An alternative measure of the yield of this investment to the public is the internal rate of return, which was calculated to be 93.3 percent. Put another way, the money invested in the center over the 48-year period paid a yield to the economy equivalent to a savings account paying 93.3 percent interest annually. Either measure of benefits proves that the investment has been a wise one for U.S. taxpayers. Although these rates of return on research may seem high, these findings are fully consistent with those reported by other researchers for similar new technology and science-oriented agricultural research.

Mr. President, I believe it is important to point out that the TVA Fertilizer Research Center has been able to achieve these great successes with a relatively small budget of $34 million a year. The administration's so-called budget cut would only save $34 million in next year's budget, but this savings would be achieved at the expense of untold billions of dollars in future economic growth that would result from ongoing research that would be terminated. It would shortchange our long-term well-being for short-term benefit.

America cannot afford to lose productive public investments such as the fertilizer center, which produces a 20-fold return on the dollar. It would be unwise to reduce investment in long-term economic growth and forego this source of future income. This would only increase the budget deficit in coming years and increase our national debt.

In my judgment, the administration's proposal to cut the TVA Fertilizer Research Center from the budget is shortsighted and unwise. The President wants to cut sources of future economic growth just to make this year's budget look better.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii.

EXTENSION OF MORNING BUSINESS AND ORDER OF PROCEDURE

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time for morning business be extended to 12 noon today, with Senators permitted to speak therein for up to 5 minutes each; that the time from 12 noon to 12:30 p.m. be for debate on the motion to invoke cloture on the motion to proceed to S. 1504, with the time equally divided and controlled in the usual form; that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. today; further that the vote on the motion to invoke cloture occur at 2:15 p.m. with the live quorum waived.

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

The Senator from Missouri [Mr. BOND] is recognized for not to exceed 5 minutes.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 2306 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON] is recognized for not to exceed 5 minutes.

Mr. EXON. I thank the Chair.

VIOLENT CRIME IN AMERICA

Mr. EXON. Mr. President, I listened with great interest to the very interesting remarks by my distinguished friend and colleague from South Carolina, Senator THURMOND, regarding the tragedies that unfortunately seem to be becoming commonplace in the immediate vicinity of the Capitol of the United States of America.

I say first, Mr. President, that I do not have the answers to this problem, but I believe that the voices that are calling for more attention to this problem must generate concern, debate, and hopefully some type of appropriate action by the Congress of the United States.

Mr. President, I feel that above and beyond the tragedies is that the events in the last few months or the last few years within a stone's throw of the Capitol of the United States of America is an extremely serious situation. It is multiplied throughout the United States, though, and it should not be simply stated that it is a local problem. It is a national problem.

I guess a fundamental concern that I have, Mr. President, is how long, though, are we going to tolerate and what should we do about the security of the Capitol of the United States itself, not just for the people that work here and live here and are elected to serve here, but probably, more importantly, the people of the United States who look at this as their mecca of all that is good about the United States of America, our democracy, and the system that we try and keep going from this place steeped in history.

I worry about the fact that, if this continues, then we are going to have more and more Americans, I am afraid, who will be afraid to even bring themselves and their children and their grandchildren to the Capitol of the United States.

Now, while I recognize the so-called rights of the government of the District of Columbia that we have given them over the years, I am not sure—in fact I do not believe—that just a simple single-bullet approach such as the death penalty is likely to solve the problem. This Senator has been an advocate of the death penalty for certain types of crime, of which murder would be one, for a long, long time. But I

hope that we do not think just passing some piece of legislation that has been suggested in the Congress in recent days of mandating the death penalty is going to solve the problem. It might be a good Band-aid. It might be something that we could point to and say, look, we are doing something about this. But the facts of the matter are, as this Senator sees it, Mr. President, that the problem that we have is much, much deeper and goes far beyond any kind of a single-bullet approach as imposing the death penalty.

Last night on, I believe it was, "NBC News," there was a leadoff feature story with regard to the rise of violent crime in the United States. I do not remember for certain, Mr. President, whether the recent events, tragic events, in the area of the Capitol were particularly mentioned but probably that was the instigation for the story.

I would simply point out that the featured story on NBC News went directly to demonstrate how this is widespread to, of all places, Omaha, NE, where a principal of a high school was interviewed and the principal was talking about metal detectors—metal detectors, Mr. President, if you will—in the public school system of Omaha, NE. It is widespread. We had a very serious incident in Omaha in the last few days where a 5-year-old boy was walking home from school across from a recreational area and he was attacked by an 8-year-old boy with a knife, for reasons that no one has been able to understand. The cut that was inflicted came within an inch or 2 of the jugular vein and required 22 stitches from somewhere on the upper part of his head down to the base of his neck.

I simply cite this, Mr. President, to recognize that there is something wrong in our society. There is something wrong with our movies. There is a lot wrong with our television. And I do not want censorship. But I believe that the young people of today have been fed a steady stream that violence is a part of our society to the point it is beginning to hurt us.

Just let me close by saying, Mr. President, that of major concern to this Senator is the fact that for the most part there is something there that we overlooked. For the most part at least the black communities of our great United States of America and the fine citizens that live therein are proportionately suffering more and more severely from this problem than in other areas. Black-on-black crime of a violent nature is the highest by far on record and getting worse each and every day.

I am glad that the Senate is beginning to discuss this. I am glad that the House is doing likewise. But the problem is very deep. It is going to require a lot of time and attention, much more so than we have given in the past.

I thank the Chair and I yield back any remaining time.

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

The PRESIDENT pro tempore. The point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota [Mr. CONRAD] is recognized for not to exceed 5 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 2307 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEFENSE BUDGET CUTS AND THE FUTURE OF THE DEFENSE INDUSTRIAL BASE

Mr. MCCAIN. Mr. President, at an Armed Services Committee hearing last week, we received testimony on the potentially disastrous effect of the defense budget cuts on the defense industrial base. All the testimony indicated that many businesses will close, many people will lose their jobs, and that a good part of our defense manufacturing capability will wither away. No panel participant possessed nor knew anyone else that possessed a clear understanding of exactly how the defense industrial base and the economy will be affected; no one has yet studied the problem in adequate detail.

Two years ago, I introduced language into the fiscal year 1991 Defense Authorization Act requiring the Department of Defense to produce an annual report on the future of our defense industrial base and the impact of project terminations and cuts in defense spending on our national security. This report has now become a national imperative since it will provide Congress, industry, and the American people an understanding of the effects of defense spending trends in our Nation's economy. We received the first report this past November, and I recently forwarded to the Secretary of Defense various industry and academia reviews of this report, my concerns regarding the future of our defense industrial base, and words of encouragement to improve the Department's study of the issue.

KEY SUGGESTIONS FROM DEFENSE INDUSTRY EXPERTS

While the report is a fair first effort, I have solicited views of a wide range of defense industry experts—which I am submitting for the RECORD. The comments of these experts indicate that the report should be more analytically detailed rather than descriptive. The way the report is currently written encourages the perception that it is a subjective assessment rather than a concrete economic analysis based on hard data. Hence, the report needs much more detailed data to support its assessments of spending trends, their economic impacts, and their effect on production and surge capabilities.

Some of the experts believe that the report utilizes a flawed methodology. Among the methodological problems identified are the exclusion of second-tier contractors and suppliers from the assessment of industry health, a lack of sophistication in the analysis of corporate financial health, and the failure to distinguish defense and nondefense sectors within various corporations. With regard to the latter point, the failure to separate these sectors analytically will yield a seriously flawed picture of defense industry health. For example, the strong over-all commercial performance of a corporation could hide defense sector suffering within the corporation. The experts recommend utilizing more sophisticated computational models for assessing these key areas.

Perhaps most significantly, nearly all the experts were critical of the report's assumption that market forces will encourage individual companies to shift from defense production to commercial production and back again, when necessary. The experts point out that several market-disrupting factors make this highly improbable. Manufacturers' unfavorable cost/benefit assessments discourage conversion to defense production, as do DOD regulatory impediments. Extensive capital investments, extremely low profit margins, and excessive Government bureaucracy in specifications details and accounting standards are obviously unattractive to industry. Export limitations provide no incentive for conversion either since they will continue to severely restrict the potential market.

The experts expressed their concern that market forces will not operate freely in this closed future market, where DOD is the sole market and industry is an increasingly smaller, regulated group of suppliers. Once the industrial base shrinks to its new size, surviving companies will not be able to respond effectively to DOD needs in the event of a major crisis. We need to recall that in the 1980's the number of defense suppliers shrank drastically—in some estimates by 50 percent—in spite of the expansion of Government procurement. There is no indication that any company might wish to get back into defense supply given the parameters of the future market. Therefore, we must undertake efforts that reduce or eliminate some of these impediments to the operation of the free market. The experts suggest that the Defense Department can simplify its procurement and accounting requirements and procedures. They also encourage the Department to utilize commer-

cially available technologies and products where possible. Further, they suggest that Congress may be able to raise some of the export restrictions on less-sensitive items.

ADDITIONAL CONCERNS REGARDING THE FUTURE OF THE DEFENSE INDUSTRIAL BASE

To supplement these expert commentaries on the report, I would like to express four concerns of my own regarding our approach to preserving an adequate industrial base for ensuring our national defense.

First, I am concerned that we may be stressing research and development at the expense of paying adequate attention to the problem of preserving our national production capability and capacity. I believe that the Secretary of Defense has chosen the right strategy in pursuing the development of effective high-technology weapons systems, but I fear—because of the contraction of the defense industry—that we may lose the capability to manufacture such systems. Most industry analysts indicate that much of the technical and cost risk in any given system comes during the initial effort to produce large numbers of the system, well after the research and development phase is completed. This issue needs to be thoroughly addressed in the Department of Defense report so that essential manufacturing capability is not sacrificed.

Second, I share with the Secretary of Defense the common belief that we must rely as much as possible on market forces in down-sizing our defense industries, but believe such reliance must be tempered by timely and accurate analyses of those areas where market forces are hindered or where market forces alone may not suffice. We must investigate the possible creation of selective centers of excellence to ensure that we preserve endangered technical and production bases for our defense market. In addition, I am uncertain we really have the capability to analyze and project our defense industry's future needs for systems integrators, major production facilities, and subcontractors.

Third, we need not only a strategy to ensure that we do not lose our high-technology edge, but also a strategy for upgrading existing weapon systems and munitions. This strategy must take into account the possibility that we may suffer cuts in defense spending that radically depart from the President's cautious and deliberate approach. It also requires a careful examination of the way the Department of Defense handles program terminations and the effect of those terminations on systems upgrades. This examination should certainly be part of the analysis of and planning for the future defense industrial base.

And last, while the reporting requirement does not specifically require an analysis of defense industry employment, it is clear that hundreds of thousands of skilled workers are going to lose their jobs after winning the cold war. We need to understand fully how the loss of these heroes will affect our defense industrial base, but we also require a strategy for helping these men and women make the transition to the civil sector. Many defense skills are not easily transferable; they are not dual-use skills. We may well need to consider the development of appropriate programs for the retraining of these individuals.

THE NEED TO FOCUS ON DEFENSE EMPLOYMENT AND THE ECONOMY

The Department of Defense is the body most capable of generating timely and accurate data on defense employment and the loss of defense jobs. It must break these data down by State and by sectors within the defense industry. It should forecast the rate at which defense-related unemployment will increase. And it should examine where Federal, State, and local programs may be necessary to help.

These issues are becoming critical to the people of Arizona and to every other State. This is why I believe that it is essential that the Department take immediate action to provide the kind of analysis and forecasting of defense employment and job losses that will help us understand what action should be taken and anticipate defense unemployment in ways that allow us to help the people involved. It is why I believe that it is equally important that we understand the impact of additional defense budget cuts on defense employment and the economy in general. We must use this understanding to avoid cuts the economy cannot absorb.

The Department of Defense must undertake a deeper study of the problems most analysts anticipate and discover others that they do not. The annual report should make very clear the implications and impacts of cuts in national defense spending on State economies and on our national industrial base. This report is vital to our successfully exploiting the peace dividend while not jeopardizing our national security.

America's security depends on more than just the quantity of tanks we can build, the number of troops we can rapidly deploy, or the amount of money we can allocate for our defense budget. It depends on the quality of our work force, the innovation of our designers, the sophistication of our technology, the flexibility of our manufacturers, and the vitality of our commerce. We must not jeopardize these national strengths with the poor execution of our defense budget cuts.

I ask unanimous consent that material pertinent to this subject be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 20, 1992.

Hon. RICHARD CHENEY,
Secretary of Defense,
Washington, DC.

DEAR SECRETARY CHENEY: Two years ago, I introduced language into the FY 1991 Defense Authorization Act requiring that the Department produce an annual report on the future of our industrial base and the impact of project terminations and cuts in defense spending on our national security. (Section S 2509, pp. 125–126)

The Department issued the first report in response to that requirement in November, 1991. While I believe that this report is useful, I also believe that this subject has acquired such importance that it is critical that the Department, the Congress, defense industry, and the American people fully understand the trends in our defense industrial base and in our national security.

As a result, I asked some of our leading experts on the defense industrial base, and key defense industries, to comment on the Department's report. I have attached their replies to this letter, and they raise issues that I believe should be of concern to you and your staff.

While given experts and firms differ in their comments on the report, all raise a common question about what they feel is the failure to properly examine whether we will preserve the design and production resources we need, and express serious doubts about the data base and methodology used in the report. A number also express concerns about continuing over-regulation of the defense industry, and the need to preserve realistic profitability—rather than make cost the only consideration, regardless of whether the firm doing the bidding maintains suitable research and development capabilities.

I hope that you will fully examine these issues, not only to improve the next report, but also in the context of all of the Department's efforts to examine the defense industrial base. At the same time, I would like to express three concerns of my own.

First, I am concerned that we may be putting too much emphasis on research and development without adequate attention to the problems of preserving production capability. I believe that you have chosen the right strategy in pursuing high technology weapons systems, but I hear more and more concern from the defense industry that we will lose the ability to produce such systems, and that much of the technical and cost risk in any given system comes after development is finished and during the initial efforts to produce large numbers of the system.

Second, we share a common belief that we must rely as much as possible on market forces in downsizing our defense industries, but such reliance must be tempered with timely and accurate analysis of those areas where market forces alone may not suffice and where we may have to create selective centers of excellence to ensure that we preserve both a technical and production base. I am unsure if we really have the capability to monitor our needs for systems integrators, major production facilities, and sub-contractors.

Third, we not only need a strategy to ensure that we do not lose our high technology edge, we also need a strategy for upgrading existing weapons and munitions. Further, this strategy must take account of the fact we may well see cuts in defense spending that exceed the President's budget request. This requires a careful examination of the way the Department handles program termi-

nations and program upgrades. This should definitely be part of our planning and analysis of the industrial base.

I would like to have your views, and those of your staff, on these issues, as well as the comments I have attached to this letter. I believe that we need to work together more closely to both ensure that we keep the industrial base we need, and to build a consensus based on a common understanding of the problems involved and exactly what the Department can do to solve them.

At the same time, I believe that we need to take a fundamentally different approach to our treatment of the men and women in the defense industry. The reporting requirement for the industrial base report does not specifically require an analysis of defense industry employment, but it is clear that hundreds of thousands of skilled workers and managers are going to lose their jobs after winning the Cold War.

We need to fully understand how this will affect our defense industrial base, but we also need a strategy for helping these men and women make the transition to the civil sector. Many defense skills are not easily transferable, and we may well need to provide programs for added training.

The Department of Defense is the only body capable of generating timely and accurate data on defense employment and the loss of defense jobs. It is the only body capable of breaking these data down by state and by element of the defense industry. It is the only body capable of forecasting the rate at which unemployment will increase, and where federal, state, and local programs may be necessary to help.

These issues are becoming critical to my state, to the people of Arizona, and to every other state. This is why I believe that it is essential that the Department take immediate action to provide the kind of analysis and forecasting of defense employment and job losses that will allow us to understand what action should be taken, and to anticipate defense unemployment in ways that allow us to help the men and women involved. It is why I believe that it is equally important that we understand the impact of additional defense budget cuts on defense employment, and use this understanding to avoid cuts the economy cannot absorb.

I am prepared to work closely with you to ensure that we develop the kind of analysis and reporting that can build a common understanding between the Department and the Congress. I appreciate the work that the Department has already done to improve our understanding of the defense industrial base, and it is my hope that we can make major additional progress during the coming year.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

DEFICIENCIES IN DOD'S 1991 DEFENSE INDUSTRIAL BASE REPORT, JANUARY 22, 1992

(Prepared for the office of Senator John McCain, by Loren B. Thompson, Ph.D., Georgetown University Global Security Project)

In November of 1991, the Department of Defense (DOD) completed a congressionally mandated assessment of the U.S. defense industrial base. The purpose of this brief is to describe the report, identify its key deficiencies, and recommend improvements. The brief was prepared in response to a request from Dr. Anthony Cordesman, defense aide to Senator John McCain.

REPORT BACKGROUND

Section 825 of the fiscal 1991 National Defense Authorization Act directed the Secretary of Defense to prepare an annual report on the defense industrial base, to be submitted to Congress no later than March 15 of each year. The main objectives of the report were to project the impact of DOD budgets and plans on the ability of the industrial base to meet national security needs, and to describe actions taken by DOD to improve the industrial base. The Secretary was also instructed to include in the report a financial analysis assessing the ability of U.S. businesses to:

Conduct R&D relating to critical defense technologies.

Maintain an adequate technology and production base to meet projected DOD requirements.

Expand production in response to a rapid increase in demand for critical technologies and end-use items.

Cope with reductions and terminations in major DOD procurement programs.

The Authorization Act listed several areas of concern that were to be considered in preparing the financial analysis of defense companies. These included trends in profitability, capital investment, R&D spending and debt burden; the consequences of mergers and acquisitions; the impact of program terminations; and the effects of dependence on foreign suppliers.

REPORT FINDINGS

The Defense Department missed the March, 1991 deadline for its first report. In November of 1991, it submitted to Congress a 50-page assessment of the industrial base. The second paragraph of the report's executive summary set forth its key finding: "DOD believes that the industrial base will be capable of meeting national security requirements as the new defense environment takes hold." This finding was based on an examination of trends in the five generic areas where DOD has conducted most of its major procurements: aircraft, missiles and space, electronics, ships and combat vehicles. Although the report found reasons for concern in several of these areas, it was generally sanguine about the ability of the industrial base to satisfy projected levels of demand for critical technologies and end-use items.

The report conceded that foreign investment in U.S. businesses and DOD dependence on overseas sources of supply could potentially pose national security problems. However, it cited benefits arising from "the trend toward internationalization and interdependence," and argued that only "an exceedingly small proportion of the items that are foreign sourced today" could be viewed as constituting significant vulnerabilities.

With regard to preserving the defense technology and production base, the report emphasized DOD plans to maintain stable R&D funding and noted the many steps taken pursuant to the Defense Management Review to promote efficiency and eliminate unnecessary requirements. It particularly stressed the importance of relying more heavily on "dual-use" technologies and breaking down the barriers between defense activities and the commercial sectors of the economy. Asserting that "free market forces will guide the industrial base of tomorrow," the report enunciated ambitious goals for reforming acquisition procedures and stimulating dual-purpose innovation.

MAJOR DEFICIENCIES

The senior management to the Defense Department appears sincere in its desire to reform the way DOD does business. Unfortunately, its assessment of the industrial base raises serious doubts about whether management possesses the data or the analytical tools to achieve its objectives. The report suffers from at least five fundamental deficiencies.

1. The report is superficial

The most striking deficiency of the defense industrial base report is its superficiality. The level of detail and sophistication is not unlike that of a graduate school term paper. The main body of the report is a mere 39 pages in length, not counting an 8-page executive summary and 11-page financial appendix. Within those 39 pages, subjects of great importance and complexity are "analyzed" in a few pages. Trends within the $400 billion electronics industry, for example, are addressed in three pages; the "missiles and space" industry is disposed of in five paragraphs.

The general tone of the report is descriptive rather than analytical, and the quality of descriptive content is not much better than what would be found in a good newspaper. The text is replete with judgments that are not supported by data or explanation. For example, the report states (on page ES-3) that planned aircraft procurements will be "sufficient to sustain an adequate military aircraft industry," although the report contains no criteria for determining adequacy other than the circular definition, "adequate at the procurement levels for which funds are available" (page ES-2). In effect, the report says that planned levels of procurement will be adequate to support planned levels of procurement.

2. The report's focus is too narrow

The basic focus of the defense industrial base report is on the ability of prime contractors to satisfy projected levels of demand for major military systems. The report does not address the subtier contractors and suppliers that support the primes nor does it confront the possibility of a crisis requiring a surge in production of military items. With regard to subcontractors and suppliers, the report essentially dismisses the problem of subtier erosion by stating that "the large number and diversity" of defense firms "preclude this report from addressing the condition of the entire industrial base in detail" (page ES-1). Nine pages later, the report concedes that "planned budget cuts will have a significant impact on some subcontractors and vendors, particularly those which are smaller, more highly specialized, and heavily dependent on defense sales" (page 1-2). Despite that admission, no effort is made to determine what impact this will have on the industrial base.

The problem of surge capability also receives no attention. For instance, the report's discussion of combat vehicle production concludes that "the existing level of capacity will not be required in the 1990s," and argues that "layaway or mothballing portions of the base is more cost effective than retention of private facilities at low, less efficient rates of production" (page ES-5). Cost effective it may well be, but in a national emergency this strategy might cause serious problems. The report offers no analysis of how quickly the work force or supplier base necessary to manufacture combat vehicle could be reconstituted in a crisis.

3. The report does not provide key data

The report says in the second paragraph of its executive summary that "the flexibility, vitality, and responsiveness of the industrial base should not be underestimated" (page ES-1). Regrettably, the authors seem to take the view that it should not be estimated at all; the report fails to provide a framework

of data that would enable Congress to determine how resilient the industrial base actually is. For example, the report states that in assessing defense companies' financial health, "DOD is primarily concerned with the capability and responsiveness of their defense-oriented segments" (page 3-2). However, it does not report segment data for most of the companies it examines, instead relaying on corporate-level data that says little about the viability of key defense operations. The report is full of such omissions:

On page 3-20, it states that "the ability of military aircraft companies to adjust to budget reductions will depend increasingly on the health of the commercial transport market;" the report says nothing about that market's future development, despite the ready availability of projections.

On page 3-6, it states "the helicopter sector will be able to support DOD's production needs, and continued participation by the four domestic producers in the DOD industrial base is expected"; no data supporting this statement are provided.

On page 5-4, it states that "if the goals of the civil-military integration are achieved, a defense-unique industrial base would be necessary only in those areas where specialized defense capabilities are required"; no estimate of how extensive or critical said areas are is provided.

These statements reflect more than mere superficiality. They suggest that DOD lacks the data to conduct credible analyses on important issues such as financial trends, subtier erosion, economic impacts, surge capability, and so on. The report thus seems to confirm the fear of critics that DOD is making major policy decisions without knowing their long-term consequences.

4. The report employs poor methodology

The authorization act mandating the defense industrial base report specified that the report should include an analysis of the financial ability of defense companies to meet future DOD needs for critical technologies and end-use items. As a result, much of the report is an attempt to determine the profitability of defense contractors and assess the impact of program terminations on their future capabilities. Unfortunately, lack of necessary data and analytical sophistication result in a methodologically primitive assessment that does not yield meaningful results.

The report's authors do not appear to be conversant with any of the recent literature on how to calculate and compare corporate profits. At the very least, such calculations should determine companies' returns on investment (assets and/or equity) and compare them with those of alternative investments. They should also evaluate the relative risk involved in defense activities as opposed to alternatives, and adjust profit comparisons to account for the impact of different risk levels on companies' cost of capital. None of this has been done in the report. Instead it offers misleading comparisons of revenues, earnings and debt over a limited time period, for the most part using corporate-level data that thoroughly obscures the actual profitability of defense activities. Furthermore, it fails to compare the returns from defense activities with those available from alternative investments to determine whether companies have an incentive to remain in the defense business. The report's financial analysis is thus methodologically inept, and does not yield useful results.

5. The report is not candid

The executive summary of the defense industrial base report asserts that defense agencies "are collating industrial base data and assessing the industrial impacts of their decisions so that critical capabilities are not lost during this period of downsizing." However, on October 10, 1991, one month before the report was issued, DOD director of procurement Eleanor Spector told a technical symposium in Washington that:

"The department will continue to award to the contractor who offers the best value for the procurement in question. Such decisions are already complex enough. We will not further complicate them by trying to factor in the consequences of the selection of a contractor for the overall structure of the industry."

The seeming contradiction between these two statements underscores yet another deficiency in the industrial base report. The tone of the report suggests that in addition to the many things about the industrial base that DOD managers do not know, there are some things they do not want to know—i.e, things that would require them to become involved in shoring up declining sectors of the economy. For example, the report's discussion of the shipbuilding industry contains (on page 3-15) the following nonsequitur:

"The loss of suppliers and vendors has led to a number of sole-sourced items, including large diesel engines. Other key components, such as crankshafts and turbochargers for large diesel engines, now are available only from overseas. Despite these trends, an adequate industrial base is now in place to support DOD demands. * * *

This passage in effect says the U.S. cannot build certain classes of ships without foreign support, but denies that poses serious consequences for the industrial base. The report is full of similarly questionable statements about the aircraft industry, the electronics industry, and various other sectors of the industrial base. The author is seem intent on avoiding discussion of issues that would raise uncomfortable economic policy questions.

RECOMMENDATIONS

The 1991 defense industrial base report is not a competent effort. Its treatment of key issues is superficial, its analytical focus is too narrow, its data are incomplete, its methods are unsophisticated and its conclusions are unwarranted. I order to prepare a more adequate report, the Defense Department's senior managers must consider seriously the concerns that led Congress to mandate the preparation of an annual industrial base assessment. Assuming the necessary change in attitude at DOD, the following specific steps will greatly improve the report's informational value and policy relevance:

1. Broader Focus. DOD needs to develop a method for monitoring the health of key subtier contractors and suppliers. Until it extends its inquiry below the level of prime contractors, it will not be able to draw meaningful conclusions about surge capability, foreign dependence, trends in innovation and the like.

2. Better Data. DOD needs to establish a program for routinely collecting segment data on major defense contractors and evaluating their returns according to standard measures used in the financial community. A suitable model for such an effort is set forth in General Accounting Office publication NSIAD-87-175, "A Proposal for a Program to Study the Profitability of Government Contractors."

3. Improved Methodology. In the absence of a carefully conceived profit analysis such as that set out in the GAO publication, the Defense Department will not be able to offer definitive judgments on the adequacy of profit levels. However, even using existing public sources it is possible to collect much more segment data that the current report contains, and apply much more sophisticated measures of comparative profitability.

4. Greater Objectivity. The 1991 defense industrial base report carefully avoids addressing problems that might require extensive government intervention in the economy. This is certainly understandable, but as long as DOD's inquiries on the industrial base are limited by its policy preferences, it will be impossible to fully understand the condition of the defense industrial base.

The latter problem suggests that responsibility for the annual industrial base report might be more usefully vested in an agency that is insulated from political currents such as the GAO or Office of Technology Assessment. If DOD is to remain the responsible agent for preparing the report, it may be necessary for Congress to provide the Pentagon with a far more detailed road map of what it wants, to prevent a repetition of the 1991 report's deficiencies.

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, February 3, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for the opportunity to comment on the November Department of Defense Report on the Defense Industrial Base and for indulging me with some extra time to study it with care. Enclosed with this letter you will find my review of the report in detail.

In sum, I found the report to be lacking to a significant degree. We need much better analysis if we are to develop effective policies and investment strategies for the defense industrial base.

We are grateful for your continuing concern for this important element of our national security strategy. CSIS will continue to be active in this policy area and I look forward to working with you in the future in that regard.

Sincerely:

JAMES A. BLACKWELL, Jr.,
Director, Political Military Studies.

A REVIEW OF THE NOVEMBER 1991 DEPARTMENT OF DEFENSE REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE

February 3, 1992.

James Blackwell,
Director, Political Military Studies, the Center for Strategic and International Studies, Washington, DC.

Overall, the November 1991 report by the Office of the Assistant Secretary of Defense (Production and Logistics), is the first attempt by DoD at assessing the ability of the defense industrial base to meet the demands of national security strategy. This was no easy accomplishment since in the past the department has resisted conducting such analyses and since the strategic environment has shifted so dramatically in very short order. However, the report falls short of addressing the details of the statutory requirement to consider the factors specified in the letter of the law. Moreover, since the submission of the defense Industrial Base Report, the president's budget request for 1993 has presented a significant number of new acquisition approaches and program terminations which, collectively could render portions of the report now invalid.

There are a number of strengths to this first effort. First, it is absolutely imperative

to take a sectoral approach to the assessment of the defense industrial base, as the report does. DOD is involved in over 200 industrial sectors, as defined by the Commerce department, and the structure and performance of each sector varies greatly. DOD recognizes that its programs and budgets have different impacts across the spectrum of industrial sectors it is involved in. Future versions of the report should be expanded to consider sectors at least as important to defense such as ordnance, ammunition, computers and others.

The second strength to the report is that it recognizes that DoD programs and budgets cannot become a surrogate national industrial policy. The report rightly acknowledges that defense programs will become even less able to leverage national economic competitiveness as defense budgets continue to decline:

"* * * DoD's ability to foster U.S. industrial capabilities has diminished as industrial base issues increasingly center on non-defense concerns and as the defense budget—DoD's primary form of leverage—continues to shrink from recent peak spending levels." (p. 3-20)

While there are certain spin-off advantages to the commercial economy from defense investments, meeting the mission of the Defense Department—to win the nation's wars—must continue to be the sole function of defense industrial base policy.

But in spite of these strengths, the report is not an adequate assessment of the defense industrial base and is in need of major improvement if it is to be useful in making and implementing policy. For starters, in assessing the business health of the industry, the report oversimplifies the analysis by failing to disaggregate defense from non-defense businesses within a given corporation. The issue here is not the financial health of any particular company, rather it is the performance of the industries themselves in responding to defense needs. In many cases strong commercial performance in a large firm with both defense and non-defense enterprises can mask underlying weakness on the defense side. Diversified firms sometimes maintain defense components as a matter of corporate strategy (for cash, access to technology, or other reasons) even at a loss, yet such performance will not show up in the corporation's bottom line. The point in that simply comparing corporate annual reports can be akin to comparing apples to oranges unless a detailed analysis is made of the cost accounting procedures employed and reporting processes used. There is no explanation in the DoD report to demonstrate that such differences have been taken into account.

The report identifies two sectors in which the services have identified potential industrial base problems in the near future: Navy shipbuilding and Army combat vehicles (p. 3-1). In both cases the report argues that:

"* * * DoD believes that a sufficient industrial base capability to meet current and planned requirements will be retained in both cases. Even where facilities are not needed or cannot be economically operated under prevailing conditions, some potential for them to reenter the defense market to meet future needs will exist; and where necessary, those facilities can be retained in a mothballed status." (p. 3-1)

But this begs several questions.

First, it casts the DoD requirements in terms of current procurement programs. Since those programs soon go to zero it is trivial to conclude that the industry can meet a requirement of zero. The problem is that the report does not address the strategic requirements on the industry for the future. Nowhere does it mention what kind of industry structure will be needed for reconstitution purposes. Nor does it address how RDT&E programs can sustain industrial capabilities for future production.

Secondly, the report fails to cast the potential for later reentry into defense markets in terms of future costs and risks to do so versus present spending for "insurance" type programs. There are trade-offs among the programs mentioned—economic production rates, mothballing production facilities)—and others specified later in the report (expanded exports, product improvement, and low rate production for RDT&E purposes)—and each option has an associated cost and risk. These are complex optimization problems and the DoD report shows no evidence of having attempted them in this report.

Finally, the report is inconsistent with the conclusions of the March 1991 Joint Military Net Assessment of the Chairman of the Joint Chiefs of Staff. Without going into detail, the Chairman's report, on pages 5-3 through 5-11, expresses concerns with the abilities of the industrial base to meet future strategic needs, in contrast to the optimism of the November 1991 DoD report. Some examples from the Chairman's report illustrate the point:

"* * * there are concerns about the continued vitality and responsiveness of our resource base and the ability to compete with foreign countries." (p. 5-3)

"Defense contractors will likely downsize, diversify, be purchased by foreign firms, or cease operation, virtually eliminating excess and timely expansion capacity." (p. 5-4)

"In the future, the number of major contractors for shipbuilding, nuclear power propulsion units, and combat vehicles may shrink to unacceptably low levels." (pp. 5-4—5-5)

"The loss of sub-tier suppliers * * * is a threat to our ability to field state-of-the art weapons systems on a timely basis." (p. 5-5)

At a minimum, the DoD report should address the needs of the defense industrial base in terms of the requirements of strategy, as does the JMNA, even if it differs in the particulars of the assessment. At best the two documents should be consistent and complementary.

The DoD report cites programs such as MANTECH, facilities modernization and the Title III of the Defense Production Act as examples of the department's commitment to ". . . ensure that required capabilities are maintained." (p. 3-1). Indeed, later (p. 5-3) the report refers to a new initiative—the national defense manufacturing Technology Program—currently undergoing review in the Joint Strategic Planning Process, as a mechanism for sustaining that emphasis. But the real test here is the level of funding assigned to such programs to have confidence that the successes achieved (such as the Title III DPA projects cited on p. 4-4) will be expanded in the future. DoD's track record in funding such programs is dismal. The FY 92 request was a $200 million cut from the already low level of investment in FY 91. There is no information yet on funding requests for the FY 93-97 program years, but a healthy measure of skepticism is in order.

GENERAL DYNAMICS CORP.,
Arlington, VA, January 29, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your recent letter seeking my assessment of the November 1991 Department of Defense Report to the Congress on the Industrial Base.

As you may know, this report has drawn some criticism as being too positive and not adequately focusing on future needs and requirements and the financial health of the defense industry. Although the report's conclusions may be correct as an assessment of today's industrial base, it does not adequately anticipate the impact to the industrial base of companies leaving the defense business. Further, it fails to address what is needed to maintain the viability of those firms which choose to stay.

The report's analysis focuses on industrial base issues raised by projected reductions in defense spending and concludes that survivability will depend in large measure on companies' ability to shift from defense to commercial production and then back again. This is too simplistic a conclusion.

The report recognizes the importance of DoD taking appropriate action to ensure continued availability of companies essential to technological or production capability. However, this cannot be accomplished without an attractive marketplace and DoD has an important role to play here. DoD must recognize that it must do its part to make the defense market an attractive place for those companies which remain. For example, R&D levels must be appropriately maintained or increased, contractors must be able to expect reasonable returns and reasonable risk and the government should take steps to discourage excess capacity and inefficiency.

The intent of this report was to address the issues raised by the reporting requirements in the 1991 National Defense Authorization Act. For the most part, the report accomplishes this narrow goal. However, more focus should be given to how the government can address the effect on the industrial base as excess capacity diminishes and how to retain financially strong suppliers with technological leadership.

Thank you for the opportunity to provide you with my thoughts.

Sincerely,

ALAN C. CHASE,
Senior Vice President,
Government Relations.

ARLINGTON, VA,
February 20, 1992.

MR. ANTHONY CORDESMAN,
Office of Senator JOHN MCCAIN,
Senate Russell Office Building, Washington, DC.

TONY: Enclosed please find papers prepared by our people in Bethpage.

After reading, I would appreciate a call to me, or the prime author of the paper—with your comments.

Author: Mr. Ron Smith, 516-346-3734, Grumman.

Thanks for everything.

GORDON OCHENRIDER.

COMMENTS ON "REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE" NOVEMBER 1991

SUMMARY

The subject document is a restatement of DoD's "Laissez Faire" policy: let the industrial base evolve to one occupied by those strong enough to survive. It suggests that there really is not an industrial base problem because DoD investment levels in the 1990s will not be any lower than they were in the 1970s. Furthermore, companies can make up for lost business through commercial and foreign sales.

Most DoD aircraft, missile, ship, tank and vehicle manufacturers do not have complementing commercial product lines or an adequate foreign market. Because real unit costs of DoD products have been rising 3–10% per year for the last 30–40 years, each investment dollar in the 1990s will only buy one-sixth (on the average) of what it would buy in the 1960s. DoD has not altered specification standards to enable the use of commercial components and technology transfer policies to allow Defense products to be sold overseas.

Now that the Cold War is officially over, DoD has an opportunity to prevent wholesale departure of companies from the defense industrial base. This will require an active policy by DoD to:

Define missions and prioritize technology needs.

Convert many specifications to commercial equivalents where possible.

Adopt the Commerce Department's technology transfer policies.

Encourage teaming with NATO partners treating them as equal rather than secondary members.

Replace the "prototyping without production" policy with an economically viable R&D-to-Production Mix.

Streamline and reduce documentation requirements.

Develop a more flexible and constructive relationship with industry.

Recognize that free market forces do not apply to a monopsony, and formulate a clearly articulated Best Value policy.

These actions would mitigate past DoD practices which have segmented the private sector into two economies and corresponding technology bases: defense and non-defense. This has hindered the integration of the latest technological innovations into DoD procurements and has inhibited the commercial efficiency and profitability of firms that have significant weapon systems procurement programs with DoD. It has also contributed to a situation in which 70 percent of the total R&D investment of the federal government goes to support 6 percent of the GNP. This places the defense industries, and the nation, at a disadvantage with respect to international economic competition.

The DoD report ignores certain fundamental contradictions in the proposed policy. The proposed DoD policy:

1. Relies on firms being both commercial and military, but recognizes that historically dual-use firms have been driven away from DoD.

2. Presumes demand (money) will always attract enough suppliers and that these suppliers will be fully suited to meet DoD requirements on demand.

3. Disclaims DoD responsibility for integration of DoD and commercial use but relies on it happening.

4. Ignores the difference between dual-use technology and dual-use products.

5. Treats the manufacturing base as a subset of the technology base despite radical differences in skills, tools and resources between the manufacturing and research components.

COMMENTS ON "REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE" NOVEMBER 1991

ANNOTATED COMMENTARY

Statement (ES–1/Line 8): "The nation's recent experience in Desert Storm showed that the industrial base has the ability to accelerate production on short notice, identify and modify alternate items for defense use, and divert capacity to expedite the delivery of emergency buys."

Comment: DoD assumes that the results of Desert Storm indicate that the industrial base has the ability to accelerate production on short notice. This hypothesis is correct, in the Desert Storm example, which benefits from an industrial base that is in production. Given the complexity and sophistication of today's weapon systems, start-up of a closed production line on short notice is impossible.

Statement (ES–1/Line 18): "The future composition of the industrial base will depend on actual DoD spending levels . . . and (defense-related firms') commitment to continue as defense suppliers."

Comment: This is true as far as it goes. Defense suppliers became decreasingly interested in defense business during the Reagan buildup years due to onerous DoD procurement policies, many of which are still being followed. In fact, from 1982 to 1987 some 100,000 suppliers departed from the industrial base from 138,000 to less than 40,000. In 1988 and 1989 there were 33 significant divestitures of defense electronics firms by multi-industry companies, with foreign firms among the buyers. It's clear that more and more companies are finding the DoD to be an unpleasant customer. There has to be a clear commitment by DoD to industry that would encourage defense firms to remain committed to it.

Statement (ES–1/Line 26): "DoD defines its industrial base as the capacity of industry to produce goods and services that DoD needs to meet its mission requirements."

Comment: This statement neglects to add "in a timely and economically viable fashion." Of the 10 significant segments of the GNP, national defense is the sixth largest contributing only 5.3% to the GNP. Furthermore, it is the only segment showing long term real decline since 1989 (−3.85% real). It is intuitively obvious that as the sector declines in size, its capacity to produce goods and services in an economically viable fashion will diminish. Furthermore, this definition ignores the relationship between private industrial capability and Government resources. In some cases the Government has now become industry's competitor. Government facilities are competing for and/or being given industry work, e.g. mods, overhaul, repairs, testing, design. A policy must be clearly articulated to assure industry support of the DoD mission requirements.

Statement (ES–2/Line 9): "In contrast to the commonly held perception that the DoD procurement budget will fall to historically low levels in the mid-1990s, current and projected defense spending will be maintained at roughly the levels that were experienced during the 1970s."

Comment: Procurement budget authority (in 1991 $) has been higher than the proposed 1993 level in 37 of the 42 years since the beginning of the Korean War (excepting 1955, 1956, 1974, 1975 and 1976). With estimated real declines of 3.5% per year in the future decade, it is expected that 1996 levels will be the lowest in 45 years. The "commonly held perception" is a truth.

Figure ES–1 (ES–3): "DoD Budget Trends"

Comment: The selection of the 1973–1993 time period truncates the timeline and omits further projected decreases in the Total Obligation Authority, especially in the 1995–1997 time span.

Statement (ES–3/Line 7): "The moderate increases in total aircraft procurement forecasted * * * will be sufficient to sustain an adequate military aircraft industry * * *. Commercial and export sales will be the primary means for aircraft industries to offset lower DoD sales."

Comment: Most industry watchers believe that there will be only three fixed wing prime contractors by the end of the decade (MDC, GD, Lockheed) and two helicopter primes (Sikorsky, Boeing or MDC (depending on the fate of the RAH–66)). Only one of the three is forecast to have both foreign and commercial aircraft sales during the period. The reason is DoD emphasis on quality vs. quantity; unit costs of fixed wing combat aircraft and helicopters have been rising at 6–10% per year in real terms since the late 1960s. Over a 30-year period, this means that the same procurement dollar will buy only 13% as many helicopters or only 6% as many Navy fixed wing aircraft or only 10% as many Air Force fighters. It is clear that companies cannot operate efficiently using only 6–13% of their capacity. One could also argue that rather than having the 12 aircraft firms of the '50's we only need 6–10% as many, or just one.

The study also treats the technology for all fixed-wing aircraft—from Tankers to Fighters to Airlifts—as fully interchangeable. This disregards numerous critical technologies required by the various aircraft types.

Statement (ES–4/Last Line): "over the long run, the Navy's shipbuilding program is projected to be cut in half, but an adequate industrial base is expected to remain responsive to DoD demand."

Comment: Like aircraft, real carrier and submarine unit costs have risen 2.4–3.6% per year over the last 30 years and lately have risen over 6% per year. Submarine production at GD will soon end, leaving only Newport News as a viable nuclear shipyard.

Statement (ES–6/Line 19): "(DoD's Critical Technologies Plan) explicitly addresses the manufacturing technologies required to transition a technology to a product that can benefit DoD."

Comment: DoD's "commitment" is paltry. In the 1991 budget Congress added $150 million to DoD's $265 million request for manufacturing technology. In the 1980's, DoD spent only about $200 million per year (1991$) on this technology (about 0.2% of its investment budget).

Statement (ES–7/Line 5): "* * * free market forces will guide the industrial base of tomorrow. The ability of the base to meet future DoD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required."

Comment: This statement is the Administration's policy of "Laissez Faire." DoD is a monopsony, and its suppliers are controlled as an oligopoly. Free market forces are nonexistent in this economic/political environment. To make matters worse, the current policy is being enacted in an adversarial environment. The study does not cite any actual examples of companies which have shifted back to defense after successful commercialization, nor does it address the price premium such a contractor might command.

As Mr. Aspin stated in a recent speech, "This suggests there will be a kind of industrial triple somersault out of and back into the defense business. Why we should expect such a thing to happen is unclear. Why would anyone in their right mind go through the pain and expense of conversion and then go back to defense?"

Statement (ES–7/Line 21): "These actions are complemented by the preferential funding of those critical technologies that are most important to future forces."

Comment: DoD's 1991 Critical Technologies are, with five (out of 21) exceptions, common

to so-called Commerce and National critical technologies. But the DoD bureaucracy has yet to put in place policies that enable commercial specifications to be applied to military use. So-called dual-use technologies are almost non-existent (only 10% of DoD's 35,000 standard specifications allow commercially developed products without exception). DoD relevancy requirements limit the pursuit of dual-use technologies, contrary to the stated objective of promoting commercialization.

DoD has recognized the shortcomings of its "Critical Technology" plan and is just now beginning to determine (through its seven Science and Technology thrusts) which technologies are needed for which missions. But it has yet to prioritize its missions in the context of the changes in threats and missions.

Statement (3-1/Line 16): "Even where facilities are not needed * * * some potential for them to reenter the defense market to meet future needs will exist; and where necessary, those facilities can be retained in a mothballed status."

Comment: This statement contradicts the historical reality that companies which exit the Defense market have not reentered. The concept of "mothballed status" is not specific. DoD cites no active plan for implementing such an initiative. This statement also fails to address the human resources required to operate such a facility. A mothballed plant is of no use if the entire workforce has been displaced.

Statement (3-1/Line 27): "For example, through an increased budget share to * * * (initiatives) * * * DoD is working to ensure that required capabilities are maintained.

Comment: The specific initiatives cited—increased budget share in RDT&E, Mantech, IMIP, Defense Product Act Title III—account for very nominal dollar amounts which are probably inadequate to "ensure that required capabilities are maintained." The projected R&D funds alone will not support the required capabilities without concurrent funding of a contracted business base for goods and services. An evidence of this is the recently announced Lockheed decision to defer construction of a new $60M facility for its Advanced Development Company.

Figure 3-1 (3-3): Shows aircraft procurement TOA rising in real terms from '91 on.

Comment: In the latest budget, aircraft TOA will decline by FY'96 to only 27% of its peak level of FY'85. This is more than the reductions that "effectively cut DoD aircraft purchases in half." The number of aircraft fixed wing combat units purchased in 1996 will be only 18% of 1985 levels. The validity of assumptions regarding TOA for Bombers (e.g., B-2) and aircraft/tankers (e.g., C-17) is questionable.

Statement (3-4/Line 9): "In contrast to Boeing's recent success, the five other military aircraft companies have experienced recent problems with contract work, resulting in less than desired financial performance."

Comment: This statement recognizes the economic reality of defense contracting profitability. This is in contrast to the balance of the report, which presumes that companies would desire to shift back to Defense (e.g. Pages ES-7). Furthermore, the implication that Boeing was financially successful in defense contract work contradicts its CEO's public statements.

Statement (3-5): "Although these contracts have been used for several major system development programs, cost overruns have had severe financial consequences. These contracts are no longer Government practice for significant development programs."

Comment: The study provides no detailed analysis of its Military Aircraft Company Financial Trends (Figure 3-3) to adequately assess the impact of cost overruns on fixed-price development contracts. The study assumptions must be analyzed to assure that the full long-term effects of the A-12, P-7, etc. development cost impacts are adequately addressed.

Statement (3-6, 3-7): "F-22 will provide * * *, AX will offer *-*-*, Comanche will give *-*-*"

Comment: The Navy's AX program may not be affordable as evidenced by DoD halving development in its proposed 1993-1997 plan, and DoD is already deferring production of the Comanche (LH). Only Lockheed, MDC, GD and Sikorsky are assured of meaningful production programs in the near term (through 1997). Of these, only MDC has prospects for sales from commercial programs.

Statement (3-9/Footnote): "LTV has not been included because it is now in Chapter 11 bankruptcy proceedings."

Comment: What is the purpose of excluding LTV from the sample of Missile and Space companies? The conclusion that the "contractors have shown considerable financial strength" is inevitable if any contractor exhibiting financial weakness is excluded.

Statement (3-10/Line 7): "Rockwell International accounted for half of this decline—both by implementing a corporate plan to develop commercial business and as a result of its declining B-1B sales."

Comment: The Rockwell International example cited by DoD may not be a true example of successful diversification. Much of Rockwell's commercial business is in the automotive sector, a core business which predates the acquisition of North American Aviation. This case should be examined more closely to understand the true governmental-to-commercial mix and the degree to which an active diversification strategy was implemented.

Statement (3-11/Line 16): "Alliant Techsystems and ESCO Electronics were recently spun off from larger electronics firms that wished to reduce their involvement in defense."

Comment: In fact, there were 33 significant divestitures of defense electronics firms by multi-industry companies in 1988 and 1989. Those companies saw that the defense industry was no longer attractive.

Statement (3-12/Last Line): "* * * the Navy has cut in half its planned buy of ships through FY97, to an average of less than ten per year."

Comment: The Navy funded 23 ships in FY90, 24 in 1992, but only 6 in 1993. The average annual buy for 1993-97 is 6, of which only half are warships.

Statement (3-15/Line 5): "* * * an adequate industrial base is now in place to support DoD demands and oversight of the (shipbuilding) sector will continue to ensure critical capabilities are maintained."

Comment: The statement is questionable given the precarious financial state of Electric Boat. Furthermore, the beneficial effects of DoD "oversight" of shipbuilding (or any other sector) is not evident.

Statement (3-20/Line 19): "Reduced dependence on DoD through expanded commercial or export sales will be an essential step for many defense-related firms in maintaining profitable businesses, * * *"

Comment: The report pervasively assumes effective diversification and shifting from defense to commercial production by defense firms. However, DoD cites only one historical example of such shifting via successful commercialization (Rockwell International) and even this example (Page 3-10) is questionable.

From 1986-90, foreign military sales accounted for less than 9% of U.S. military production. Since the DoD production outlays will drop (in real terms) by 38% in the period 1993-97 (to an average of $56B in '91$), foreign sales would have to become five times as large to make up the difference. This is an impossibility, since foreign defense budgets are also declining and countries are facing their own industrial base problems.

Statement (4-1/Line 6): "The globalization of defense-related business has been recognized by DoD and is an essential element of its international programs and acquisition policies."

Comment: On the international scene, DoD is not consistent in its statements and actions. It touts offsets yet restricts transfer of technology; it promotes foreign investment, yet will not allow it in specific cases; for example, due to political outcry the sale of a major share of McDonnell Commercial Company to Taiwan Aerospace is far from being concluded.

The entire international section deals only with those companies that have product approval for exports. Where new opportunities are concerned an enormous amount of scrutiny is given to the most casual of discussions. Sale of today's weapon systems, even to our closest Allied countries, is beset by DoD bureaucracy.

Statement (4-2/Line 30): "The defense industrial base depends on a national commitment to promote U.S. firms."

Comment: While the statement is true, active U.S. Government support of defense exports has been erratic as illustrated in the lack of a U.S. policy in support of U.S. contractor participation at international air and trade shows. Assistant Secretary of State Richard Clarke has commented that, "if the Administration is willing to allow defense sales, it should also be willing to promote them."

Statement (4-2/Last Line): "DoD efforts have only limited influence on the competitiveness of the domestic production base, particularly when defense purchases constitute a small and diminishing portion of the market. However, DoD continues to monitor international trends to assure that national interests are protected."

Comment: DoD influence is far more limited in the commercial segment of the production base than it is in the defense segment. Furthermore, the increasing practice of state support of domestic military companies (in Europe, for example) must be closely watched. Minimal U.S. government support of U.S. industries is no match for state supported industries (as in Europe) or in protected markets which lack true international competition.

Statement (4-3/Line 17): "Overseas sources are a vital asset to our national defense, however, there may be occasions when excessive reliance could lead to unacceptable risks * * *"

Comment: (Taken from the Center for National Security Studies of the Los Alamos National Laboratory study on "Reconstitution and the Defense Build-Down").

"* * * Questions about foreign sourcing raise a broader issue which industry staff seems to be facing more rapidly than Pentagon staff: the fact that in many cutting-edge technologies * * * the move from concept to R&D to prototype through product is occurring through the exploitation of a global,

rather than a strictly national technology base. DoD needs first to comprehend the magnitude and character of the globalization of technology capabilities, and then learn how to adapt to a new situation of opportunities and potential threats inherent in a much different technology environment."

Statement (5-2/Line 4): "RDT&E spending will decline modestly in FY 91 and grow significantly in FY92 * * *"

Comment: DoD's tech base (excluding advanced development) is a small (less than $4B per year) fraction of the $40B RDT&E budget, and this $4B is a fraction (about 2.5%) of the total R&D spent in this country. In terms of R&D investment, the DoD tech base is insignificant, and declining. Since there are no significant dual-use technology applications, commercial developments cannot solve the DoD tech base problem . . . unless DoD accepts commercial standards, which it has not and appears to be unwilling to do.

Statement (5-2/Line 12): "* * * the future DoD RDT&E program will place greater emphases on incremental subsystem upgrades, as well as accelerated development and use of advanced manufacturing technologies."

Comment: The very next paragraph emphasizes an approach that depends on "breakthrough technologies" and "technology trump cards." Strategies based upon incremental upgrades are significantly different from those that are focused on breakthroughs. It would be valuable to the industry to have DoD clarify its position, or at least quantify its emphasis on these strategies if they so choose to employ both. Traditionally, incremental upgrades have been the responsibility of the Services, while the breakthrough, high-risk/high-payoff approach has fallen within the purview of DARPA.

Statement (5-2/Line 26): "The addition of Flexible Manufacturing underscores the importance of innovative processes. . . ."

Comment: The addition of Flexible Manufacturing to the 1991 DoD Critical Technologies Plan is a welcome and appropriate first step towards enhancing the integration of military and civilian manufacturing technology and industrial bases. It is encouraging that a broad-based input (including industry representatives) was solicited in the development of the National Defense Manufacturing Technology Plan. With the emphasis on manufacturing technology, it is difficult to reconcile some of the Administration's and DoD's objections to several provisions associated with manufacturing technology that appeared in Title VIII of the Senate Defense Authorization Bill. With all of DoD's stated emphasis on manufacturing technology, it would be of interest to explain the rationale behind the Administration's request for only $97M for DoD's FY '92 manufacturing technology program (down from $315M in FY '91).

A final comment on investments in advanced technologies focuses on the uncertainty and the discontinuous nature of the funding provided by DoD. The situation is a significant deterrent to any corresponding long-range commitment on the part of industry.

Statement (5-3/Line 13): "DoD will increasingly rely on the capabilities of the entire industrial base as defense budgets diminish. This integration must take place at many levels, including the development of dual-use technologies . . ."

Comment: This section recognizes that state-of-the-art product and process technologies are being developed by the private sector. It should be noted that of the 15 (out of 21) Defense Critical Technologies identified as having dual-use applications, Japan has significant capabilities in 11, and leads the U.S. in 5 of the 15 technologies. This situation makes it imperative that we develop a strategy that supports the development, application and deployment of the dual-use technologies. This strategy should include investments in education, worker training, export control, as well as technological and financial factors.

Statement (5-3/Line 27): "* * * access to a broad and healthy commercial sector will allow DoD to maintain the pace of innovation, leverage commercial technology investments, and improve the performance and affordability of its weapon systems."

Comment: Technical data rights are not treated in the report. It would be desirable to implement more fully the provisions of the Stevenson-Wydler Technology Innovations Act of 1980. Furthermore, efforts to implement the Federal Technology Transfer Act of 1986 and of 1989, which mandate greater efforts to transfer technology from the public to the private sector, should be encouraged and widely adopted as one of several mechanisms to integrate the defense and commercial technology bases.

Another data issue which should be addressed is retention of engineering design data and production tooling by the Contractor (in lieu of delivery to the Government). Such a policy would be essential to the concepts of mothballing or re-entry into the base.

Statement (5-5/Line 11): "This guidance will give impetus to the modification of other procurement regulations and will result in the adoption of procedures that are more consistent with commercial practice."

Comment: A significant inhibitor to attracting commercial organizations to participate significantly in DoD R&D programs is associated with the special accounting requirements set up by the military. These requirements are expensive and cumbersome to maintain. This system will require massive changes to achieve the results assumed in the report. DoD must also reduce its reliance on military specifications in favor of performance requirements, non-government standards and commercial item descriptions.

The DoD's directives cited in the report DoDI 5000.1 ("Defense Acquisition") and 5000.2 ("Defense Acquisition Management Policies and Procedures"), are beneficial initiatives which should encourage the use of commercially available products and procedures that are consistent with commercial practices, once DoD has revised lower level standards and specifications to enable use of such practices.

Statement (5-5/Line 11): "DoD has therefore undertaken a major effort to reduce its reliance on military specifications."

Comment: Regarding the efforts in DoD to reduce its reliance on military specification in order to qualify commercial type products, it is unlikely that DoD will accept components that do not meet stock, vibration, dust, etc., requirements for mission critical applications. Prior attempts by the government to implement streamlining and best value have met with limited success. It is difficult to evaluate proposals even when they all conform to a Mil Spec. How does the government evaluate "Best Value" when commercial is quoted?

Statement (5-5/Line 1): "Another important component of encouraging more commercial firms to do business with DoD is to reduce the unnecessary paper work associated with Government contracting."

Comment: Fraud, waste and abuse issues have increased the requirements for documentation, certification, pricing data, etc. It is hard to believe they will be waived.

Statement (Appendix A): "Stock prices are assessed from the period of January 15, 1991 to March 1, 1991. These arbitrary dates signify the beginning and ending of Operation Desert Storm, corresponding to a generally strong increase in the prices of defense industry stocks and the stock market as a whole."

Comment: To what degree does the use of stock prices during Desert Storm (15 January 1991 to 1 March 1991) affect the study results? What effect does this admittedly "arbitrary" assumption have on debt/equity calculations and can such a period be considered representative of a normal economy? The DoD should not be relating debt/equity to stock price movements because the correlation is not good.

HUGHES, SUBSIDIARY OF
GM HUGHES ELECTRONICS,
Los Angeles, CA, January 27, 1992.

Hon. JOHN MCCAIN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: This is in response to your letter of December 10, 1991, to Gordon Merritt of Hughes Aircraft Company's Washington office. Your letter requested a review and assessment of Department of Defense's report on the Defense Industrial Base.

We believe that the Department of Defense report significantly understates the potential problem of maintaining a viable defense industrial base and seriously question some of the assumptions which appear to underlie the report. Principal among these questionable assumptions are:

The inference that industry will be able to shift to commercial sales and then shift back again to readily meet future DoD requirements.

The apparent assumption that an adequate view of the industrial base may be taken by examining only large prime contractors. While we agree that large contractors currently dedicated to defense business will for the most part remain available, although in a downsized fashion, it is not at all clear that critical subcontractors and suppliers will be similarly available.

The apparent assumption that foreign sourcing of components for DoD systems is acceptable without assurance of adequate domestic sources of supply.

The report also makes key observations regarding plans for future mitigation of the problem. While we agree with the thrust of the observations, we question DoD's ability, dedication and/or resource to carry them out. More specifically:

The report observes that International Sales are important to maintaining a viable industrial base. We agree, however, we see little change in the policy and regulatory structure of the United States which tends to impede these sales and certainly does not place our industry on an equal footing with foreign industries who are fully supported and in some cases, subsidized, by their governments.

DoD notes the importance of technology, critical technology and manufacturability of new technologies. We agree, this is an important objective. We question, however, that current apparent funding levels projected for this purpose are adequate.

The report's observations regarding the current and projected financial health of the industry are overly optimistic. The health of

the industry as measured in terms of debt equity ratios has been declining over the last several years as predicted by the MAC Report and the Financial Executive Institute studies in 1986 and 1987. DoD's grudging approval of a 5 percent increase in progress payments in 1991 did little to alleviate this problem.

We agree that Department of Defense must work with industry to manage programs and limited resources as wisely as possible. To us, this means a far more efficient scheme of management and oversight. This is important, not only to conserve resources, but to encourage commercial companies and companies with "dual use" technologies to participate in defense-related efforts. While there has been some initiative in this area, much remains to be done, and DoD and Congress continue to impose regulations and requirements on the defense industry which are nonvalue-added and which further drive a wedge between defense and commercial suppliers.

The observation that current obligated balances will cushion the impact of the defense cutbacks over the next few years is unrealistic. The typical multi-year defense program begins with an intensive engineering phase, evolves to a production phase and concludes with a support phase. Thus different resources and different talents are utilized for each phase. As cutbacks have been occurring over the last two years, front end resources, namely engineering staffs, are already significantly impacted resulting in massive lay-offs of critical engineering talent. Over the next months and years this will be exacerbated by lay-offs in the production and support areas. While some of the engineering resource may be preoccupied by current and future research and development programs, we see no viable replacement for current manufacturing/support program activity. Thus our ability to maintain viable and available manufacturing resources at the prime and at the subcontract level is highly questionable.

We have prepared specific comments on the report itself which follow the order of the report (attached).

We welcome this opportunity to review the DoD report and would be pleased to participate in your efforts.

DONALD L. CASSIDY.

OBSERVATIONS REGARDING INDUSTRIAL BASE REPORT

REPORT REFERENCE AND COMMENT

Executive Summary—ES-1: Recent Desert Storm experience is not a valid test of industry's ability to provide sustained support to a future conflict.

Failure to address second and lower tier subcontractors is a major flaw in the report. This is where serious domestic industrial base erosion is most likely to occur.

Industrial Base Impacts—ES-2: Projection that "current and projected defense spending will be at the same levels experienced during the 1970s" appears unrealistic.

The assertion that the industrial base "is expected to meet all of the procurement needs of DoD and maintain R&D and production at proportional rates" is unfounded.

Aircraft—ES-3: The statement that "commercial and exports sales" for fixed-wing and helicopter industries "will be the primary means to off-set lower DoD sales" is unrealistic. The commercial and export markets are also significantly deflated with intense international competition often supported or subsidized by foreign governments.

Missiles and Space—ES-4: The statement that Missile and Space Sector contractors "strengthened financially between 1987 and 1990" is highly questionable together with the projection that these producers will be financially strong now and will remain so in the future. The fact is that most, if not all of these contractors are deeply in debt and are overfacilitized, thus carrying significant excess capacity as a financial burden.

Electronics—ES-4: The inference that electronics companies will be able to shift to commercial sales, and could readily meet expanded DoD requirements is unrealistic.

We agree that DoD needs "to modify its acquisition practices to stimulate commercial firms to conduct business with DoD," but fail to see concrete evidence of far reaching policy initiatives.

Ships—ES-4: The assertion that in spite of major cuts, "an adequate (ships) industrial base is expected to remain responsive to DoD demand" is highly questionable. The domestic industry is flat on its back and could not, even today, step up to increased demand.

Combat Vehicles—ES-5: Although phrased positively, the comments on combat vehicles are misleading. The fact is, the industrial base is all but gone, and we see no concrete evidence of plans to effectively mothball existing capacities.

Technology and Production Base: DoD's emphasis on technology is laudable. We are concerned, however, that focus on "critical" technologies may overlook less critical areas where we may now be or may become dependent on foreign sources. Further, we are concerned that sufficient money has not been allocated to manufacturing technology to assure that "critical technologies" are, in fact, producible.

Conclusions—ES-7: The conclusion that "DoD needs will depend in large measure on the availability of individual companies to shift from defense to commercial production—and the back again when required" is frightening. There is no evidence to support industry's ability to do this.

The conclusion that "DoD will take appropriate action to assure continued availability" where "DoD is the only or predominate market" might be comforting if one believed that resources were being allocated for this purpose or if one saw evidence of a real program. Neither appears to be the case.

The conclusion that "DoD must work with industry in managing programs and limited resources as wisely as possible" is laudable. We see little evidence, however, that DoD is addressing oversight efficiency in an aggressive manner. In fact, DoD continues to publish regulations and impose requirements on industry which are nonvalue-added and which further drive the wedge between defense and commercial suppliers.

The discussion on "dual use" technologies here and throughout the report is laudatory, however, in a practical sense, until the barriers to integrating defense and commercial technologies are removed, this objective will not be met.

Conclusions—ES-8: The comments that industry will receive benefits from DoD's "new progress payment policy" is an overstatement. DoD's new progress payment policy grudgingly gave an extra five percentage points on new contracts only. This increase may be taken away in 1992. At the same time, the progress payment increase was granted, payments were slowed and so the net affect on cash flow was hardly measurable.

The comment that the services in DLA are preparing production base analysis "from prime contractors to lower tiers" is encouraging. We have seen little evidence of such studies under way.

Reference to a national defense manufacturing technology plan is interesting, however it does not appear that there is any real money behind the plan.

Introduction—Industrial Responsiveness—1-2: More realistically addresses the problem at the subcontractor level than the Executive Summary does.

Industrial Responsiveness—2-1: More realistically addresses the budgetary environment.

Budget Composition—2-3: The comment that DoD's "obligated balance will cushion the impacts of the defense cut-backs over the next few years" is unrealistic. Even though we have obligated balances, industry's activity on programs is time dependent, that is heavy engineering resource up front with manufacturing and support resources at the end, we are already seeing significant cutbacks in our up-front resources, i.e. engineering, and have been suffering all along in manufacturing due to the overcapacity which was developed in industry as a result of disastrous second source programs and unrealistic budget projections of the 70s and 80s.

The comment that virtually all R&D conducted by defense related industries is supported by DoD is only partially correct.

A considerable amount of R&D is conducted at the subcontract level which will be increasingly relegated to commercial endeavor. Much of this may not be convertible to DoD needs.

Industrial Base Impacts—3-1: Comments that "facilities that may be idled,"—"represent a sizable public and private investment in equipment, knowledge and skills" is true. It is also to be noted that these represent an enormous investment on the part of industry which we must carry forward in our overhead rates (or write off against current earnings). In either case, this makes us uncompetitive with foreign industry and inhibits our ability to diversify.

The comment that "sufficient industrial base capability . . . will be retained," and/or that "facilities can be retained in a mothball status" may be true, but at very great cost to industry and government. Certainly industry cannot bear the entire cost of this. We see no evidence that current budgets realistically address this requirement.

The comment that "selective use of industrial base tools" such as industrial facilities modernization, etc., will maintain "required capabilities" does not appear practical. The amount of money available for these projects is extremely limited (versus the potential need.)

Aircraft—3-3: The comment that "the large fixed-wing industry is expected to remain competitive and to continue to support DoD demands into the next century" is questionable. Only Boeing supports this model and their business outlook is continually threatened by foreign competition. With the exception of Boeing, the industry is presently financially weakened and is under tremendous pressure.

Aircraft—3-6: The general comment that "commercial sales" will be "important in sustaining key subcontractors and suppliers" is highly optimistic. It presumes that there will be a continuing high level of commercial sales which is problematic, that domestic subcontractors will benefit which is questionable, and that there is a commonality at the subcontract and supplier level which is even more unlikely.

Electronics—3-10: The comment that electronics companies have "flexibility in adjusting to contractions" and that "hundreds

of active producers will remain available to support defense needs" is highly questionable and not supported by more realistic comments that electronics companies are divesting defense segments and attempting to reduce involvement in defense.

Ships—3-13: The comment that the backlog of defense orders gives shipbuilders a cushion until 1993 or beyond, is highly questionable for reasons noted on page 4.

The observation that U.S. shipyards might become more internationally competitive if "OECD produces an agreement to limit government subsidies" is an enormous "*if*."

Ships—3-15: The comment that ships which accounted for 20 percent of 1989 procurement funding received only 3 percent of RDT&E awards, infers that U.S. ship technology is seriously lagging, which is probably the case.

Combat Vehicles—3-18: The comment that General Dynamics hopes to maintain tank capacity by FMS sales to Saudi Arabia, Egypt and other customers is dependent on U.S. Government ability and willingness to facilitate these sales.

New Industrial Base Possibilities—3-20: Concur in the comment that DoD alone cannot help expand the commercial side of defense industry, but DoD could and should relax certain current rules and policies such as Recoupment of Nonrecurring Costs which inhibit industry's ability to diversify.

International Environment—4-1: Concur in the comment that industry's "ability to compete effectively in world markets will be pivotable to their future," however, we see little cooperation between government and industry to enable such competition and, in fact, see continuing barriers including technology transfer policies and recoupment of nonrecurring costs policies.

Opportunities for U.S. prime contractors to increase their global market penetration" may appear viable to some, but in general, the world market will become increasingly competitive with U.S. industries vying with foreign companies who are subsidized and otherwise enabled by their governments.

International Environment—4-2: The inference that second and third tier components will be provided by foreign partners of U.S. prime contractors is disturbing. We believe this trend is increasing at significant rates and that in the event of a global conflict, U.S. defense systems might be reliant on foreign sources who are not allied with then current U.S. policy.

Foreign Purchases—4-3: We see little evidence of a concerted effort to gain comprehensive information on foreign-sourced items and to determine those cases where there is or may be excessive reliance on overseas sources.

This overseas reliance problem is exacerbated by "foreign sourcing" which clearly leads to foreign dependence.

We believe the problem of "foreign dependence" is much larger than the report would suggest.

Foreign Purchases—4-4: It is encouraging that the Defense Acquisition Board will address foreign dependence on new programs, but what about the programs that are in being today which have already gone through prior DAB approvals.

Preserving Technology and Production: Emphasis on RD&T alone will not ensure producible systems. To some degree, this might be solved by "emphasis on incremental system upgrades" and use of advanced manufacturing technologies" if, in fact, that happens.

The report implies DoD has an aggressive program addressing manufacturing technology. There is, however, serious question that monies will be made available in sufficient quantity to make this happen.

Dual Use Technology—5-3: The concept of dual use technologies is interesting, but it is problematical that such will actually happen and/or that access to a healthy commercial sector will do much to provide a viable defense industrial base.

REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE—COMMENTS REQUESTED BY SENATOR MCCAIN

ASSESSMENT OF THE REPORT

We have assessed the Report from a perspective of fewer system primes as the base inevitably builds down. The remaining primes must maintain their technological superiority, core competencies, and an ability to reconstitute a production base or to provide a "system surge" capability.

The build down should be guided by free enterprise, as the Report suggests, plus strategies supported by policy imperatives.

The attached pages summarize the findings of the DoD Report relative to strategies and policies needed to support technological superiority, core competencies, and a production base.

In general, we find the report supportive in concept of the strategies needed to preserve the base, but it falls short of developing strategies or of being convincing that policies are or will be in place to carry out these strategies.

IMPROVEMENTS TO FUTURE REPORTS

The requirement to perform the analysis at planned investment levels permitted the report to be silent on issues that may arise at lower, and more likely investment levels. Without overburdening the analysis, a downside contingency case should be included.

TECHNOLOGICAL SUPERIORITY

Strategy: Maintain R&D Investment Levels.

Policy Imperatives: Allowability, Profitability, Incentives.

DoD Report: The report describes positive policy steps being taken—new progress payment policy, broader use of award fees, elimination of fixed price development, IR&D recovery—as well as priority attached to R&D funding levels (as a share of the budget).

Strategy: Design Teams.

Policy Imperatives: Prototyping, Product Improvement.

DoD Report: The report does not address maintaining design teams, but indicates an increased emphasis on incremental subsystem upgrades that would help sustain them; prototyping is not discussed.

Strategy: Leverage Commercial Technology.

Policy Imperatives: Dual Use.

DoD Report: The report indicates that "DoD has increased its commitment to dual use technologies" without specifics; it adds a caution that "dual use must be pursued carefully in order to achieve its benefits."

Strategy: International Co-Development.

Policy Imperatives: Technology Transfer.

DoD Report: The report talks to the importance of cooperation but not to removal of impediments (see CSIS Atlantic Partnership Study).

Strategy: Availability of Human Capital.

Policy Imperatives: National Education Goals, Programs, Incentives.

DoD Report: The report is silent on the educational needs of a technology workforce in the longer term.

CORE COMPETENCIES

(Strategies and Policy Imperatives, additive to those for technological superiority, that support system prime core competencies.)

Strategy: Preferred Suppliers.

Policy Imperatives: Procurement Practices; best value.

DoD Report: Policies related to supplier management are not addressed in the report.

Strategy: FMS for Defense System Production.

Policy Imperatives: Balance Export Controls.

DoD Report: Report cites benefits of FMS and notes complex policy issues involved without suggesting linkage of FMS policies to industrial base.

Strategy: Civil Applications.

Policy Imperatives: National Goals (e.g., Space).

DoD Report: Not addressed.

Strategy: Retain Critical Capabilities.

Policy Imperatives: Identify in National Security Policies.

DoD Report: Report states that DoD will take appropriate action to ensure continued availability of an essential technology or production capability for national security.

Strategy: Product Support.

Policy Imperatives: Computer-aided Acquisition & Logistics Support (CALS).

DoD Report: Shifting defense product support from government to industry to maintain core competencies is not addressed in the report.

RECONSTITUTE PRODUCTION BASE

(Strategies and Policy Imperatives, additive to those for technological superiority and core competencies, that support reconstitution of the production base.)

Strategy: Foster Strong Industrial Base.

Policy Imperatives: Support competitiveness.

DoD Report: The report recognizes the importance of competitiveness and the overall health of U.S. industry to future security needs. It does not address policies toward those ends.

Strategy: Dual Use Products (NDI)/Practices.

Policy Imperatives: DoD Acquisition Initiatives.

DoD Report: The report describes initiatives being taken to take advantage of commercial products and practices.

Strategy: Flexible Manufacturing.

Policy Imperatives: Funding and Investment Incentives.

DoD Report: The report describes the addition of flexible manufacturing to the DoD Critical Technologies list, the development of a National Defense Manufacturing Technology Plan (NDMTP), and funding support of related projects. It does not address investment incentives.

MOTOROLA INC.,
Washington, DC, February 7, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Attached are the comments you had requested from Motorola regarding the Department of Defense Report on the Defense Industrial Base and the 1991 reporting requirements. We appreciated having the opportunity to review this document and to forward our conclusions on to you.

If there is anything else we can do, please don't hesitate to let me know.

Sincerely,

JOANN PICCOLO,
Director, Federal and State Government Relations.

COMMENTS ON REPORT TO CONGRESS ON THE DEFENSE INDUSTRIAL BASE, NOVEMBER 1991

This is in response to a request from Senator John McCain. This review focuses on

the portions of the report with potential application to defense electronics.

These comments are organized into three segments: First, general comments on the report; second, more specific comments on Section 5, Preserving the Technology and Production Base; and third, comments on the extent to which the report appeared to comply with public law.

I. SUMMARY COMMENTS ON THE REPORT

We agree with DoD's fundamental strategy to preserve and develop advanced technologies even in the face of significant declines in force structure and attendant procurement outlays. From a public policy standpoint, we believe the Department and the Congress need to continually review the projected levels of defense spending against potential threats to national security, particularly since the current projections for FY 96 have the defense budget at 3.8 percent of GNP, the lowest share of GNP in over 50 years.

The report seems to dismiss the necessity to look in detail into the industrial base by generally concluding that adequately capability and capacity will remain in being. The presumption that conversion to commercial products and international sales will take up slack is probably incorrect. That unique industrial facilities and skills devoted to defense products will diminish or disappear in a shrinking market is inevitable.

DoD makes clear that neither the report nor any existing data base is capable of addressing the subject in specific detail. References were made to a forthcoming Department of Commerce study involving foreign sourcing and vulnerability on three Navy systems. It would be useful to evaluate the results of this study and determine what further action might be appropriate to confirm the general conclusions of the report.

The report relies heavily on an historic financial analysis of major segments of the defense industrial base. What seems of most concern is the future capability of the industrial base. The report contains little assurance in this area. Moreover, the financial analysis for commercial electronics firms appears to be at the corporate level rather than the defense business segments which comprise the industrial base. Most companies evaluate the financial health of their businesses on a segment-by-segment basis, making decisions as to resource investment and corporate support based on the specific contribution of those segments to the overall financial health of the corporation.

Several commercial electronics firms have attempted recently to seek buyers for their defense electronics business segments without success. This is cause for concern as to the level of support which these firms may be willing to provide these segments in an environment where buyers are being sought at "fire sale" prices.

The report is light on consideration of factors other than financial. For example, in the commercial electronics sector there are natural disincentives in terms of federal legal and regulatory compliance risks to a commercial company maintaining a fraction of its business in the defense segment. As the level of defense spending and concomitant participation from their defense business segments fall, corporations will tend to view continued participation in defense as less attractive in view of the current regulatory and compliance climate. DoD and the Congress are not insensitive to these issues and are working closely with industry to streamline various statutory and regulatory requirements. These major impediments persist, however, and will require continued attention.

The report's conclusion that the U.S. industrial base is adequate to support future defense needs seems to be based upon a premise that somehow things will work out considering the initiatives which DoD has undertaken to preserve technology and the production base. For example, DoD highlights the need for "integration" between defense and commercial production and technology. While the report appropriately mentions a number of DoD initiatives to remove some of the regulatory impediments to such integration, we believe that more emphasis needs to be given to this area. In the regard, we generally endorse the recommendations in the Center for Strategic and International Studies report entitled Integrating Commercial and Military Technologies for National Strength, An Agenda for Change, issued March 1991. Despite the best intentions of OSD to remove impediments, the regulatory system has, in our view, been less than fully responsive.

II. SPECIFIC COMMENTS

Reference Section 5. The report appears to place significant emphasis on the use of dual technologies and commercial products as a means to create a broader industrial base in the future for defense support. The problem, however, is that the Government has not made the types of changes to acquisition regulations or removed statutory impediments which would enable that to happen.

Reference Page 5-4, Last Paragraph. There is a statement made that DoD is "pursuing a multi-faceted program to enhance the Department's ability to buy and use commercial microcircuits * * *" What is this program? What is the strategy?

Reference Page 5-5. There is a general discussion about how DoD has changed its official preference from milspecs to commercial or NDI and about its efforts to review and modify existing specs. This is a commendable program which appears to be progressing well on all fronts.

Reference Page 5-6. The report suggests that the new DFARS 211 standard uniform contract will encourage more commercial firms to do business with DoD. That is questionable, however, because DoD has not really gone all the way to minimize contract clauses or ask Congress to reduce statutory requirements which are not compatible with commercial contracting. DoD also states that they are easing requirements for cost or pricing data and streamlining exemption procedures. We have not seen this regulatory revision released in final form. The first version released by the FAR Council did exactly the opposite of what was claimed as beneficial to enhance commercial product exemptions.

III. DEFENSE AUTHORIZATION ACT INDUSTRIAL BASE ANNUAL REPORT REQUIREMENTS

Our review of the DoD report is with the full benefit of hindsight in terms of developing world events since the time the report was requested by Congress. In light of developing circumstances, focusing on historic financial ability analyses needs to be supplemented not only with projections of future financial health, but also by considering other pertinent factors in more detail. Moreover, any report on the health of the defense industrial base would seem to be incomplete without the views of the corporations which make up that base.

In comparing the requirements of subsection (c), Analysis Considerations of the Authorization Act against the coverage in the report, it would appear that in a number of areas more detail and future trend analysis is required to bring the report into full compliance with the apparent congressional intent.

A final point not discussed in the report is that the DoD regulatory system seems incapable of responding to or reacting in any type of reasonable cycle time to the new dynamics of the world economic and national security environment. Attached are several examples. More than anything else, this system must be redesigned since the continuous operation of Parkinson's laws for over forty years have rendered the acquisition regulatory system almost paralytic.

PROGRESS REPORT

KEY FAR/DFARS CASES

1. Commercial Exemption for Cost or Pricing Data

Industry Proposes FAR Changes, Feb. 1989.
Proposed FAR Case, June 1989.
Industry Comments and Meeting with DoD, August 1989.
Section 824, P.L. 101-189, Nov. 1989.
Federal Register Notice, Sept. 1990.
CODSIA Comments, Nov. 1990.
Regulations Not Issued, Feb. 1992.

2. DFARS 211 Uniform Commercial Contract

Section 824, P.L. 101-189, Nov. 1989.
Draft Released, April 1990.
Federal Register Notice, July 1990.
Industry Comments, August 1990.
Interim Rule Effective, May 1991.
Significant Industry Comments Provided, June 1991.
Final Regulations Not Issued, Feb. 1992.

3. Technical Data Rights

Two Different Policies—Civilian/Defense, FAR, June 1987; DFARS, May 1987.
Section 808, P.L. 100-180, Fall 1987.
Interim Rule Followed by Industry Comments, April 1988.
Interim Rule Followed by Industry Comments, Oct. 1988.
Corrected Interim Rule, Dec. 1988.
Industry Meetings with DoD, Jan.-Apr. 1990
Federal Register Notice, Oct. 1990.
Hearings, Oct. 1990-Feb. 1991.
No Add'l Actions by Regulatory Bodies, Feb. 1992.

ROCKWELL INTERNATIONAL CORP.,
Arlington, VA, February 24, 1992.

Mr. TONY CORDESMAN,
Russell Senate Office Bldg., Washington, DC.

DEAR MR. CORDESMAN: Per your request, I am pleased to provide Rockwell's comments on the November 1991 DoD "Report to Congress on the Defense Industrial Base." The report has been roundly criticized in the defense community for its "Darwinian" approach to defense industry downsizing. In our view it is hard to argue with the basic message in the report—the U.S. currently has excess capacity in the defense industry due to drastically reduced demand for defense products; therefore the base will be sufficient to meet future, more limited, defense needs. The problem is the report is very short on specifics regarding how we effectively transition from today's excess capacity to a smaller industrial base that meets DoD's future needs.

We accept the fact that global geopolitical developments and budgetary pressures necessitate a restructuring and downsizing of our defense industrial base. We believe, however, that it is essential that this process result in a defense industrial base that is technologically superior and financially sound. The DoD report concludes:

"In a broad context, free market forces will guide the industrial base of tomorrow. The ability of the base to meet future DoD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required. *In those cases where DoD is the only or predominate market and conditions demand that an essential technological or production capability be maintained for national security, DoD will take appropriate action to ensure continued availability*" (emphasis added).

In our view DoD, at this time, lacks both an adequate plan for identifying cases where "DoD is the only or predominate market" and adequate policies for taking "appropriate action."

We recently participated in the development of an industry statement on the defense industrial base, which further defines some of our views concerning this issue. The statement which I have attached was presented to the HASC Panel on the Structure of the U.S. Defense Industrial Base by Peter McCloskey, President of the Electronic Industries Association. It provides a number of suggested "appropriate actions" which DoD and Congress should consider.

Thank you for the opportunity to present our views.

Sincerely,

C.M. Jones.

STATEMENT OF PETER F. MCCLOSKEY, PRESIDENT, ELECTRONIC INDUSTRIES ASSOCIATION, ALSO ON BEHALF OF AEROSPACE INDUSTRIES ASSOCIATION, CONTRACT SERVICES ASSOCIATION, MANUFACTURERS' ALLIANCE FOR PRODUCTIVITY AND INNOVATION, NATIONAL SECURITY INDUSTRIAL ASSOCIATION, AND SHIPBUILDERS COUNCIL OF AMERICA

Mr. Chairman and members of the Panel on the Structure of the U.S. Defense Industrial Base, my name is Peter McCloskey, President of the Electronic Industries Association [EIA]. I am pleased to have the opportunity to offer this statement to you today on behalf of the major associations representing the U.S. defense industry.

In addition to EIA, these associations include the Aerospace Industries Association of America [AIA], Contract Services Association [CSA], Manufacturers' Alliance for Productivity & Innovation [MAPI], the National Security Industrial Association [NSIA], and Shipbuilders Council of America [SCA].

These associations represent the nation's major manufacturers of aircraft, aircraft engines, spacecraft, missiles, space launch vehicles, naval vessels, defense electronics, and heavy industry, as well as the firms which contribute components and services to these systems.

As this panel has properly recognized, there is not a single monolithic defense industrial base in our nation, but an array of defense industrial base sectors. Each of these sectors has unique characteristics, technological strengths, financial conditions, relationships with the Department of Defense and the need for analysis and decisionmaking as we embark on the restructuring of the defense base. While my statement provides a consensus view of our organizations on the defense industrial base issues before the Panel, I would request that each of the associations I am representing today be given a reasonable period of time to supplement this presentation with additional views providing their sector's analysis.

I want to begin by applauding Chairman McCurdy, and the Chairman of the House Armed Services Committee, Mr. Aspin, for the creation of this panel. By doing so a year ago, you anticipated the defense industrial base issues which will be at the center of the upcoming policy and budget debates. The work of the Panel is creating a substantive record that will both inform and guide this debate on the future of the defense industrial base.

The shift from the monolithic Soviet threat that defined our defense posture in the period since World War II to a series of ambiguous, ill-defined regional trouble spots has occurred with astonishing speed. These developments, in tandem with the tremendous budgetary and deficit pressures at the Federal level, are forcing the restructuring and downsizing of our national defense. The guiding principles in this process must be to ensure that the restructured U.S. defense base is technically superior and financially strong. If we succeed, we will have healthy, though downsized and less numerous, defense firms supporting a viable defense industrial base. This base, in turn, must support a national security program capable of meeting and overcoming future threats to our national interest.

If we are to succeed in this endeavor and avoid the mistakes of the past, all partners in the system must contribute in a coordinated and equitable fashion. The Armed Services Committees will have the principal leadership role in Congress, although important policies falling within the jurisdiction of other committees of Congress must be addressed as well. Clearly the Department of Defense, as well as other departments and agencies, can initiate certain administrative policies to contribute to a rational downsizing plan grounded in our strategic needs.

Industry bears an important responsibility, as well, to contribute to this effort. Significant steps in this regard have already been taken. In recent years we have consolidated internal operations, cut operating costs, and sought efficiencies through mergers with other firms. Quality programs to increase productivity have been developed, and industry has instituted training programs and internal procedures to ensure ethical behavior in the conduct of government contracting.

PRESERVING THE U.S. TECHNOLOGY BASE

Our preeminent technology is the keystone of our defense industrial base and national security program. Industry must have the incentives to continue the fundamental research and development that will sustain this technology base. This technology, in turn, is essential for the next generation of defense systems which will protect our security in the future. The Congress, led by the House Armed Services Committee, took a very important step last year in this regard with its passage of legislation that will lead to full cost recovery of independent research and development expenditures by fiscal year 1996. Congress and industry must monitor the implementation of this law to ensure that your intent is fully and faithfully carried out.

Historically, research and development for defense systems have been threat driven. The single Soviet threat is gone, yet we must push the development of technology to maintain our edge in order to deter new threats as they emerge and defeat them when armed force is necessary. Despite recent positive developments, we still face high technology weapons systems in the former Soviet Commonwealth States. In addition, we risk the continued export of new weapon technology, or the migration of weapon designers to Third World countries. As the threat evolves, future R&D must identify those technologies and generic advanced manufacturing processes which will be critical to the future base and continue to support them. Essential to this effort must be the willingness to DOD to competitively award basic and other R&D contracts to private sector firms, not merely to its own laboratories and other research facilities or to academic institutions which do not possess production capabilities.

REVITALIZING THE U.S. MANUFACTURING BASE

It is widely accepted that the United States has excelled at basic research but is far weaker in the manufacturing processes and procedures for turning this basic research into final products for the commercial marketplace. With disheartening frequency foreign firms have taken technology developed in the United States, transformed it into commercially marketable products, and sold it back to us. Loss of market share, entire industry sectors and United States jobs have resulted.

In order to regain market share, a viable manufacturing industrial base capable of quickly bringing competitive products to market should be strengthened. Greater awareness of manufacturing's role in the product design cycle, recognition and funding for manufacturing process technology, and emphasis on its importance is needed in achieving affordability goals. To foster advances in U.S. manufacturing processes for defense and commercial markets, increased cooperation in manufacturing technology planning and demonstration should lead to an increased emphasis on manufacturing processes up-front in the product development cycle. The Congress and DOD must sustain their support for the manufacturing technology programs in the services, for the industrial modernization incentives program, and for Title III of the Defense Production Act. We must support process technology to the same degree as we support product technology. In fact, many of the national critical technologies identified by the Executive Branch are process rather than product-oriented.

We are aware that the House Armed Services Committee has created a second panel on manufacturing, chaired by Congressman Hertel. We anticipate full committee attention to the recommendations of both panels. We will be working with Mr. Hertel, Chairman of the Manufacturing Panel, as well.

PRODUCTION POLICY ALTERNATIVES

The impending changes in our national defense program clearly will result in new approaches to acquisition policy. There will be fewer new program starts and many programs will experience smaller production runs. DOD has announced its intention to pursue an approach to acquisition that will emphasize reliance on R&D without ever transitioning systems to production. This approach has been described as "rollover," "prototyping," and other terms.

It is important to understand from the outset that there are two types of prototyping. The first is a technology demonstrator that takes the program through concept validation but never enters production. The second example of prototyping takes the validated concept and builds enough low rate initial production items to ensure that the laboratory concept functions in a real world environment. Major hurdles in system development are encountered in this movement from R&D to limited production. It is here that performance problems are identified and resolved, feedback is re-

ceived from the user community and the mature system design is fixed before moving to full rate production. Minimally, prototyping must move through this second phase to permit the necessary evaluation and modification of the system. As Lockheed Corporation Chairman Dan Tellep stated recently, "Prototypes for prototypes' sake will just produce a lot of museum pieces."

Moreover, the use of prototyping or rollover raises major questions regarding program funding. Historically, contractors have invested significant resources of their own through their independent research and development programs and cost sharing with the government during the R&D phase. Theoretically, these investments are returned as profit earned in out-year production. In reality this frequently is not the case. With limited production or prototyping this will not be possible. The government, therefore, should expect to see contractors bid a fair price for these research contracts to ensure adequate capital for necessary investment.

Dual sourcing is another issue that must be examined in light of the new production environment. Mandatory dual sourcing was one facet of the broad policy push in the 1980's for competition as a means of controlling program costs. Work completed recently by the GAO examining a number of DOD dual source procurements found that they cost more money than they would save in terms of competition. Misapplied dual sourcing forces industry to maintain excess capacity at a time when we clearly must eliminate unneeded plant capability. Congress should ensure that the Department and the contractors have the flexibility they need to approach systems production wisely and economically.

DIVERSIFICATION OF DEFENSE FIRMS

It is widely assumed that there will be a natural progression of heavily defense-oriented companies toward commercially-oriented high technology activities. This model also often assumes recreation of comparably-placed jobs in the numbers and locations where defense manufacturing is currently being done. Some significant cautionary notes must be struck in this regard at the outset. First, this movement from defense to commercial is a perilous course. Due to the significant differences between defense business practices and those in the commercial world, previous diversification efforts frequently have resulted in program failures at huge cost to the sponsoring firms.

Second, certain capabilities which are unique to defense should be so identified and retained as an integral part of the national defense program. The theory that the defense base can be readily converted to a commercial base in order to spur our national economic growth, only to be reconstituted in a time of military need, is a siren song that must be avoided. Once transformed to a commercial base, technologies, production procedures and the skilled workforce unique to defense may not be reconstituted in a timely way to meet national security surge requirements.

Despite the weak track record of diversification, many defense firms are exploring commercial opportunities which will build on their existing technological and skill bases. To facilitate this trend the government must change the legislation and regulations which currently force an artificial separation between commercial and military business. Among these are the excessive complexity of military specifications, the treatment of private sector technical data rights, and excessive demands for cost and pricing data even in competitive procurement for commercial products. If the government is ever to realize the potential benefit of commercial technologies and product advances; it must come to rely on the same competitive market forces that firms and individuals depend on throughout our economy to ensure reasonable prices. It must reject the over-reliance on intrusive audits and burdensome demands for cost data that commercial firms will forever reject as a precondition for selling to the government.

Of particular importance is the need to address the accounting requirements and audit procedures which currently encumber the system. These requirements and procedures were greatly expanded in the last decade during the defense build-up. They have not only lengthened the acquisition cycle and imposed large, unjustified and unnecessary costs on industry and government, but also have induced firms to separate their commercial segments from their defense activities. As a starting point, audit and oversight staffing can be reduced proportionately to reductions in the procurement and research and development accounts. This must be done in a way that will encourage the appropriate degree of movement of technology between the defense and commercial sectors.

This issue is particularly important because in the future we will need the increased infusion of commercial technology into the defense base. We have already seen this in the case of computer chip technology. We will need the unimpeded movement of such technology in either direction between defense and commercial enterprises if we are to maintain our technological edge.

Additional actions which will lead to the accomplishment of this goal are detailed in the recent report by the Center for Strategic and International Studies, "Integrating Commercial and Military Technologies for National Strength", which should be included in the Panel's record. Industry commends to you this study done at the behest of Senate Armed Services Defense Industry and Technology Subcommittee Chairman Jeff Bingaman.

OTHER LEGISLATIVE REMEDIES

In addition to encouraging commercialization, a vital element of the effort to ensure a stable defense industrial base an to promote our nation's economic growth is an export-driven international defense trade policy. Congress can improve the environment for foreign sales, and in so doing bolster the defense industrial base, by eliminating the current government policy for recoupment of non-recurring costs which places an unfair surcharge on our defense export interests. Congress can further act through the reauthorization of the Export Administration Act to create a balanced export program that encourages dual use sales opportunities in world markets without jeopardizing sensitive technologies. Congress should work with the Administration and industry to implement an export credit guarantee facility for defense exports patterned after the Eximbank program for commercial products.

Another policy area outside the jurisdiction of the Armed Services Committee having tremendous impact on the defense industrial base is that of tax policy. Congress should act to offset the impact of the short-sighted decision made several years ago to phase out the completed contract method of tax accounting. This decision has had the effect of imposing a greater tax burden on defense contractors than on other industry sectors. Defense contractors, even those with long-term contracts who had never used the completed contract method, pay taxes as costs are incurred. DOD's procurement rules delay the payment of cash profit, however, until deliveries are made. Such deliveries generally occur years after the taxes have been paid. Congress can address this issue by changing the tax law to more closely match tax payments with the receipt of cash profit. Alternatively, the Department of Defense could offset the early tax payments made before receipt of profit payments by making partial profit payments to contractors as costs are incurred.

CONTRACT FINANCING AND REGULATORY ISSUES

DOD has within its authority a number of actions it can take administratively to permit a rational transition to a smaller defense program while preserving the essential elements of the defense industrial base. Leading the list in this regard is a complete overhaul and simplification of the progress payment system. A central principle of contracting with the government has been that the government would provide partial financing for work-in-process on large, long-term, military unique programs. Under current policy the government does not provide 100% financing on government contracts. Moreover, they do not recognize any interest expense as an allowable cost, even for that portion of the inventory which must be financed by the contractor. Although some may believe that the current progress payment rate of 85% means that the government is providing 85% of the financing for government contracts, this is not the case! Under the best of conditions, the coverage averages about 60%. In many, if not most cases the coverage ranges from 40% to 50%.

Among the changes that need to be made are: an increased rate that should be made permanent, the elimination of the delay between incurring cost and being paid by the government, the broadening of coverage to include all contracts for military unique items with the government, a serious consideration of other than cost-based progress payments, more frequent payments, and a simplification of the current complex procedures that delay payments and subject contractors to unjustified criminal penalties.

Fixed price development contracts, in whatever form, must be eliminated. DOD has made good progress in this regard in the aftermath of the services' improper use of this contract form in the last decade and the program terminations that ensued. Yet contractors are still faced with pressure to sign up to innovative variants of them. DOD should not use default terminations as a contractual action when the problem is principally with the contract type. Contractors should not have to litigate in order to receive fair and reasonable treatment at the hands of the government.

Finally, I want to call your attention to a growing financial problem for our companies called "unabsorbed burden." When contracts were originally priced, certain finance rates were developed based on an assumption of a given government business base. Obviously those business opportunities have been modified significantly, putting further financial pressure and risk on contractors. We believe DOD, or Congress should adopt an equitable approach which compensates for these unanticipated changes.

PUBLIC/PRIVATE SECTOR REDUNDANCY ISSUES

DOD must act to reduce the duplication that exists between private industry and the government's own defense industrial base. This redundancy is most significant in the

areas of research, overhaul and repair, and other forms of long-term system support.

As Gordon England of General Dynamics pointed out in earlier testimony, it is entirely feasible in many cases for the U.S. private sector industrial base to replace the organic capability of the U.S. military or vice versa. Our concern is that DOD and the services will fight to preserve their internal organic capacity at the expense of the private sector. This can and will have damaging implications for the health of the industrial base and the concept of reconstitution. Congress must monitor and, when appropriate, eliminate this public/private sector industrial base redundancy to ensure the preservation of necessary private sector capacity.

CONCLUSION

In conclusion, Mr. Chairman, we have before us an array of policy options that will permit a rational and measured reduction in our resources committed to defense while seeking to preserve the core elements of the defense industrial base. Industry understands that this process will occur. As representatives of our companies have said in the past, the defense industry is not seeking, nor does it want, extraordinary relief from the government. What it does want is a business environment that is stable and predictable, and that offers the opportunity for a reasonable return on investment.

I have suggested a number of policies that will help to realize these goals while preventing irreparable harm to the defense industrial base as we build down. One such policy is support for long term R&D projects on the basis of the defense capability they will provide, even if the threat is not immediately defined. I cannot underscore enough the importance of preserving the financial health of the base during these times, and request Congressional support for the numerous financial health policies I have covered, including a permanent increase in progress payments and tax policy changes. Finally, elimination of the artificial barriers between commercial and defense operations and an export-driven trade policy for defense related goods and services also should be pursued.

If these policies are addressed in an aggressive and coordinated fashion we will be well on our way to defining the new down-scaled defense base. And we will downsize in a way that will retain our capability to deter aggression and to overcome it when military force is required.

The companies that comprise the associations I represent here today pledge their commitment to work with you and the members of your Panel in this effort, and again we thank you for the opportunity to present our views today.

Mr. Chairman, I would be glad to answer any questions.

TALLEY DEFENSE SYSTEMS, INC.,
Mesa, AZ, January 10, 1992.

Mr. GEORGE POOLE,
Talley Industries, Arlington, VA.

DEAR GEORGE: In accordance with Senator McCain's request to you for a review of the DOD report prepared in response to Senator McCain's request in 10 United States Code 2509, we have prepared the attached point paper. We feel there are areas the report misses. These areas are significant and, in our opinion, must be addressed to avoid national security problems.

The report fails to mention battlefield consumables, which constitute a critical product area provided by our industrial base. Among the classes of products, this segment is the most dependent on military funding. Using the analysis considerations called out in Senator McCain's requirement for the annual DOD report, much needs to be done to insure adequacy of the Defense Technology and Industrial Base [DTIB]. The DOD report indicates that free market forces will insure an adequate base after downsizing.

Our review indicates a failure in the report to consider the realities implicit in significant downsizing. A realistic treatment of the national needs to preserve an adequate DTIB is found in the July 1991 report published by the Congressional Office of Technology Assessment, entitled "Redesigning Defense." That report details issues of urgent need through changes to laws and regulations needed to assure preservation of an adequate DTIB during the ongoing downsizing.

In our review, we have detailed areas where we feel issues were missed in the DOD report, and areas that need changes in laws and regulations which will preserve critical parts of the DTIB. We are a developer/manufacturer working in the areas of battlefield consumables with a strong track record of new technology for America's most modern weapons systems. Our business and the jobs we bring to the State of Arizona are in jeopardy if the course of action detailed in the OTA report is ignored.

We appreciate the opportunity to provide comment on this vital topic. We would be pleased to provide additional information or answer any questions the Senator or his staff may have after reading our comments.

Yours truly,

WILLIAM W. MOGAN,
Director of Marketing.

Attachment.

This point paper critiques "The Report to the Congress on the Industrial Base," dated November 1991.

SUMMARY

Subject report offers conclusions that uncontrolled downsizing of the U.S. defense technology and industrial base [DTIB] will not hamper DOD in meeting future defense threats. Initiatives such as "dual use technologies"; "promotion of civil-military integration"; and "adoption of procedures more consistent with commercial practice" coupled with a free market economy are offered as sufficient to keep an adequate American DTIB as defense budgets decline. Such is not the case.

Serious errors are often rooted in flawed logic or incomplete information. The "Report to the Congress on the Defense Industrial Base" dated November 1991 contains both fundamental problems. Failure to acknowledge realities in America's defense technology and industrial base [DTIB] will lead to severe national security risk.

Maintaining a secure defense posture means preserving defense specific segments of our DTIB. Changes in Government procurement laws and regulations are required to insure DTIB preservation. A more thorough examination of the need to develop and implement a realistic policy is found in the Congressional Office of Technology Assessment [OTA] report "Redesigning Defense" published in July 1991. The OTA report weighs the issues and provides timely insight to needed actions. This paper echoes many of the concerns and suggestions offered in the OTA report.

The Report to Congress (subject report) fails to address battlefield consumables, a critical segment of our DTIB. This paper pinpoints logic deficiencies and omissions in subject report and suggests areas for action.

BUSINESS SECTORS

The congressional report addresses these business segments: Aircraft, missiles and space, electronics, ships, and combat vehicles.

These segments provide a distorted view of what is happening to American defense industries. Electronics is illustrative of the report's lack of candor. Pages 3–12 state "commercial" and "defense electronics" sectors portray a varied but "* * * relatively positive outlook."

America created the world's most powerful consumer electronics market. American manufacturers developed the products, the distribution systems, and the demand for an entire class of new technology. In less than 10 years Japan devastated American manufacturers. Virtually every electronics product now available in the U.S. originates in Japan. Other Pacific rim countries are following the Japanese lead into America's consumer market. U.S. firms active in electronics have declined significantly. The high rate of new product introduction means shorter production periods for recovering development costs. American firms, who have high overheads when compared to companies from other countries, are particularly hard hit.

Subject report addresses electronics and a few other product segments and then concludes that there will always be a base equal to our national needs. This conclusion ignores reality.

NATURE OF CONSUMABLES

Military combat operations involve destruction of enemy forces by warheads, munitions, bullets, and bombs * * * all energetic consumables. All of these critical products come from this segment of our DTIB most dependent on defense funding, not even considered in subject report.

Modern weapons are often rocket powered, or guided with precision servos powered by propellant. To maintain a superior force, consumables technology must continually move forward. This technology is independent of commercial market potential, but is dependent on commercial technology for raw materials and mounting pressure to comply with tightening environmental restrictions.

ROLE OF TECHNOLOGY

Tactics and technology work together to drive an army's effectiveness. Tactics can place forces in position to surprise and destroy the enemy. Technology multiplies effectiveness of forces. Technology impacts all areas of military hardware and tactics. Technology assists in intelligence gathering, which leads to tactics providing location and time advantages, giving the element of surprise.

Dramatic miniaturization in sensors and electronics allow the collection of direct intelligence from satellites and placement of terminal homing sensors on guided smart munitions. Using the intelligence available in modern microprocessors, munitions can be delivered with great precision, improving killing power.

The gulf war saw the effects of technology driven tactics. It also provided clear evidence of the high cost when forces are unable to counter technology

RATE OF TECHNOLOGY CHANGE

Technology is a perishable commodity. The rate at which technology is developed has increased dramatically over the past century. Previously, new items stayed new for many years. Today we see computerized design aids bringing products into being at a rate faster than ever before imaginable.

Much technology introduced today is dominant for only 30 months before pressure from the next generation of technology in the market.

This rapid rate of technological change makes it imperative that we maintain sufficient focus on technology in military areas. Some defense technology is driven by commercial markets. Electronics, aircraft and a few other industrial segments where there is a large, active commercial market, see defense and commercial technology running a parallel path. Within fully defense dependent areas such as energetic consumables, there is no commensurate commercial path.

Technology development in defense specific segments of America's DTIB must remain at a rate sufficient to maintain America's ability to field an effective defense as needed. DTIB technology is funded through direct development contracts and IR&D charged against production programs. Private IR&D will decline in proportion to production contract funding reductions.

Subject report alluded to the possibility of dual use technology useful in both commercial and military worlds. This is not possible in the area of defense energetic consumables. While there are common technologies that do work in both military and commercial aviation applications, there is no commensurate commercial market for most defense consumables. This differential is significant and demands attention by appropriate levels of Government. Failure to take timely action will result in serious national security deficiencies.

PROCUREMENT LAW

Current procurement policy provides no bureaucratic incentives to make exceptions to the competition in contracting act [CICA]. The OTA report details this issue. Currently, Government procurement centers are competing production orders for items developed by a given firm, to other companies with little or no development capability. In some cases, awards go to Government Owned, Contractor Operated Plants [GOCO's] that maintain no development staffs at all. The lack of technical staffs mean that there is no technology component associated with dollars placed into GOCO's or private firms lacking technical capability.

Firms with no technology capability will always have lower overheads than those with full technical staffs. Failure to change policy laws and regulations now to encourage preservation of firms with technology development capability will lead to precipitous erosion of the technology component of our DTIB. This is particularly so for battlefield consumables dealing with energetic materials such as propellants and explosives.

One hundred years ago the rate of technology change was low. After WW I an arsenal system was established to surge existing consumable designs. We were able to rely on facilities in layaway to produce what were at that time stable designs. Modern rates of technologies change make it unwise to rely on the past. We must maintain contractors with technical capability.

Energetic consumables may be the most critical area of our DTIB. The consumable and the delivery platform play together as a system. Delivery outdated ordnance with modern weapon platforms can result in loss of the technology advantages in the platform if the ordnance technology is outdated.

COMMERCIAL ROADBLOCKS

The precept that the DTIB will be able to support future defense needs alludes to several reasons including diversification into commercial areas and foreign sales. Neither of these potentials is realistic.

Non-military sales implies that defense firms have products and distribution networks in place and can shift assets immediately into nonexistent, unserved markets. Development of products and distribution channels takes time. Realities of the current economic situation make commercial diversification a nonstarter.

DOD regulations, and court decisions supporting them, provide the Government unlimited access to all financial records. Companies have to separate government and commercial operations to keep records properly. Most firms would choose to have them separate simply to avoid the burden of providing access to all financial records. The OTA report details these issues.

U.S. firms face serious competition in the smaller, foreign market. In many cases, national ownership of foreign defense companies and participation in their defense industries put U.S. firms in direct competition with the national leadership of competing countries. No equivalent U.S. policy supports American firms.

U.S. Government approvals are required for all international sales of defense products and technology. Page 4-2 of subject report discusses offsets and states, "Although the U.S. Government is not a party to these arrangements, it retains the right to review offsets as a part of its review and approval of proposed international defense cooperative programs."

The U.S. Government is a party to all offshore sales of American defense products. Regulations limit the payment of fees normal to firm from competing countries. U.S. Approval is required for each and every sale from an international partner or sovereign foreign government. In the international sale or use of a system containing U.S. content, the U.S. Government is a full party and, therefore, U.S. firms are not desired partners for many commercial international consortia.

TECHNOLOGICAL INVESTMENT DRIVERS

Technology creation is driven by payback potential for investment, need, and dedication of adequate intellectual assets. Central to technology advancement in consumables are assets in propulsion and energetic materials within private industry. There are a limited number of firms who supply these items. In some cases the items can also be manufactured in Government facilities (GOCO's).

The difference between GOCO's and commercial facilities is significant. Those commercial producers who maintain technical staffs must have production. Failing to have sustaining production placed into firms capable of technology development puts our important force multiplier in jeopardy. American managers of private firms simply cannot invest in technical staff maintenance when products their companies develop are put into GOCO facilities for production.

POLICY NEEDS

There are no segments of U.S. industry with adequate Government policy backing. Fundamental changes to America's industrial engine are needed urgently. American business schools train managers to maximize quarterly returns. Foreign firms and governments have taken the longer view. They have policies enabling their private firms to seek and capture permanent market share in the United States.

We must reverse the trend of the last 20 years or we will fall behind the rest of the world in our standard of living. Our DTIB can be a starting point in the development of new Government policies.

America has no active policy for promotion and protection of its industry. Our national industrial/commercial engine was founded in the era of the industrial revolution at the start of the 20th century. We operate as if the markets of the country and the world are in continuous expansion and the ability of American industry to create profits, capitol and jobs to fuel the cycle is limitless.

Japanese rebirth under our supervision led to the greatest commercial creation in world history. Japan prospers at the expense of American industry. Their new foundation, laid 50 years after America's, provided high leverage to replace American industrial leadership. In addition, we are seeing former Communist economies open. These emerging nations will be rebuilt a full 100 years after the beginning of the industrial revolution and the start of America's economic system development.

Failure to create a national industrial policy fully cognizant of the proactive efforts of not only the Japanese but the many new Governments now awakening. This failure will doom the U.S. to a continuously declining economic future.

Our national medical and retirement systems force American firms to carry higher prices into world markets. We have seen what lack of control can do in our economy with the deregulation of banking and accumulation of excessive debt at all levels. Servicing that debt has robbed our economy of its resilience.

10 U.S. Code 2509 calls out considerations for analysis of the industrial base. Mergers, acquisitions and takeovers within the DTIB ran at a high rate during the past five years. Debt was increased within defense, as within many other parts of the economy. Many firms are faced with debt from buying defense businesses that now face dramatic market declines. Because of the declining DOD budget, these firms have difficulty selling their defense subsidiaries or in finding ownership partners. In many cases, commercial segments of firms holding defense businesses are also in decline. The combined effect of declines in both sectors force managers to choose where they will keep technical staffs.

Failing to protect the defense sectors with managed awards to those firms capable of developing technology will force top managers holding portfolios of businesses to preserve commercial potentials. This is because they must choose to continue investments in staff and product development where they expect returns for their stockholders.

We must formulate new national industrial strategies capable of re-energizing American ability to create wealth in the changing world market for our population as a whole. Defense capability and the industrial base underpinning that capability provide the bedrock for our national security.

Production orders in consumables should be channeled to those firms with track records of developing technology to insure their continued diligence in pursuit of technology advancement. This segment of the defense base supplying energetic loaded consumables, with no commercial markets, must be treated with changes in the law as suggested in the OTA report. Inaction on this issue opens America to security risks.

CONCLUSION

Close attention should be paid to the OTA report called out earlier in this paper. It provides a fully staffed understanding of our national needs for a capable DTIB. The OTA report, coupled with a plan for change to our laws and regulations covering defense procurement, allows maintenance of adequate national security during the downsizing now in progress.

Use of the few contracts that will be awarded as a tool to maintain those firms capable of developing defense technology is imperative. These actions can maintain needed momentum in critical parts of our DTIB. This move to such a "Design Bureau" approach is similar to what is done in Europe. It is the optimal direction for the times facing America.

THE 100TH ANNIVERSARY OF THE WESTERN PENNSYLVANIA HOSPITAL SCHOOL OF NURSING

Mr. SPECTER. Mr. President, it is my distinct pleasure to bring to the attention of my colleagues the 100th anniversary of the Western Pennsylvania Hospital School of Nursing, headquartered in Pittsburgh, PA. To date there have been over 5,000 graduates of the school, many of whom have spent their professional careers helping to improve care for the people of western Pennsylvania.

The centerpiece of the centennial recognition is the 100th anniversary celebration weekend, April 24 to 26, 1992, sponsored by the School of Nursing's Alumni Association. It is certain to be a time of remembrance and celebration, and is expected to draw more than 1,000 alumni and guests.

One hundred years ago, nurses swept and mopped the floors of their units, dusted furniture, carried coal for heat, cleaned and filled kerosene lamps, planned patient menus, and washed hospital windows. They also worked 12 hour days 6 days a week. Over the past 100 years, much about nursing has changed, save nursing's commitment to excellence in patient care. During this time, the West Penn Hospital School of Nursing has educated nurses for service all over the world.

Therefore, Mr. President, it is with great delight that I offer my commendations to the Western Pennsylvania Hospital School of Nursing for its continuing dedication to educating nurses. The school's work over the past 100 years is certainly a great accomplishment and a necessary service for the evolving and ever more demanding health care profession. I ask that my colleagues join me today in offering the best wishes of the U.S. Senate to all those participating in the 100th anniversary of the Western Pennsylvania Hospital School of Nursing.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,829,058,789,074.10, as of the close of business on Friday, February 28, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

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?

TRIBUTE TO OFFICER JAMES "DUKE" GIBSON, JR.

Mr. COATS. Mr. President, I rise today to pay tribute to an individual whose entire life was devoted to the service of others. James "Duke" Gibson, Jr., risked his own life many times as a member of the Evansville Police Department, Evansville, IN. He finally gave his life while rescuing the victims of a tragedy in which a C-130 military cargo plane crashed into an Evansville hotel on February 7, 1992. Words cannot pay adequate tribute to the sacrifice of Duke Gibson. There is no greater gift than the offering of one's life for the sake of others.

Duke Gibson, an Evansville native, began his career in law enforcement by becoming a member of the Evansville Police Department in 1974, where he diligently served for 17 years and 7 months before his untimely death on February 24, 1992. He chose to spend his entire career in the Patrol Division, where he could help the people of Evansville on a firsthand basis. He loved patrol work, and was well respected by the community members and his fellow officers.

There were many times during his police career that Duke Gibson put his life on the line. He was recognized for his bravery through letters of commendation and merit awards. These honors include a Commendation he received on May 23, 1977, for outstanding participation in the department's ride-along program; a Merit Commendation, which he received on February 3, 1977, for assisting in rescue efforts at a hotel fire; and the Bronze Merit Award, which he received in February 1979 for his assistance in the aftermath of an airplane crash at the Evansville Airport in 1977. These honors illustrate the commitment and courage that Duke Gibson showed throughout his police career. He is survived by his wife, Glee Gibson, and his three children, James, Sara, and Jacob.

The job of a law enforcement officer is more challenging today than ever before, and Duke Gibson accepted that challenge with pride and dedication. He will be sorely missed by the Evansville Police Department, as well as the citizens of Indiana. He is a true Hoosier hero and an inspiration to all Americans.

THE PASSING OF LONNIE O'CONNOR

Mr. MURKOWSKI. Mr. President, I rise today to honor and mourn the passing of Mr. Lonnie O'Connor. Lonnie was a resident of Nome, AK, and the president and CEO of the Bering Straits Native Corp.

He leaves behind many family members, including his wife Maggie and his four children, Kimberly, Dawn Marie, Floyd, and Harold. Lonnie leaves giant footsteps for his children to follow.

He worked for 20 years as an air traffic controller for the FAA. He was heavily involved in the regional corporation from its inception and encouraged and developed Native leadership. His passing leaves a gap in leadership that will be hard to fill.

Lonnie was also heavily involved in community service. He started the Iditarod Basketball Classic for other basketball enthusiasts in the area and participated in many other community activities.

I had the pleasure of meeting with Lonnie in December of last year when I took a trip to Nome. He met me at the airport and extended to me real Nome hospitality throughout my stay. He also ensured that I met with as many people of Nome as possible. He was enthusiastic about his community and about Alaska. I regret that he will not be here to see the many changes taking place in Alaska that he helped bring about, that will fall to his children.

There are many other great things that I could say about Lonnie O'Connor. His enthusiasm and dedication in every area of his life touched many people and renewed faith in the goodness of human nature. Lonnie was a thoughtful dedicated man who was successful in everything he did. He will be sorely missed by his friends and family in Nome and the State of Alaska.

THE 31ST ANNIVERSARY OF THE PEACE CORPS

Mr. DODD. Mr. President, today I would like to call to the attention of my colleagues a milestone recently reached by the Peace Corps. On Sunday, March 1, the Peace Corps celebrated its 31st anniversary.

It was 32 years ago this fall, that then-Presidential candidate John F. Kennedy asked an early morning crowd of University of Michigan students, "How many of you are willing to spend 10 years in Africa or Latin America or Asia working for the U.S. and working for freedom?" Their enthusiastic response gave birth to President Kennedy's pledge to create an agency to promote what became known as the "Three Aims" of the Peace Corps: to enable individual Americans to supply peoples of developing countries with needed technical skills and knowledge; to give these nations an opportunity

for contact with Americans, thereby encouraging greater understanding of American society and culture; and to afford to volunteers a chance to learn, through firsthand contact, about other cultures and mores.

The enthusiasm of that crowd of students has now been shared by more than 130,000 Americans who have answered affirmatively President Kennedy's call to service as Peace Corps volunteers. Today, nearly 6,000 Peace Corps volunteers and trainees are serving in a record 85 countries throughout the world.

As the only Member of the Senate who is a returned Peace Corps volunteer, I take a special interest and pride in this unique agency. There is no question that the Peace Corps has had a profound impact on the lives of those who have had the opportunity to serve, as I have. The Peace Corps is unique in its ability to give volunteers a new perspective on the world. There is no question that it is impossible to finish a tour as a volunteer and come away complacent about or indifferent to the suffering of others.

I also believe the Peace Corps, while not single-handedly transforming the world as some early supporters believed possible, has had enormous success in tackling small pieces of the development problem around the globe. Mostly without fanfare, Peace Corps volunteers have been improving health systems, water supplies, food sources, nutrition, housing, forestation, education and the environment, have taught small business practices, and have helped to combat a multitude of special problems that confront the growing cities of the world. If people live longer and healthier lives in poorer countries today, and if children have more nutritious meals and better schooling, it is in no small measure a result of the contributions of fellow Americans who have given a few years of their lives to the cause of development and peace.

As we look to this truly remarkable decade, and the role of the Peace Corps, I am reminded of an ancient Chinese curse that says: "May you live in interesting times." I do not know what has invoked the anger of ancient Chinese dieties, but without question, these have been interesting times: confounding expectations, the Berlin Wall has come down; free and fair elections have taken place in Poland, Hungary, and Czechoslovakia; Germany now is a reunited country; the world has seen the transformation of the Soviet Union into independent states; and democracy has swept through almost all corners of our own hemisphere.

This changing international framework holds great challenge and opportunity for this country as a whole and especially for the thousands of Americans who bring personal meaning to our diplomacy through their Peace Corps service. How can the Peace Corps best keep pace with a rapidly changing world? At a minimum, we in the Congress must ensure that the Peace Corps has sufficient levels of support to enable it to continue to build, in a phased, programmatically sound manner, toward achieving the goal of a Peace Corps volunteer strength of 10,000.

By the end of fiscal year 1993, Peace Corps expects to have 7,200 volunteers and trainees working in 95 countries. Many countries, including the Baltic States and other former Soviet Republics, are waiting in line for volunteers. They have specifically requested these volunteers to assist them with their transition from state-run economies to free and democratic societies. These assignments will highlight the special value of Peace Corps volunteers as not only teachers but as cultural and personal links between very different worlds. The Peace Corps will need additional resources to respond to the requests for assistance from these newly independent States, so that it is not confronted with having to rob existing programs in other parts of the world in order to fund these new initiatives.

It is also important that the Peace Corps continue to respond creatively to a problem which will continue to grow: the demand for volunteers who are highly skilled in technical fields. As essential ingredient of the success of the Peace Corps is that it responds to the requests of host country governments rather than telling governments what they must accept. As developing nations have advanced, host nations have requested more and more highly skilled volunteers. The Associate Volunteer Program, begun in 1987, appears to be meeting host government requests for volunteers with in-demand technical skills, without compromising program goals, but it cannot substitute for generalist volunteers committed to extended service. Associate volunteers must only be seen as an augmentation of support to the volunteer. Technical training programs must be developed by the Peace Corps to equip volunteers with in-demand skills.

Mr. President, another important issue for the Peace Corps is the longstanding policy relating to the separation of the Peace Corps from the day-to-day conduct and concerns of U.S. foreign policy. Successive administrations of both parties have restated the Peace Corps' basic separation from U.S. foreign policy, but none as succinctly as former Secretary of State Dean Rusk who said: "To make the Peace Corps an instrument of foreign policy would be to rob it of its contribution to foreign policy." It is essential to the independence and the integrity of the Peace Corps, and to the safety of the volunteers that these policies be maintained, most especially in these changing times.

The Peace Corps must also strengthen its efforts to recruit minority volunteers. We have all talked about increased minority participation for many years, but even though 13 percent of all volunteers were from racial and ethnic minorities in fiscal year 1991, which marked a substantial increase, the fact remains that minorities have not shared equally in the experience of the Peace Corps.

Finally, Mr. President, I would like to see the Peace Corps expand its emphasis on the third goal through strengthened programs to help teach the American people what it has learned. With programs like Fellows/U.S.A., World Wise Schools, and Partners in Peace, the Peace Corps is moving in the right direction. The lack of knowledge of far too many Americans about the world beyond our borders has grave implications for our future competitiveness, for our national security, and even for our national budget. As historian Henry Steele Commager said, "We are no longer masters of our own dealings; every major problem that confronts us now is global and can be solved only through cooperation with other nations." The large pool of retired Peace Corps volunteers now living in virtually every city and town in this country are uniquely suited to "bringing the world back home." Their commitment, talents, and knowledge must be tapped to awaken America to our global interdependence and our global responsibilities.

Mr. President, we can be truly proud of the accomplishments of the Peace Corps over the last 31 years. And, it is clear that the Peace Corps continues to have an important mission to carry out in the coming decade. I know that my colleagues all join with me in celebration of this important anniversary.

REMARKS OF DR. JOHN BRADEMAS AND PROF. JOHN KENNETH GALBRAITH

Mr. MOYNIHAN. Mr. President, as one who had the privilege of a Fulbright Scholarship some years ago and as a Senator who represents a State adjoining Canada, I take pleasure in drawing to the attention of Members of the Senate an address delivered on October 9, 1991, at New York University by the distinguished economist, Prof. John Kenneth Galbraith of Harvard University, on the occasion of the meeting in New York City of members of the Foundation for Educational Exchange between Canada and the United States of America.

Professor Galbraith was introduced on this occasion by one of the members of the Board of the Foundation, the president of New York University and our distinguished former colleague in the House of Representatives, Dr. John Brademas.

Mr. President, I ask unanimous consent that the transcripts of Dr.

Brademas' introduction and Professor Galbraith's speech be inserted at this point in the RECORD.

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

ADDRESS BY PROF. JOHN KENNETH GALBRAITH

INTRODUCTION BY DR. JOHN BRADEMAS, PRESIDENT OF NEW YORK UNIVERSITY

I take great pleasure in welcoming all of you to our first lecture in the United States of the Canada-U.S. Fulbright Lecture Series. Sponsor of the series is the Foundation for Educational Exchange between Canada and the United States of America.

Forty-five years ago the Congress of the United States voted to establish the International Educational Exchange Program that bears the name of Senator J. William Fulbright of Arkansas. Two years ago I had the great privilege, as a member of the Onassis International Prizes Committee, of presenting one of four Onassis Prizes, of $100,000 each, to Senator Fulbright in recognition of his extraordinary creativity in having made possible a program which has, since its beginning, provided almost 200,000 scholars the opportunity as students, researchers and teachers to take part in the splendid program that bears the Senator's name. Included in this remarkable group are political leaders, supreme court justices, ambassadors, Nobel Laureates, university presidents, rectors, scholars, authors, teachers.

When our distinguished Ambassador from the United States to Canada, Edward Ney, telephoned me two years ago to advise me of the plan to create a United States-Canada Fulbright exchange program, I had not been aware that no Fulbright program with Canada existed; indeed, I was shocked to learn this fact. And one of the reasons I readily accepted Ambassador Ney's invitation to become a member of the commission that guides the exchange was my long-held conviction that we in the United States do not know enough about Canada. I have yet another confession. Although I grew up in Indiana and studied for four years at Harvard, it was not until I went to Oxford that I had ever met a real-live Canadian. I had never before even seen a Canadian and the one I came to know, you may be amused to learn, was John Turner, who, of course, went on to a political life himself.

A NATIVE OF CANADA, A UNITED STATES CITIZEN

I am now going to present to you a native of Canada, our distinguished speaker this morning. He is someone I have known for over 35 years. Born in Iona Station, Ontario, he became a United States citizen in 1937. He and I first became acquainted during the second Presidential campaign of Adlai Stevenson, on whose staff I worked in that campaign as his executive assistant in charge of research on issues. Part of my job entailed my being in touch with Governor Stevenson's trusted advisors, one of whom was our distinguished guest.

Paul M. Warburg, Professor of Economics Emeritus at Harvard University, our speaker is known all over the world for his development of Keynesian and post-Keynesian economics and the economics of the modern large firm as well as for his essays and writing on American politics and society. He earned his bachelor's degree at the University of Toronto in 1931, then a Master's and Ph.D. from the University of California. He taught at both California and Princeton until 1948 when he went to Harvard. There he has served on the faculty for 30 years. He has received some 40 honorary degrees, including ones from both Harvard and Oxford.

During the Administration of President Franklin D. Roosevelt, he served in the Office of Price Administration. During President John F. Kennedy's Administration, he served from 1961–63 as United States Ambassador to Indian. Ladies and gentlemen, I take great personal pleasure in presenting a distinguished Canadian and a distinguished American, Professor John Kenneth Galbraith.

ADDRESS OF PROF. JOHN KENNETH GALBRAITH

I must express my own pleasure at being here on this distinguished occasion, my pleasure at hearing that exceptionally truthful introduction from one of my oldest friends and my slight sense of concern that it has taken so long to have this marvelous fellowship-relationship established between Canada and the United States. Along with President Brademas, I confess that if anyone had asked me 10 or 20 years ago, I would have assumed that it already existed. I support the notion that one can have a certain bigamous relationship with more than one country. I still identify myself with my earlier years in Canada, my birthplace, the place of my education, and I'm not sure if there is not a value in this relationship.

I am reminded that when some 30 years ago, then-Prime Minister Mike Pearson was visiting President Kennedy at Cape Cod, there was on the agenda one of the oldest, most troublesome questions between the two countries, namely the relation of air flights and the granting of air flight permissions. The Canadians were very anxious for Trans-Canada Air, as it then was, and Canadian Pacific Air to have access to Los Angeles, San Francisco, and other American places of culture and rest. They were always asked, what do you have to give in return? The problem of the Canadian cities being only 100 miles from the border was [that] the American airlines [had] formed the delightful practice of going into Buffalo and Detroit and picking up the Canadian passengers there.

This almost came up to the President during Truman's days, and when Eisenhower came into office, it started all over again through the State Department. It got the attention of President Eisenhower just as he was leaving office. And so it was agreed that the matter would be taken out of the bureaucracy, out of the organization, and each country would appoint one man or person to finally resolve the matter. Kennedy said, "I'll appoint Kenneth Galbraith, who is just back from India and who always said he was a Canadian as well as an American." Mike Pearson said, "I'll appoint him too on the same terms."

In the ensuing negotiations, which were treated with some reticence at the time, I was the representative of both the Canadian government and the American government. I had hearings with the American carriers in Washington and the Canadian carriers in Ottawa. Then I struggled with extraordinarily difficult negotiations with myself. The long-range jets had made the whole idea of going into Buffalo to pick up Canadian passengers somewhat redundant, and, by judicious division of business, I gave the Canadians, as I recall, Los Angeles and the Americans San Francisco from Toronto and Montreal, and so forth and so on. I took this to the American carriers and they were willing (Pan Am was always objectionable). I took it to the Canadian carriers and they were delighted because anything was better than nothing.

I took it in to President Kennedy after about two or three weeks with a complete agreement. I still to this day remember his reaction. He said, "I had always thought it might be possible to teach a college professor something about politics, but I have now given up. The agreement that you have reached in two or three weeks with yourself is going to be taken seriously, although it indicates effort. Bring it back again in six months and say you have really done something." Well, I brought it back in a month. There was general approval of this particular form of negotiation, which I now strongly recommend to Secretary Baker for the Middle East.

CANADIAN IDENTITY

I must, in taking up my topic this morning, which is the Canadian identity as seen in the United States and as seen in Canada, begin on a slightly personal note. I was born and raised in Southern Ontario. If one thinks of the line going from Buffalo to Detroit or from Detroit to Buffalo, there was, about half way along that line on a north shore of Lake Erie, a place where the Scottish clans settled in great numbers in the beginning of the last century and where to an extraordinary extent they were under the aura and influence of Detroit.

Each autumn when the crops came in, and the leaves were beginning to fall, there was a great migration from the poorer farms and from the villages of that part of Ontario to Detroit to work for the winter in the bodyshops and the automobile assembly lines. And there was much more than that. There was also a feeling of a sense of responsibility for what happened in Michigan and the United States. Canadian elections, which as everyone knows are held at any particular time of the year, proceeded as usual. People who made this migration voted winter, spring, and summer in Ontario elections. Then when November came they voted in Michigan. I heard the statement many times that this was because they wanted the best people in office in both countries. In a dubious moment I once, with the rather prickled tendency of a scholar, said to an old friend of mine, "You know, this not legal, not right." His answer, I still remember, was if Roosevelt had lived, my friend would have wanted to vote for him.

The Detroit Free Press investigated this practice of voting on both sides of the river. Commenting on the arrangement that the would-be voter was given the voting rights of somebody who had recently died, a famous editorial once said that Franklin D. Roosevelt can indeed say, "I am the resurrection!". this attitude has an extraordinary effect on my up-bringing. I was not part of this particular process, but the notion that the two countries live in close association and with the sense of joint responsibility has always been uppermost in my mind. It was the truth that this same attitude pervaded much of the Scottish parts of Canada in my youth.

In the famous election of 1911, when the Tories campaigned against reciprocity, against a closer trade relationship between Canada and the United States, under the somewhat questionable slogan, "No truck or trade with the Yankees", the Scottish and the French united under Laurier. This was an interesting contest for my father, a political leader in Canada. In the United States he would have been called a political boss; in Canada he was certainly the permanent head of the Liberal Party in Elgin County in Southwestern Ontario. He was expected to be and took it for granted that he should be.

CLOSE U.S.-CANADIAN RELATIONSHIP

This Scottish-French involvement was a very controversial question because the

French in association with the Scotch and against the old family compact, the Church of England, the Toronto aristocracy as it was called, taught nothing so much as the close relationship of Canada and the United States. They emphasized the fact that it meant cheaper farm machinery from the United States and the opening of produce markets in the border cities of the United States, something that was very much wanted.

This was part of my experience both politically and socially. I think that I have not entirely escaped it to this day. But when one comes to the question, the real question of our time, one cannot doubt that a major mood in Canada has been the effort to find some different Canadian identity. The search for a common national identity. This has been an extraordinary effort and also in many ways an extraordinarily difficult effort.

Apart from Quebec, the two countries—Canada and the United States—have a common language and no separate identity associated with different manner of moods and expressions or thought. There is also from the Canadian side the fact that the American press and particularly American radio and television are equally available in Canada, equally followed in Canada and, therefore, while there is a distinguished Canadian national press, a distinguished radio and television system, it is in constant competition with the voices from over the border.

There is a certain identity associated with recreation, with sports and other forms of enjoyment. But these also are common as between the United States and Canada in a very substantial degree. The Canadians in some measure gave hockey to the world. But they gave it to the world in a form which was taken up by other countries. It was, of course, the United States that gave baseball to the world. But there is no sense of different identity there, and especially when one of the potential contenders in the world series this year, one of the most prominent contenders, will be a Canadian team from Toronto. So that has been washed out.

There is the further and more subtle fact that in the United States, subject to some resistance, which I must say I regret, there has been some past pride, past support, for the notion of the melting pot. The notion is that there is a republic, a country to which people from all parts of the world come and assume a new identity. The fact that the United States has this composite identity is in some degree parallel to the situation in Canada.

COMMON EDUCATIONAL EXPERIENCE

Finally, there has been an extremely important common educational experience. This has been deeper than most people realize. When I first went to Harvard in the early 1930s, there was almost equal division in graduate work, in government and economics, as between the Canadian graduate students who came to Harvard and those who had came from elsewhere in the United States. It was at that time almost impossible to hold a high position in the Canadian government, the Canadian civil service, unless one had a Harvard degree.

It was really an extraordinarily good thing. The Prime Minister, William Lyon MacKenzie King, was a Harvard Ph.D. A Dr. Clark, who headed the Civil Service was a Harvard Ph.D. One of the senior figures in the new Bank of Canada had done work at Harvard. Norman Robertson had been part of the Harvard community, studying government, Ken Eaton, Robert Bryce, and there were others. There had been a concentrated movement from Ottawa to Cambridge and now back to Ottawa. This was, from a Harvard point of view, a very good thing for the Canadians to have done. But again it was something that did not give a strong sense of a separate identity for either Canadians or Americans.

I should mention one other thing to which one could have turned. Literature has been an extremely distinguished field in Canada. Some of the most read people of our time—Robertson Davies, Margaret Atwood, Mordecai Richter and others—have given great support and substance to Canadian letters. One does think that this distinguished group of Canadian writers has an important part in the present Canadian identity.

The problem with that, however, is that they are so good that nobody is willing to concede them to Canada. Robertson Davies, for example, has an enormous audience in the United States. So does Margaret Atwood. If you look at the current New Yorker, you will see a fascinating piece there by Mordecai Richler on the idiosyncrasies of the French- and English-language dispute in Canada. If one is looking for writers as a source of a Canadian identity, one comes up against the hard problem that they are regarded as being equally possessed by the United States.

So what does remain? More than anything else, Canada has over the years developed a successful and balanced, substantially superior public administration, including a much more stable, competent welfare structure than we have in the United States. This is manifest in many different ways. It is manifest in the face that large Canadian cities are without the appalling trouble spots, the morass, that afflicts the larger cities in the United States. This is an extraordinary achievement. Nothing, I think, saddens those of us who live here in the great republic so much as the parts of our cities which are isolated in abject poverty and crime. The fact that Canadian cities have largely escaped or overcome that problem is an important part of Canadian identity.

One also hears this in other matters. Nothing is being more discussed in the United States at the present time than the Canadian health system. It uses a much smaller part of the GNP than does ours. It provides insured health care for everybody in Canada. Again, a much superior exercise in administration. I think this is something Canadians look upon as part of their own identity and rightly so. I also think this is true in other fields of administration, including competence in fiscal management, the quality of Canadian services, the superior role of the Canadian Armed Services. In relation to the Government of Canada, the latter have not asserted a power independent of the authority of democracy. In the famous comment of President Eisenhower, we cannot be quite sure that that has been true of the Pentagon.

CANADIAN LEADERSHIP IN PUBLIC ADMINISTRATION

So there is in public administration and government an area of Canadian identity of which all Canadians should be proud. It has also been one that has a rather significant dialectic, a rather significant area of conflict and consideration. This is something which we talk about much too little. It is the question of whether to have a self-controlled administrative unit as the national state, or whether one should surrender national identity to a larger trading area. There is an assumption that there is some magic in the larger trading area. This is something which economists are almost required to believe. Any good economist is obliged every morning to get up and just before breakfast pay obeisance to free trade, to the notion of larger free trade units. It is obligatory. An economist does not pass easily into heaven unless he or she has done that all his or her life.

But on the other hand, there is a strong case for free trade in countries that are of considerable size. They also have a very large advantage in this world. Japan is a prominent case. So are a number of the European countries. We talk much about European unity and the great advantages of the great European community. I do not doubt this, but we need to remind ourselves always that certain other countries, notably Austria, Switzerland, Sweden and Finland, that are outside of the EEC have had an even more successful economic development since World War II than the larger EEC countries or many of them. This is the dialectic. Should one have the undoubted advantages of the large free-trade area or should one have the manageability of the smaller, more completely administered and controlled economic community?

If I were living in Canada and voting there legally as distinct from the tendencies of my youthful past, I would be troubled. I would be somewhat less than enthusiastic about the free-trade pact than is common among the members of my profession. I would wonder if there is not within the higher competence of the Canadian government the need for a larger area of control, a larger area of effective administration than is available if too much is surrendered to the notion of completely liberal trade. I do not think this is a clear question. I think it is something that has to be debated. It is certainly part of the Canadian identity to manage these things at the higher level of competence than we do in this country.

FRENCH PRIDE IN THE FRENCH LANGUAGE

Finally there is the separate question of identity as regards Quebec. One does have the difference in language. There can be no doubt, as we can look at the emerging or recurring commitment to nationalism in Western Europe, that language is a prime source of identity. The pride, the sense of gratification that exists in French Canada in association with the French language, not with France but with the French language, cannot be doubted.

I think on the whole, however, that there is some tendency to exaggerate the role of the French commitment as a separate identity. Somebody who makes a speech about separatism, somebody who makes a speech proposing some new identification of the French culture, a further and more scrupulous abolition of the English stop signs in Montreal, always get more attention than the person who speaks for the communality, for the larger sense of community, that covers both the two languages.

There is a further fact to that has not been lost. Some of the discussion of the separation between the "two Canadas"—one dose not know quite how much—is of recreational rather than of real value. It is something that people enjoy. It is something that gives voice to people who do not have the depth of perception to talk about anything more important. We know from our own experience in the United States that we will always have certain issues which are important not for themselves but for the enjoyment they offer and for the way in which they give voice to the people who otherwise would not be heard.

Sometimes I wake up in the morning and see there is a dispute over flag burning and

I have to say I'm pleased. I know that it is attracting the attention of people whose attention I do want to see on any other subject and that nobody is going to be seriously damaged or hurt. I have to confess the same feeling of satisfaction when I hear discussions over prayer in schools. I was brought up in schools where there was a prayer every morning. It was sometimes by a teacher who had not mastered any set of words, it stated, "Our Father who art in heaven, mumble, mumble * * *". That would go on for half a minute and then she would say, "Amen". I cannot think this did me any great amount of damage. Certainly it did not inculcate any great depth of religious commitment. So when I read about prayers in schools in the United States, again I have this feeling of satisfaction. Once again there is this dispute which is once again recognized as recreational rather than real.

I have noticed over the years that when times are good in Canada, when unemployment is low, when things are otherwise quite happy, Quebec is almost certain to become an issue. The separate identity of Quebec and the Meech Lake Accord were in some measure a product of the wonderful prosperity of the 80s, when there was a need to capture attention. Now that Canada has suffered a recession, somewhat more severe than what we are experiencing, it is by no means certain that Quebec's separatism is so much an issue. To some extent that has slipped into the background as more urgent questions come to the fore. I do think Quebec, the French language and the French culture do more than anything else give a separate identity to my old country. I hope very much that it continues.

THE FRENCH VERY IMPORTANT TO CANADA

One cannot doubt for a moment that the French are very important to Canada. They are important culturally, important socially. There is the sense of a larger French religious commitment. Most important of all is the fact that the French contribution to Canadian politics has been unbalanced, far superior to the non-French contribution. If one were to pick out the great leaders of Canada since 1867, one would certainly be Sir Wilfred Laurier, another would be Pierre Trudeau and a third who would be a strong contender from a shorter term in office would have been St. Laurent.

It is evident that, with all else, Canada very much needs the cultural spread, the cultural difference that has been brought into Canadian politics by the French leaders. While one can have a certain amount of sympathy and desire as a minority on this continent to continue with its own language and culture, I hope that it does not lead to any separation. The economic problem of a separate Quebec will not be serious, but social and cultural problems for Canada from the loss of Quebec would be very, very sad indeed.

This brings me to the end. I conclude with a word of summary. I think the chief Canadian superiority is in the better management of Canadian affairs, as compared with our management in the United States. It will continue as part of the Canadian identify, and I very much hope that there will be continued union as between the two great French- and English-speaking cultures and that the combination of these will be the reward which we in the United States have from the association, the long association over the Canadian border. I would add one further word: I hope that this unity would also continue to bring the Canadian government people educated at my university but with a decent representation from NYU.

Thank you very much.

REMARKABLE VALOR

Mr. KOHL. Mr. President, I rise in recognition of the remarkable valor exhibited by the naval personnel involved in the attempted rescue of Boatswain's mate third class Roger Dean Blair. I would especially like to single out the heroic efforts of Robin Smith, Capt. E.A. Caldwell, Capt. I. Pillot-Olive, Lieutenant Connolly, and Lt. Cmdr. T. Veeder.

On December 7, 1991, Roger Dean Blair was separated from his expedition party during a snow squall near Adak Island in the Alleutian chain. For 10 days, over 100 volunteers searched frantically for him. During the extraordinary effort, these people exposed themselves day and night to the deadly and treacherous weather familiar to the Pacific Northeast. In spite of the personal danger involved, they labored valiantly in an attempt to save their fellow man. On December 17, despite a determined struggle, the search was ended and Roger Dean Blair was pronounced dead.

But his death did not end our commitment to his family. Members of Family Service Center stayed with the family; the commander of the Naval Air Station, who participated in the search, delayed a holiday leave with his family so he could attend the memorial service; other officers helped the family deal with the myriad of forms and legal details; and everyone involved in the operation demonstrated a human concern and compassion for Roger and his family.

We are always quick to complain about what is wrong with America and our Government. These heroes should remind us of what is right. Many involved in the rescue knew little of Roger Dean Blair, they knew only that they were trying to help a shipmate. Their willingness to sacrifice their safety and security for their fellow man should be an example to us all. Their courageous actions exemplify the nobility and high honor of public service.

Too often we forget the many who have devoted their lives to serve the United States. Too often their brave acts go unnoticed and unappreciated. I would like to take this opportuntiy, on behalf of Mrs. Jana L. Blair and the United States of America, to thank those who partook in this rescue effort and to offer them our highest praise.

EARLE MESSERE: A LEADER IN SUBMARINE TECHNOLOGY

Mr. PELL. Mr. President, on March 6 in my home city of Newport, RI, a disginguished Rhode Islander who stands at the forefront of submarine technology will be honored as he prepares to assume a new position of higher responsibility.

Earle L. Messere has served since June 1982 as technical director of the Naval Underwater Systems Center [NUSC] in Newport and has won wide recognition for both his technical and managerial leadership and for the contributions he has made to major new developments in submarine warfare and submarine weapons systems.

He was recently selected to be technical director of the new Naval Undersea Warfare Center [NUWC] in Washington, DC, one of the Navy's five new major consolidated research and engineering commands created as a result of the Defense Base Closure and Realignment Act of 1990. Mr. Messere now will have technical direction of activities at NUWC facilities in the States of Washington, Nevada, Hawaii, California, Rhode Island, Connecticut, Florida, and Virginia as well as the Bahamas.

In his work at the Newport center, Mr. Messere participated in and led the transition of submarine combat systems from analog to digital computer technology and ushered in a new era of system integration and land-based testing prior to shipboard installation.

In recognition of these achievement, Mr. Messere has received a number of citations and awards, most notably the 1985 Meritorious Executive Presidential Rank Award, the Roger W. Jones award of American University's College of Public and International Affairs and the Navy's Meritorious Civilian Service Award.

Mr. Messere earned his bachelor of science degree in engineering mathematics with honors from the University of Rhode Island in 1956 and went on to earn advanced degrees from MIT and the University of Northern Colorado. He has been active in civic affairs, both in support to the University of Rhode Island and in advancing the contribution of science and technology to economic development of the state.

Mr. Messere and his family have lived for many years in Peace Dale, RI, which I hope he will continue to claim as his home base while he serves in Washington. I wish him well in his new assignment and urge him to come home often.

Mr. President, I ask unanimous consent that Mr. Messere's official biography be inserted in the RECORD at this point.

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

EARLE L. MESSERE

Earle L. Messere, a member of the Federal Government Senior Executive Service, was selected as the Technical Director of the newly formed Naval Undersea Warfare Center (NUWC) in January 1992. Prior to assuming his present position, Mr. Messere served since June 1982 as Technical Director of the Naval Underwater Systems Center (NUSC), Newport, RI. As NUSC's Technical Director, he was responsible for the Center's technical programs and their planning, conduct, and

staffing. He also acted for the NUSC Commander on all matters concerning science, engineering, and technology.

Mr. Messere began his Federal service in 1961 as an engineer in the Propulsion Division of the Naval Underwater Ordnance Station (NUOS), Newport, a forerunner of NUSC's Newport Laboratory. In the course of his career, he held positions of increasing importance, including Head, Controls and Guidance Section; Head, Exploratory Research and Development Branch; and Chief, Fire Control and Systems Division. When NUSC was established in July 1970, he was selected as head of the Combat Control Systems Department, where he did pioneering work on systems integration and the introduction of digital technology into combat systems. He held that position until May 1980, when he was named Deputy Technical Director of NUSC.

Mr. Messere earned a bachelor of science degree with honors from the University of Rhode Island in 1956, a master of science degree with honors in aeronautics and astronautics form the Massachusetts Institute of Technology in 1964, and a master of public administration degree with honors from the University of Northern Colorado in 1981. He has also taken graduate-level courses in control systems and electrical engineering at Rensselaer Polytechnic Institute and at the University of Connecticut. In July 1984, he received an honorary doctor of engineering degree from Southeastern Massachusetts University (now named the University of Massachusetts at Dartmouth).

Mr. Messere is a member of Tau Beta Pi, an engineering honor society; Phi Kappa Phi, and honor society for general scholarship; and Sigma Gamma Tau, a national honor society for aerospace engineering. Other professional associations include the Institute of Electrical and Electronic Engineers and the Naval Submarine League.

His professional memberships have included chairman, On-Site Test Group, Trident Command and Control Systems (CCS) Integration and Certification; member, Chief of Naval Material Ad Hoc Steering Group to review the "FOX" report on Navy computer development; member, Steering Committee to establish and guide a course of software acquisition at the Defense Management College; member, UYK-43 (Navy tactical computer) Specification Review Panel; and member, American Defense Preparedness Association.

In December 1990, he was selected as the Navy representative on the Federal Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories. This commission was established to study the Department of Defense (DoD) laboratory system and provide recommendations to the Secretary of Defense on the feasibility and desirability of various means to improve the operation of the DoD laboratories.

In 1982, Mr. Messere chaired a special Naval Material Command research and development center's Mission Review Panel. The five member committee, consisting of Senior Executive Service members, examined the missions and functions of the then eight Navy research and development centers, with a view towards addressing warfare requirements and opportunities of the next 5 to 10 years.

During his career, Mr. Messere has been the recipient of many awards. He was nominated as the organization's candidate for the Arthur Flemming Award for Outstanding Public Service in 1966. In 1968, he received the activity's award for Excellence in the Area of Engineering and Science, and the NUSC Technical Director's Award in Excellence in 1972. In April 1982, he received the Knowles Award (Silver Medal) from the American Defense Preparedness Association.

He received the 1982 Admiral Charles B. Martell Technical Excellence Award presented by the National Security Industrial Association ASW Committee.

He received the prestigious 1985 Meritorious Executive Presidential Rank Award for his accomplishments as NUSC's Technical Director which "greatly enhanced the command's reputation for productivity and excellence." The award noted that his effective technical and managerial leadership contributed substantially to major new developments in submarine warfare and submarine weapon systems.

In 1986, Mr. Messere received the national Roger W. Jones Award for technical and managerial achievements at NUSC by the College of Public and International Affairs of American University. The award was for his "demonstrated qualities of strength, leadership, integrity, industry, and personal conduct of a level that has established and maintained a high degree of public confidence and trust."

He was selected in 1987 for the Navy Meritorious Civilian Service Award, the third highest honorary award under the Navy Incentive Awards Program. During 1987, he also received the Rhode Island Governor's Award for Science and Technology.

In 1989, he won the prestigious U.S. Navy Superior Civilian Service Award. In addition, Mr. Messere was presented with the Distinguished Executive Presidential Rank Award by President George Bush at ceremonies held at the White House. This is the highest honor that can be received by a member of the Federal Government's Senior Executive Service.

Mr. Messere is active in many professional and civic associations and, in 1982, was appointed by the Governor of Rhode Island to serve as a member of a special Strategic Development Commission. The commission was charged with designing and developing an economic "blueprint" for the state's future. In 1985, he was appointed by the Governor of Rhode Island to serve on the Advisory and Strategic Planning Committee for the Rhode Island Partnership for Science and Technology. The partnership is a major economic development initiative in the state that represents a combined effort on the part of state government, its major colleges, universities, and non-profit research facilities.

He has served as a trustee on the University of Rhode Island Foundation and as a member of URI's Marine Program Advisory Council, the College of Engineering Advisory Council, and the Patent Committee.

Mr. Messere lives with his wife, Barbara, in Peace Dale, RI. The Messeres have three children: Carolyn, Stephen, and Suzanne.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. KERRY). Under the previous order, the time for morning business is now closed.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be debate until 12:30 p.m. on the motion to proceed to S. 1504. The time will be equally divided and allotted in the normal fashion.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, we are here today to debate the motion to proceed to S. 1504, the Public Telecommunications Act of 1991.

This bill authorizes funding for the Corporation for Public Broadcasting for fiscal years 1994 through 1996 and for the Public Telecommunications Facilities Program for fiscal years 1992 through 1994.

The Committee on Commerce, Science and Transportation reported this bill out of committee without objection on October 3, 1991, and similar legislation was passed by the House on November 25, 1991.

Mr. President, S. 1504 has been on the Senate Calendar since November 19, 1991. Committee members sought consideration of the bill in November and were informed that there were Members who objected to consideration of the bill.

Since that time, we have not been informed as to which Members have holds and we have not been told specifically why there are objections to moving forward on this bill.

So, I stand here today, Mr. President, ready and willing to sit down with any Member to try to resolve any concerns he or she may have.

I cannot, however, be expected to work with Members who refuse to identify themselves or specify what their concerns are.

I believe that this authorization bill is important and should be approved by the full Senate. Accordingly, I see no need for further delay.

In 1967, the CPB was established by Congress. This law has as its goal: "* * * [to] help make public broadcasting available to all citizens * * *. And to afford maximum protection to such broadcasting from extraneous interference and control." In the 24 years since the adoption of the Public Broadcasting Act, public broadcasting has grown and matured.

Over the past 20 years, the Federal investment has enabled the CPB and the Public Broadcasting System to build a nationwide service reaching 86 percent of the American people with a public radio signal and 98 percent with a public television signal.

Even with the increased number of programming services, public broadcasting is largely responsible for much of the quality entertainment and educational video and audio programming available today.

This bill comes at a critical time for public broadcasting. Stations are finding it increasingly difficult to fund existing operations and programming, not to mention research and development.

The funding authorized in S. 1504 will ensure that the CPB can assist stations in the maintenance and expansion of current high quality programming, enhance program production, and further technological developments in the industry.

Public broadcasters will also be provided the resources necessary to continue expanding their educational services to viewers at home and to our schools and universities.

Accordingly, this legislation authorizes funding for the CPB in the amount of $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

These funding levels are reduced from the levels originally proposed in S. 1504 as introduced.

Funding for the Public Telecommunications Facilities Program is also authorized in this bill.

This program provides funds for the construction of new stations and upgrading of existing stations. It helps to ensure that public broadcast service is available to unserved and underserved communities or segments of the population.

In addition, the Public Telecommunications Facilities Program provides funding for new telecommunications facilities to be used for educational purposes. This bill authorizes $42 million per year for fiscal years 1992, 1993, and 1994. This level of funding is necessary to overcome the effects of inflation and to permit an increase in the number of stations assisted.

Mr. President, I also want to note that public broadcasting, particularly public television, provides a tremendous amount of educational and informational programming to our schools and universities. In fact, public television is the primary source of educational programming in this country. Public television reaches virtually every school district, four out of five schools, two out of three teachers and three out of four students. Public television and PBS make available over 288,000 hours of programming to viewers in their homes, in schools, and universities each year.

In closing, I would like to note that S. 1504 represents a bipartisan effort by the committee. We have worked with both the Republicans and Democrats on the committee to bring a consensus bill before the full Senate. Moreover, I do not believe that there are any controversial provisions in this bill. A similar bill passed the House of Representatives on a voice vote. While I regret the need to have a cloture vote, I was left with no other choice in view of the unwillingness of Members to work with the committee.

And so, Mr. President, I urge my colleagues to permit the Senate to consider this legislation today.

Mr. HOLLINGS. Mr. President, today the Senate will consider the motion to proceed to S. 1504, the Public Telecommunications Act of 1991, which I have cosponsored. This bill authorizes much needed funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program. Passage of this measure will provide for the continued growth and development of the American system of public broadcasting, a vital part of our broadcasting industry.

I rise today to urge my colleagues to give the Senate an opportunity to consider this legislation. The Commerce Committee approved this legislation unanimously under the leadership of the Communications Subcommittee chairman, Senator INOUYE. Since this bill was reported, I have been frustrated by the fact that the Members who have objected to consideration of this bill have declined to identify themselves or put forth any concrete reasons for their objections. We have given Members over 3 months to come work with us, and it is now time for the full Senate to discuss this bill.

This Nation's public broadcast system is an important resource to our citizens. I believe that it is time to get on with the legislative process and consider S. 1504. I urge my colleagues to vote to let the Senate proceed to consideration of this legislation.

Mr. GORTON. Mr. President, this morning the Senate is considering to proceeding to debate a very important bill, the reauthorization of the Corporation for Public Broadcasting. I urge my colleagues to vote to allow the Senate to take up this legislation and debate it on its merits.

I have personally been a longtime supporter of public broadcasting and enjoy both National Public Radio and the many fine television programs that are available on public television. The vast majority of the programs I have seen have been educational, informative, and well produced. I know that some of my colleagues are troubled by certain programming and this is the time to air those views. I think that hearing these concerns will be useful to all of us and I urge my colleagues to allow the Senate to take up this legislation.

Mr. BRYAN. Mr. President, I rise today in support of S. 1504, the Public Telecommunications Act of 1991. The Senate Commerce Committee on which I sit reported this bill out in October. I would like to commend Senator INOUYE and his staffer Tony Cook for their fine work on this legislation.

In reauthorizing the Corporation for Public Broadcasting [CPB], Congress is reiterating its conviction that public television and radio stations constitute valuable community resources to address national and local concerns. CPB and the public broadcasting system reach 86 percent of the American public with radio signals and 98 percent with a television signal.

Public radio and television stations year in and year out demonstrate their local support. Federal support for public broadcasting has never exceeded 22 percent, and currently represents approximately 17 percent of all revenues.

Since its earliest days, public broadcasting has helped to address the educational needs of our Nation. CPB has expanded educational opportunity with high quality programming and innovative technology. Sixty-five percent of the daily public television schedule is comprised of instructional programming, reaching 29 million students and supplying them with educational materials to bolster their learning.

CPB has successful activities underway that reflect a commitment to community outreach. Special emphasis has been placed on adult illiteracy, development of positive programming for preschoolers, and development of new instructional programming for elementary and secondary schools specifically targeted to national educational goals.

In Nevada, KLVX-TV in Las Vegas provides French I and II classes through broadcasts to students in areas of Nevada in which neither student enrollment nor teacher allocation allow for a foreign language instructor. The station also provides channels for teacher in-service training.

KLVX-TV also has produced such programs as "Public Report," a local series which provides television coverage for minorities and culturally diverse groups in the community.

KNPB-TV in Reno has produced a series of 1-hour segments called the "Nevada Experience," which is designed to help the general audience develop an understanding of the history and cultures of Nevada.

KCEP-FM, a public radio station in Las Vegas is committed to serving the needs of African-Americans. KUNR-FM in Reno aired a series last year on water rights issues which included interviews with the native American community and the local ranching community.

In these ways, public radio and television are integral components of local communities throughout Nevada. I urge my colleagues to support S. 1504.

Mr. D'AMATO. Mr. President, I rise today in support of closing debate on the motion to proceed to consideration of S. 1504, the public broadcasting authorization.

Let me be clear that I too am dismayed by those few questionable programs that have found their way into the public broadcasting schedule over the years. But those programs represent a minuscule proportion of public broadcasting's total schedule. What about the 99.9 percent that are wonderful?

You know the programs that I am talking about. Programs such as "Mister Rogers Neighborhood" and "Sesame Street" for preschoolers. For

adults "MacNeil/Lehrer," "Firing Line," "Wall Street Week," "Nature," "Nova," "The Civil War," "Great Performances," "Inside Washington," "Live from Lincoln Center," and on, and on, and on.

Then there are the programs you may not be familiar with: Public television's daytime schedule—math, science, history, English, geography, and foreign languages for classroom use in schools K through 12.

There are also college credit courses, and broadcast courses that permit viewers to earn a high school equivalence diploma. Do you know that some stations—certainly in my State—hold graduation exercises for people who have earned their high school diploma through courses on public television? These folks have no school from which to graduate, so their achievements are celebrated at the public television stations which made their high school equivalence diploma possible.

And literacy. We are all concerned about literacy. Do you know that public television not only offers programs that teach people to read and write, but that many stations go into their communities to locate volunteers who will work one-on-one with people determined to overcome their illiteracy? That is called "outreach." Public television also provides programs and outreach efforts relating to drug abuse, child rearing, and other social concerns.

The long and short of it is this: Public television has broadcast, over the years, some programs to which I object as much as any Member in this Chamber. But that list is very short indeed. On the other hand, the list of public television programs that educate, uplift, inform, and inspire is endless. That list of socially beneficial programs, coupled with outreach efforts of great social value, is the reason that I support S. 1504. I urge each of my colleagues to do the same, especially those who are concerned about the few bad apples in the barrel. I do not like bad apples any more than you do, but I also know a bountiful harvest when I see one. I ask Senators to support this motion to invoke cloture, so that we may proceed to consideration of S. 1504.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, I rise today to support cloture for S. 1504, the Public Telecommunications Act of 1991.

Mr. President, for several years now I have been a member of Prairie Public Broadcasting, the largest organization which delivers both public radio and television to North Dakota. I, along with nearly 25,000 other North Dakotan families, believe so strongly in the services provided by Prairie Public Broadcasting that I contribute part of my personal finances to keep it operating. I intend to continue supporting public broadcasting in North Dakota with both my membership contributions and, also, with my vote today.

It would be very wrong for the U.S. Senate to deny reauthorization of funding for the Corporation for Public Broadcasting. Public broadcasting provides access for North Dakotans to nationally produced fine arts and educational programming, such as PBS' award-winning "Masterpiece Theater" and Ken Burn's amazing series on the Civil War, and outstanding radio news and commentary from National Public Radio.

Also through public broadcasting, North Dakotans are treated daily to local and regional news coverage that is more expansive and complete than commercial broadcasting stations allow. Each week on Prairie Public Radio, North Dakotans have a chance to hear conversations with the State's newsmakers on current issues, and analysis by journalists across the State on a program entitled "The Prairie Weekly." Last summer, I had the pleasure to appear on the daily talk and information program "College," which is produced at KFJM-FM, the public radio station located at the University of North Dakota. These quality programs give listeners in my State direct access to information, conversation, and news that is not available through any other medium.

S. 1504 will also authorize funds for the Public Telecommunications Facilities Program, which helps replace wornout and obsolete equipment for public radio and television stations. Last year, KEYA-FM, which is operated by Native Americans in Belcourt, ND, received a $23,435 grant to replace and acquire new radio equipment. This station provides the only public radio service to meet the needs of the native American population in the upper north-central region of North Dakota.

Mr. President, less than 20 percent of public broadcasting is supported by the Corporation for Public Broadcasting. The rest of the funds come from private donations, such as corporate contributions and membership fees. But without Federal funding, most of the public broadcasting stations in my State would either have to make substantial cuts in services or go out of business all together. I am one of those who pays the membership fees. I believe it is worth the money. I strongly support public broadcasting in my State, and I urge my colleagues to join me today in supporting cloture on S. 1504.

Mr. PRYOR. Mr. President, I feel compelled to come to the floor today to speak about reauthorizing the Corporation for Public Broadcasting [CPB]. Under normal circumstances, I probably would not speak on this matter, but the controversy surrounding the CPB reauthorization has brought to my attention the many fine things this organization does in the public interest.

I have long been a listener and viewer of CPB programs. Although I have not always agreed with some of the things I have heard or seen, I certainly do not feel funding should be withheld because of this. If we begin to require CPB programming to pass politically correct standards before authorizing funding, we will either get no programming at all or dull, unimaginative, censored pap.

CPB and the other organizations it partially supports, such as the Public Broadcasting Service and National Public Radio, provide many, many invaluable services to communities around the country. For example, KLRE/KUAR FM in Little Rock, supported by public funds, has dedicated itself to keeping the people of central Arkansas informed of local and global news as well as providing quality entertainment. I would like to list for my colleagues some of the benefits this station brings to its listeners.

In addition to broadcasting national public radio news and information programming, KLRE/KUAR's locally produced public affairs programming has won national recognition for excellence—programs focus on important community issues including teenage pregnancy, rural health care, education reform, adult illiteracy, and so forth.

Regularly scheduled programming, both national and local, highlighting various minority issues including a highly acclaimed local series featuring the contributions of African-American musicians.

A locally produced program, "The Arts Scene," which serves as an unique forum for local arts organizations to publicize and promote their activities.

It is the only broadcast outlet in much of Arkansas for classical music, opera, jazz, and other fine arts programming. Some of this programming is shared with high school arts and humanities classes.

A special broadcast series in conjunction with the "I Dream A World" exhibit which highlighted a group of black women who changed America. This series was done in cooperation with the Arkansas Arts Center.

Public service announcements for a variety of nonprofit community organizations are routinely broadcast. Also, KLRE/KUAR and its support group, the friends of KLRE/KUAR, work directly with various nonprofit organizations including homeless shelters, food banks, and so forth, in providing assistance to the community.

Broadcast of a weekly public affairs program that is produced by university broadcasting students.

In conjunction with Black History Month activities, KLRE/KUAR developed a curriculum guide for use in public schools.

KLRE/KUAR is currently involved in an expansion project which will place

translators in several areas of the State that cannot now receive public radio.

KLRE/KUAR also sponsors a broadcast seminar for gifted and talented students in the public school system which allows them to obtain hands-on experience in radio news operations.

Mr. President, this is only one station in Arkansas, but I think it clearly exemplifies what similar CPB supported stations are doing around my State and across the country. Many lives are enriched by the CPB and I believe we are indeed fortunate for their presence.

Mr. INOUYE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Hawaii has 8 minutes, 40 seconds remaining, and the opponents have 15 minutes.

Mr. INOUYE. Mr. President, I have been advised that there are no Members who are interested in making any statements or discussing this matter. So I will yield back my time.

RECESS UNTIL 2:15 P.M.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. today.

There being no objection, at 12:08 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WOFFORD].

PUBLIC TELECOMMUNICATIONS ACT OF 1991

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill 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 motion to proceed to S. 1504, a bill to authorize appropriations for public broadcasting and for other purposes:

Daniel K. Inouye, Wendell Ford, Harry Reid, Alan Cranston, Jay Rockefeller, Pat Leahy, George Mitchell, Joe Biden, Terry Sanford, Brock Adams, John Glenn, Tom Daschle, Al Gore, Timothy Wirth, Christopher J. Dodd, Joe Lieberman, Ernest F. Hollings, Slade Gorton.

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. 1504, a bill to authorize appropriations for public broadcasting, 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. FORD. I announce that the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Minnesota [Mr. WELLSTONE], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. CRANSTON], would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—87

Akaka	Ford	Metzenbaum
Baucus	Fowler	Mitchell
Bentsen	Garn	Moynihan
Biden	Glenn	Murkowski
Bingaman	Gore	Nunn
Bond	Gorton	Packwood
Boren	Graham	Pell
Bradley	Gramm	Pressler
Breaux	Grassley	Pryor
Brown	Hatch	Reid
Bryan	Hatfield	Riegle
Bumpers	Heflin	Robb
Burdick	Hollings	Rockefeller
Burns	Inouye	Roth
Byrd	Jeffords	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Seymour
Conrad	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dodd	Lugar	Thurmond
Domenici	Mack	Warner
Durenberger	McCain	Wirth
Exon	McConnell	Wofford

NAYS—7

Craig	Lott	Wallop
Dole	Nickles	
Helms	Smith	

NOT VOTING—6

Adams	Harkin	Mikulski
Cranston	Kerrey	Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the Senate has now voted by a margin of 87 to 7 to invoke cloture on the motion to proceed to the public broadcasting bill.

I note the presence of the distinguished Republican leader on the floor, and inquire whether it will be possible now for the Senate to proceed to that bill at this time.

Mr. DOLE. Mr. President, I think under the rules, we have 30 hours on the motion to proceed. It would be our intention to use at least a portion of that time to discuss the bill, the motion to proceed, and things of that nature relevant to the bill.

Mr. MITCHELL. Mr. President, I appreciate the Republican leader notifying us of his intention in that regard. I would ask only, if, at any time during the day, a decision is made to permit us to proceed, that he communicate that to me and to the managers so that we might be able to proceed in that regard.

Mr. President, I note the distinguished Senator from Hawaii is present as the majority manager, and I hope that he will be ready to proceed at any time during the day.

Mr. INOUYE. Any time.

Mr. MITCHELL. I thank my colleague.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. We are now on the motion to proceed.

The PRESIDING OFFICER. The Senate is proceeding under cloture.

Mr. DOLE. Mr. President, I am pleased we are beginning the debate on continued funding for the Corporation for Public Broadcasting. Any time the taxpayers are being asked to dig into their pockets during a recession for another $1.1 billion, they have a right to know how their money is being spent, who is getting it, who is not and what is it being used for.

It is the same kind of accountability we expect from the pentagon, from the Agriculture Department, from Health and Human Services, and, yes, even from Congress.

Earlier today I participated in a key Finance Committee markup of legislation designed to help revitalize America's economy. One thing is clear: There are no simple answers, and no painless solutions. Unfortunately, there is another strong push by the majority party to raise taxes again. But I do not believe the American people are demanding a tax hike. What they are demanding is that Congress slow down its spending machine that has jacked the Federal deficit through the roof. Above all, they want Congress to reexamine its priorities.

So in this climate of record deficits, unacceptable unemployment and a stagnant economy, no federally funded program should be given a red carpet ride through Congress, whether it is agriculture—which is pretty important to my State—or whether it is anything else that might be important to different States. I do not care what it is, or what it claims to be, no taxpayer-subsidized program is going to get a free ride, even if it claims to be art, journalism, or culture.

No doubt about it, as we head into this debate, there will be plenty of issues to talk about. As we proceed to

the funding bill for the Corporation for Public Broadcasting, we will have ample opportunity to say what the debate is all about. But just as important, as we begin, let me tell you what this debate is not about:

It will not be about National Public Radio reporter Nina Totenberg. Her role in the Clarence Thomas and Anita Hill story has absolutely no bearing on future CPB funding. I am not certain who is spreading the myth that any questioning of CPB policies, programming, or funding is somehow a vendetta against Nina Totenberg, but nothing could be more wrong, or more naive. It is a red herring, designed to shift the focus away from the real issues, including the 50-percent increase in funding CPB is calling for—50-percent increase in funding.

This debate will not be about censorship. I, for one, do not want to control television programming, but we should make certain the American taxpayers are getting what they are paying for, and not getting what their tax dollars should not be paying for. In fact, if the public broadcasting programmers were doing a better job, we might not be here today. I have been a viewer of public television since it went on the air. I have even contributed during pledge drives. But I must say, as a frequent viewer and supporter, I have never been more turned off, and more fed up with the increasing lack of balance, and the unrelenting liberal cheerleading I see and hear on the public airwaves. But do not get me wrong: this debate has nothing to do with creating a conservative public broadcasting network, nothing would be more unwelcome. This phony argument—that conservatives want to take control of public television and radio—is another red herring, another gimmick designed to confuse the issues, and to hoodwink the taxpayers.

I do not want—and the American people do not want—to fund Government radio and TV based on ideology, whether it is conservative or liberal. But can anyone stand on this floor and claim that public broadcasting is not liberal?

Nobody can make that claim. It is. And that is the real test. Is it leading so heavily to one side it is starting to look like the *Titanic*? For example, when PBS announced its coverage of the 1992 Presidential elections would be handled by Bill Moyers—that great nonpartisan Democrat—and William Greider, two excellent journalists who also happen to be two excellent liberal Democrats, I knew the fix was in.

They are going to tell the American people, two liberal Democrats, what they ought to think about politics and what they ought to think about the Presidential election.

Oh, the critics will point to William Buckley's "Firing Line," or John McLaughlin's "One-On-One" as the ultimate proof of balance, or even quality. But the question is not how many rightwing and leftwing shows are on public TV or radio—how many crumbs are tossed to the extremists on both sides—the real question is, should the taxpayers be paying for any of it. Frankly, I resent the idea that any of us—Republican or Democrat, conservative or liberal—can be bought off by a few programs, or personalities—that is not the point, nor what we want to see with taxpayer-funded programming.

Let us face it, just because a program is aired on public television does not mean it is quality programming. That is the biggest myth about public TV and public radio. The self-proclaimed public broadcasting seal of quality should not be a smokescreen for one-sided political bias, offensive programming in the name of art and culture, or programming that may be very worthy, but just has no business being subsidized by the American taxpayer.

This debate will also not be about putting public TV and radio out on the street with a tin cup next week, next month, or next year, as some would have you believe. Despite all the hype that some liberals are spooning out to their constituencies, the upcoming debate will focus on funding for the years 1994, 1995, and 1996. The last time I checked, it is now 1992.

We are talking about 1994, 1995 and 1996, and we have been flooded with phone calls, "Why don't you act? We are going to be out on the street." This is 1992. 1994 is a couple of years away. We do not even have the budget for the United States of America yet. But they want to get theirs tucked away. The liberals want to get their money and run. But some folks are wringing their hands about locking in $1.1 billion 2 years from now.

This debate will not be about a Republican conspiracy, as some liberals would have you believe. In all my years in the Senate, I have never seen such advance hype, panic, misinformation, and propaganda, about a hold placed on a bill—a routine procedure and a fundamental right around here, as my friends on the other side of the aisle have demonstrated over and over again with Reagan and Bush nominations and other proposals when we were in the majority.

Unfortunately, more than one person called my office arguing that Republicans, by temporarily holding the bill—talking about funding in 1994, now, and 1995 and 1996—were somehow shortcutting the democratic process—that Republicans were using a sinister new tool, called secret holds, to derail democracy, tear up "Sesame Street" kill Big Bird, and starve the Cookie Monster. Sadly, even some members of the media, who are paid to know better, bought into the secret hold nonsense.

Let's face it, holds have been part of the Senate since day one. They are an essential tool to preserve the rights of the minority and the wide-open democracy of the U.S. Senate. One Senator can make a difference, and has the right to the opportunity to make a difference. But still, some reporters were running around here in a panic like they had just discovered holds, even though holds were put on two-thirds of the approximately 250 bills reported out of committee at the end of last session. Two-thirds of those bills were held temporarily.

By temporarily holding the bill, Republican Senators have ensured that this bill will be debated in the light of day, where it belongs, not waved through on some magic carpet.

You know, it is $1.1 billion—$1.1 billion is a lot of money. I think we have a right to know how it is going to be spent and who is going to spend it. This is not privileged legislation.

So, what will this debate be about? I have told you what it is not going to be about. It is going to be about accountability. Ask the American taxpayer. Ask someone who is out of work. Ask any of the Presidential candidates I have been watching on TV, Democrat or Republican. Why should not a piece of legislation, $1.1 billion, be subject to the same scrutiny as a $500,000 million grant for, say, Lawrence Welk's house? Everybody likes to make fun of Lawrence Welk's house. Or $100 billion defense cut? We have heard a lot in the public debates about accountability, about letting the American taxpayers know how we were spending their money.

So we want to find out, who gets these big salaries? How much are they paid? I bet nobody knows in the Senate, but we are going to find out this week how much some are paid. You will find out a lot about CPB that you did not know anything about because nobody has ever taken the time to look. And that is taxpayers' money. It is not their money. It is not our money. It is the money of taxpayers in Kansas and North Carolina and South Dakota and Pennsylvania. And they have a right to know how the money is being spent.

I read last week—in fact I got blasted myself by a self-styled porkbuster group in Congress for winning congressional approval for several essential projects in my home State of Kansas, including tornado sirens for 94 Kansas towns, funding for battered and abused kids, social services, and higher education projects and I do not quarrel with that. Everybody has a right to take shots at our projects, and I had every right to fire back—and I did. That's democracy. That is how it works.

Some folks on our side are going to fire some shots at this bill.

We may not kill it. We may not want to kill it. We may wound it, or may not want to wound it. But a little fresh air,

a little sunshine—we talk about sunshine, letting the American people know how we are spending their tax dollars—might be a good thing for CPB and that tightly held organization. If their concerns don't stand up to scrutiny, fine. But if something in this bill cannot be defended, we are not here to be cheerleaders—for this bill or any other.

Mr. President, I suggest we look forward to vigorous debate. We are going to have a lot of people involved in this debate. We may have some amendments. We are going to try to enlighten people, the American people—a lot of others. There are a lot of good programs on the Corporation for Public Broadcasting. A lot of them say they are going to go off the air. A lot of them are big moneymakers. You will find out about those, too. They are not going to go off the air. They are not going to go anywhere. They are making big money. So I just suggest, for those who were so concerned that somehow this bill was being held, this bill that provides funding in 1994, let us ask the unemployed people whose funding runs out in May of this year. Is there anybody here saying we ought to fund unemployment compensation for 1994, 1995, and 1996? I have not seen them on the floor. Is this some priority here that deserves advance funding, 2 years in advance. We do not do it for any other program. Let us have a little fresh air, a little sunshine, and let us see what happens in the next 2 or 3 days.

It is an important piece of legislation. I think at one time public broadcasting played a very important role, and maybe still does. There is a lot of competition out there now. A lot of people are trying to make it on their own in broadcasting and television. They are not getting subsidies. They are not getting $1.1 billion. And they have a lot of public programs, too.

So let us just find out if this $1.1 billion is well spent, just what the taxpayers want in my State, in your State, or do they know about some of the things we are going to talk about in the next 30 hours?

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from North Carolina.

Mr. SANFORD. Mr. President, today as the Senate considers S. 1504, the Public Telecommunications Act of 1991, I would like to raise some danger flags about political intimidation and make some comments about the importance of public broadcasting.

We are going to be subjected to delay because of holds put on this legislation by seven Senators. This procedure is, indeed, the right of a Senator. It is indeed a proper safeguard and a proper use of senatorial authority that ought not to be diminished. But is it not interesting to note that the Senate, when given the chance to vote, chose, 87 to 7, to proceed?

I think that vote provides a strong indication that the Members of this body believe in public broadcasting and want to see it receive continued Federal support.

I have always been a strong supporter of public broadcasting. In fact, I served on the Carnegie Commission on Educational Television 25 years ago, which began as a commission with a vision for educational television and concluded with an original plan for American public television.

Recently, some have begun to question whether public broadcasting, particularly public television, is still a function worthy of Federal support. I would like to share a few of my thoughts on this subject today.

In 1966, the Carnegie Commission viewed public television as a force for excellence, to be operated without regard to commercial advertising appeal but also without an aversion to broad audiences. The commission recommended the creation of an independent, nongovernmental corporation, the Corporation of Public Broadcasting. This corporation was intended to create "a new and fundamental institution in American culture." I think that it did, Mr. President.

Today, the programs and service provided by CPB and public broadcasting television and radio stations are the embodiment of the concept of the Carnegie Commission. Programming supported by the Corporation for Public Broadcasting and public broadcasting stations spans a vast range of interests. This programming includes stirring documentaries about our country's history, including the "Civil War" and the "Eyes on the Prize"; in-depth news programming, such as the "MacNeil/Lehrer Newshour"; "All Things Considered," and "Morning Edition"; children's programming that continues to enjoy the trust of millions of parents, such as "Sesame Street," "Reading Rainbow," "Mr. Roger's Neighborhood" and programming that successfully utilizes the full educational potential of public television, such as "Square One TV" and "3-2-1 Contact."

Public broadcasting brings to us the theater, opera, and drama. It brings them to us in inner cities, in rural communities, and in many cases to people who otherwise would be unable to experience them. Eighty-seven million Americans are informed by public television each week through a network of more than 340 noncommercial stations. In addition, public broadcasting provides educational opportunities for college credit, as well as for elementary and secondary high school programs for supplemental instruction in grades K through 12.

Public broadcasting is the one place where program funding decisions are made without regard to marketplace pressures. And I think we should see to it, as intended, that these decisions are made without regard to political agenda pressures. Instead, the Corporation for Public Broadcasting and public broadcasting look for programming with such qualities as substance, depth, diversity, and social sensitivty—programming that makes a difference. The Corporation for Public Broadcasting and public broadcasting stations invest in programming that keeps the public well informed and provides a forum for ideas and philosophical differences.

In my State of North Carolina, public broadcasting stations provide an array of programs and services that are unavailable from other broadcasting sources. For example, in 1990, WCQS-FM in Asheville received a construction permit to serve the eastern band of the Cherokee Nation, providing the first public radio service to a native American reservation. The station also serves a rural, mountainous area with limited access to commercial or noncommercial electronic media.

Through funding from the Corporation for Public Broadcasting, stations in my State also provide educational outreach services, news and public affairs programming, and local cultural arts programs.

The Carnegie Commission on Educational Television foretold in 1966 some of these remarkable achievements. However, certainly, the Corporation for Public Broadcasting and the public broadcasting system across the country have exceeded the aspirations of the commission, and both have been true to the public purpose.

Of that public purpose, the commission wrote that:

> Through the diversified uses of television, Americans will know themselves, their communities, and their world in richer ways. They will gain a fuller awareness of the wonder and the variety of the arts, the sciences, scholarship and craftsmanship * * * and public television is capable of becoming the clearest expression of American diversity, and of excellence within diversity.

Thus, I believe the answer of whether or not public broadcasting is still important today is clear to the millions of American families who have experienced the enrichment of public television and radio in their education, their enlightenment and their entertainment.

It is also true, I am sorry to note, that the filibuster is designed to intimidate those who protect the independence of the many people who now make the balanced judgment on programming. They may not be perfect, but they are much better at making judgments than would be politicians with a political agenda.

Mr. President, I appreciate the opportunity to share my strong support for public broadcasting, and I urge my colleagues to support S. 1504 and to reau-

thorize the Corporation for Public Broadcasting.

Mr. President, I thank you and yield the floor.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. GORE] is recognized.

Mr. GORE. Mr. President, I, too, want to support the legislation. But before doing so, I want to compliment my colleague from North Carolina on the statement he just made. I was glad to be reminded that he was a member of the Carnegie Commission which came up with the blueprint for public television so many years ago.

I remember that report when it came out and it is looked back upon by one and all as a watershed, a real turning point after which the country decided we are going to have public broadcasting, television and radio, to make available to the children of this country and to all citizens of this country the kinds of information services on television and radio that are not provided by commercial stations.

I think this is one decision which is also looked back upon now as an extremely wise decision, an experiment that has been remarkably successful.

Mr. President, may I say from a political standpoint that I am sincerely surprised that the Republican side of the Senate has chosen to reverse its historic commitment to public broadcasting. This has never been a partisan issue. There has always been a strong bipartisan support for public broadcasting and also support for the principle that politicians ought not to try to dictate what the content of public broadcasting is.

Mr. SANFORD. Mr. President, if the Senator will yield on that point?

Mr. GORE. I will be honored to yield.

Mr. SANFORD. Mr. President, I do not think we are seeing a departure from bipartisan support. As a matter of fact, I think we have just seen a display of bipartisan support. I think it is a rather small band with some kind of ulterior motive that have forced this long delay on consideration because we did get 87 votes to go forward, meaning 87 people did not want to be on record as being perceived to be against this kind of programming that has meant so much to American people—parents, children, families, everybody. So I think probably we are going to see a continuation of Federal support for the corporation for public broadcasting and the public broadcasting system.

Mr. GORE. I think that is the case, but I want to try to smoke them out a little bit over there because there are no Democratic Senators holding up the public broadcasting bill.

Mr. SANFORD. Mr. President, if the Senator from Tennessee will yield, we might very well expect to see some kind of unrelated amendment. This news is a device for that. So I think we ought to be on the lookout for devices that have nothing to do with the value of public television.

Mr. GORE. Yes. But let me just make the point clearly, because while I agree with my distinguished colleague that the overwhelming majority of Republicans as well as Democrats support public broadcasting, I was going to get to that point, but I think it is true that the overwhelming majority of Republican Senators support public broadcasting as they always have and as Democratic Senators still do. Nevertheless, this brand new core of opposition to public broadcasting is on the Republican side of the aisle. It is not that way in the country.

Let me tell you, Mr. President, that in Tennessee when local communities get together to decide whether or not there is community support for the public broadcasting stations in their communities, it is not a partisan issue. There are as many Republicans as Democrats on those fundraising boards. In the community groups that make telephone calls and raise money to support these stations, there is nothing partisan about it, really. This is something upon which our country has agreed.

But now we have a group of Republican Senators saying they want to hold up public broadcasting. They want to drive a wedge between the public broadcasting service and the American people and try to intimidate the public broadcasting service to do what they want them to, whereas the independence of public broadcasting has always been one of its strengths.

I remember when a foreign country took objection to a film to be shown on the public broadcasting service called "The Death of Princess." I remember that well. It was, I do not know, 10 years ago, something like that. Americans in both political parties stood up and said: No way are we going to let some foreign country come in here and dictate the content of television programming put on public broadcasting.

Well, now we have a willful band of ideologues who want to do exactly what that foreign country was trying to do. They are going to try to blackmail the country by threatening to hold up the Public Broadcasting System and destroy the base of funding for public broadcasting unless public broadcasting will bend to their will.

I think it is ridiculous, and I think it is a mistake in terms of policy.

I would also venture the opinion, Mr. President, that it is a mistake in terms of politics, because the American people do not want to see public broadcasting made into a political football. This is not what the American people want to see. It has been that way.

I hope my distinguished colleague from North Carolina is correct that when they have to belly up to the bar and vote on it, they will hear the footsteps of their constituents in both political parties who say: Leave it alone; hands off. This is one thing that works in this country. It is doing a good job. Stop kicking it around like a political football.

Mr. President, I hope this legislation does move forward in a timely manner, and I expect that it will. But it is now clear that the Republican side of the aisle is going to try all kinds of political tricks, all kinds of parliamentary maneuvers, to try to kill public broadcasting, or at least that is what a minority on that side of the aisle would like to do. We will have all kinds of strategies thrown at us here.

What a disservice to the American people; when we find something that works and that is broadly accepted and supported in the country, they cannot resist making a political football out of it.

When Congress first authorized funding for the Corporation for Public Broadcasting in 1967, division was even broader. It was envisioned at that time that PBS would receive about half of its funding from the Federal Government. But nothing of the sort has ever happened. Through the years Federal support for public broadcasting has never reached more than 22 percent.

Nevertheless, the Congress through its vision and foresight in establishing the Corporation for Public Broadcasting has successfully provided the American people with a nationally interconnected, yet locally based public radio and television system unsurpassed anywhere in the world.

Funding for public broadcasting benefits Americans with a laundry list of excellent services. The American people have the ability to hold this system accountable. Most of the support comes from local communities.

There is high-quality programming and educational services; availability of expanded public radio; development of new technologies such as closed captioning for the hearing impaired, descriptive video, and public radio's reading service for the visually impaired; promoting newly emerging technologies such as interactive television and computers, digital audio broadcasting, and direct broadcast satellites which ensure that the public broadcasting radio and television signal is available to as many Americans as possible.

Today public broadcasting is a multifaceted and diverse endeavor of more than 700 public radio and television stations, as well as regional and national organizations, throughout the United States, Puerto Rico, the Virgin Islands, and American Samoa.

Public broadcasting is an efficient way for the Federal Government to improve education. How many Senators here have children who have watched "Sesame Street" and "Mister Rogers' Neighborhood"? I know my children

have; every one of them. How many families will testify in a congressional hearing tomorrow on how valuable "Sesame Street" is, or "Mister Rogers' Neighborhood," or the other children's programs?

What kind of children's programming comparable to these are available on commercial broadcast stations? Every once in a while you will see a pretty good program there but nothing like these programs because by the nature of the beast it is used to sell products, and that has obviously an extremely valuable place in our society. But it does not fill the need for educational programming for children in the way that public broadcasting does.

So now we have a move from the Republican side of the aisle to hold "Sesame Street" and "Mister Rogers' Neighborhood" hostage for their ideological political agenda. Kick it around like a political football. Go right ahead. See whether it helps you or not. I venture to say it will not be politically beneficial when the American people understand that the Republican side of the Senate is trying to hold up public broadcasting in this manner.

These programs I have just mentioned make learning fun for preschool children and for their families. And these programs are popular with parents, I guarantee you, because I hear the positive impact of public broadcasting on education is quite evident in my home State of Tennessee where the public broadcasting station provides a variety of local programming and community outreach initiatives.

For example; one station, WDCN, in Nashville, channel 8, will participate this fall in the CPB-sponsored and supported "Sesame Street" preschool education program, which is designed to help child care providers support the educational goals of "Sesame Street" with art, play, and reading materials for interactive learning. This station and others also provide curriculum-based kindergarten through grade 12 instructional programming for 7 hours each school day, reaching approximately 300,000 student viewers in only one community, and many hundreds of thousands statewide, as well as home schoolers, adults, and community organizations.

There are some children who are educated at home now—a tiny minority—it is true. But parents who are involved in home schooling activities have found especially valuable some of these unique programs available on public broadcasting. Other parents, whose children are in the public schools or in private schools, supplement their learning agenda with these same programs.

This is something, as I said before, that is a tremendous success in our Nation.

After-school programming inspires school-age children to learn and addresses the underlying personal and social problems which create real hurdles to the ability of children to learn. For students in rural communities and small towns, the Satellite Education Resources Consortium, a recent innovation in satellite education, makes quality courses in math, science, and foreign languages available to thousands of high school students.

The Corporation for Public Broadcasting provided seed money for the initial planning and pilot semester of the Satellite Education Resources Consortium. That initial seed money was instrumental in the development of this important educational endeavor, and it is a success, Mr. President. It is a success today.

I heard recently from the Governor of Tennessee about how this program is operating in classrooms in my home State. I have heard from teachers at the local level, and I have heard from the Governor about the statewide perspective on it. This would not have been possible without the Corporation for Public Broadcasting. But ventures like this one are now made into a political football. I think that it is a disservice to the country.

On a widespread scale, classroom television provides instruction to some 29 million students in science, math, reading, and geography. For example, stations in Tennessee provide curriculum-based K through 12 instructional programming for 7 hours each school day. This educational programming reaches many hundreds of thousands of public and private school students in Tennessee, as well as adults and community organizations.

Another major outreach programming effort that received initial and continued Federal support through CPB is Project Literary U.S. [PLUS] which combats illiteracy among the 27 million functionally illiterate adults in this country.

Today, literacy task forces and 200 mentoring task forces, composed of thousands of volunteers, Republicans as well as Democrats, are still in operation nationwide helping individuals learn to read; yet another reason why this public broadcasting service has never been allowed to be made into a political football, until today.

Furthermore, Mr. President, in 1990, CPB and public broadcasting undertook a year-long effort focusing on environmental awareness. "Operation Earth" was carried to cities across America by capitalizing on the strong ties between local public television stations in the communities that they serve. In my home State of Tennessee, "Operation Earth" was supported by various public television stations through a variety of projects and programs which successfully raised environmental consciousness. For example, WLJT in Martin, TN, involved over 200 students in grades 6 through 12 in a project to express what "The Year of the Environment" meant to them. I praise CPB's substantial efforts to increase environmental awareness and urge its continued support.

Some on the other side of the aisle are specifically concerned that the public broadcasting system does not say that the Earth's environmental crisis is a hoax.

We have had explicit concerns raised about the fact that some public stations chose on their own initiative not to air some ridiculous program from another country that claimed the whole environmental crisis is a hoax. When we had documentaries on the Moon landing, should we have insisted that public broadcasting stations give equal time to some nut group that claims the Moon landing was staged on a movie lot in Hollywood? There are people who believe that. Does that mean that because those people vote, we have to use their ridiculous point of view as a standard by which to force public broadcasting to change its mind about what it thinks is proper programming?

The point is not that public broadcasting takes a particular point of view on this issue or that issue. The point is that they have the freedom to decide what represents quality programming. That is what this is all about.

Now we have this partisan effort to drag public broadcasting into politics and try to force public broadcasting to promote a right wing agenda. We have a lot of programming that public broadcasting has chosen to put on that sets forth a conservative point of view, from William Buckley to John McLaughlin, to other programming of that sort. And there is balance in public broadcasting. But it is not for me to determine what balance is, or what the content of their programming is. It is for those who are entrusted with it to exercise their independent editorial judgment.

It we start coming into this Chamber and seeking to review the editorial decisions made by those who decide what programming goes on, then it will not be long before we are seeing the rightwing insist that Mr. Rogers change his lesson plan to include a rightwing political agenda in "Mister Rogers' Neighborhood," or that "Sesame Street" come up with different characters because they did not meet the political or ideological litmus test. Leave them alone, Mr. President. They are doing a great job.

The American people appreciate what is being done by the public broadcasting service, and they are willing to give them the license to err a little bit this way or a little bit that way, because they realize that, being Americans, that is what freedom involves, to give them the chance to be independent and free.

But, no, the Republican side of the aisle is now supporting a willful band

there that wants to hold public broadcasting hostage.

Mr. President, I hope you can see that this is an issue that I think is very important. I think public broadcasting is one important way that our Nation can improve U.S. education and literacy and the awareness of the challenges facing our country on a national basis. It is vital for inner city youth in need of educational support, for adults in need of literacy and job training, and for those in small and rural communities who too often cannot obtain the educational resources available in a big city, to provide them with the opportunity for success.

Mr. President, CPB's pioneering use of satellite technology has provided high-quality programming, education, and enjoyment to Americans in all walks of life. To those persons living in rural mountainous areas, where one cannot receive regular network television signals, or cable television, public television via satellite is a blessing indeed. To senior citizens and low-income individuals, high-quality programming from public television and radio provides news, cultural, scientific, and educational programming.

Public broadcasting is a highly developed nationwide telecommunications system. It brings together ideas, producers, technology, communities, and audiences. As we move into the next century, I am confident that public broadcasting is a cost-efficient way for the Federal Government to use advances in satellite technology to improve education and literacy on a broad scale. However, I believe that these results can be realized only with the Congress' full commitment, one that allows CPB to unleash its full potential to address the challenges ahead.

In closing, Mr. President, I hope we can restore the bipartisan support for public broadcasting which we have always had. I am very grateful that on the Commerce Committee we have strong bipartisan support; it has not been a partisan issue at all.

And I just hope that Republicans and Democrats alike, and independents in this country who are involved in raising community support for public broadcasting, those parents who understand in their own families how important public broadcasting is, and others who support public broadcasting, will send a message to those on the Republican side of the aisle here to quit playing games with public broadcasting.

We have enough problems in this country, without picking on one program that works and has the support of the American people, and trying to make a political hostage out of it. Let us move on with this legislation and give public broadcasting the ability to continue doing the excellent job they have been doing for Americans.

One final point: I commend the chairman of the subcommittee and the ranking member for the outstanding way in which this legislation has been handled and the restrained way in which they have responded to this unusual set of circumstances.

And also I offer thanks to the chairman of the full committee, Senator HOLLINGS, and the ranking member of the full committee, Senator DANFORTH; but essentially to Senator INOUYE, who has carried the burden the entire way for so many years on this. It is a pleasure for me, as a member of his subcommittee, to be able to work with him on this bill.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my friend from Tennessee for his eloquent support of this measure, and I thank him for his kind words.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Will it be appropriate to send to the desk an amendment in the nature of a substitute to the committee bill and ask for its immediate consideration?

The PRESIDING OFFICER. The Chair will inform the Senator that the Senate is considering a motion to proceed, and therefore it would not be timely to offer a substitute amendment at this time.

Mr. INOUYE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Is there any special order on speakers?

The PRESIDING OFFICER. There is not.

Mr. INOUYE. Then may we proceed to the consideration of this measure?

The PRESIDING OFFICER. Is there further debate on the motion to proceed? The Chair would inquire, is there further debate? Is there objection on the motion to proceed?

The Chair will put the question.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

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

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

Mr. MCCAIN. Mr. President, over the years I have had serious concerns about what has become an increasingly blatant effort by the Corporation for Public Broadcasting, the CPB, to use taxpayer money to air clearly biased programming over the public airways. In this year where the American people are outraged by the growing Federal deficit which will be burdening taxpayers for generations to come, it is more important than ever to scrutinize how the CPB issues its grants at the American public's expense.

The CPB was created in 1967 to provide a vehicle by which to air noncommercial educational programming on radio and television. In that year, the American people were facing a different situation in available programming than they are today. Commercial television offered only a few stations with limited programming. Viewers today now enjoy a nearly limitless variety of programs through broadcast stations, satellite, microwave, and cable.

The fact that greater programming, including educational programming, is now available through a number of ways does not necessarily obviate the need for programming available through public broadcasting. It does, however, highlight the importance of looking closely at the funding process to ensure that taxpayers' money is being used in accordance with the statute. This goes directly to the heart of the charge that public broadcasting is biased toward airing liberal, leftwing programming.

The Public Broadcasting Act of 1967 which provided for the creation of the CPB explicitly requires the CPB to "'facilitate the full development'—and I say full development—of educational broadcasting in which programs of high quality, obtained from diverse sources, [and make them] available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

Let me repeat that: "* * * strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

Mr. President, I intend to talk a little bit about the fact that there has been program after program in which there has been no effort made to provide balance. I want to state again, I think that a purpose of public television should be to air controversial programs.

I do not expect them all to be confined to programs like "Sesame Street" which, by the way, has given an enormous contribution to generations of American children.

But when we have a program of a controversial nature, there has to be balance and the opposite view presented. I hope, Mr. President, and I believe, that if public television broadcasts rightwing and conservative views to the detriment of liberal views that I would be standing here with the same objections that I am voicing today.

Mr. President, all it takes is 1 week of watching the programs on the Public Broadcasting System to see that there is no adherence whatsoever to the stat-

utory mandate to provide objectivity and balance in controversial programming. In the controversial political programming on PBS, the viewer is predominantly exposed to liberal, leftwing viewpoints without the benefit of alternative points of view.

In some instances controversial programs espousing one viewpoint are followed by a short, roundtable discussion in a thinly veiled attempt to fend off bias charges by offering one or two differing viewpoints. In my mind, Mr. President, a 2-hour program advocating one view, followed by a short discussion where maybe one participant has an opposing view is neither balanced nor objective. The taxpayers in this country know this and deserve better.

One program in particular did not even attempt to obscure its blatant bias. Instead, one of its codirectors slapped taxpayers in the face by stating that an alternative point of view was unnecessary.

Mr. President, I have twice watched a program called "Maria's Story." It is a program glorifying the life of an F.M.L.N. guerrilla in El Salvador. It painted her and the Communist guerrillas in El Salvador in the most heroic of depictions. It was an incredibly biased and nonobjective program that favored the F.M.L.N., and described them as being a group of saviors, and every member of the Government of El Salvador and anyone associated with them as cold-blooded murderers and killers. That was a program that was shown on PBS.

The codirector, whose name I copied from the program, Monona Wali, went on the air and stated, and I quote from the program: "The question comes up often. Isn't this really a piece of propaganda since it's a political film? Well, the closest comparison I can make is to the 'Diary of Anne Frank' where nobody asked, why isn't Hitler's point of view told in this book?"

Mr. President, there are arguments on both sides of the issue of the tragedy that took place in El Salvador over the last 12 years. In fact, one of the greatest successes that many of us on both sides of that issue, on both sides of the aisle, can appreciate and enjoy is the fact that there is a very, very strong likelihood of peace coming to that unhappy and strife-torn, and tragic nation.

But the fact is that there were outrages and abuses that took place on all sides. There were terrible tragedies that took place throughout that nation which unfortunately is the worst aspect of any civil war. And yet we were treated, the American people, with taxpayers dollars, to a program which was incredibly biased. And then the response as to why there was not any opposing viewpoint is to compare it to the activities of Hitler's Germany.

Mr. President, that is not fair. That is not what we want in American broadcasting. And that is not what we want with taxpayers' dollars.

Let me go back a second, Mr. President. I would not be talking about this if we were not talking about the expenditures of American taxpayers' dollars. If PBS were an independent corporation which was supported by voluntary contributions or subscriptions from companies, corporations, individuals throughout this country, Mr. President, I would have no problem. In my view, they could present almost any program that they wanted to within the bounds, of course, of restrictions on pornography, et cetera.

But we are talking about taxpayers' dollars and we are talking about programs that are clearly not balanced. I do not know how you get that balance, Mr. President. And that is what bothers me a great deal because at the same time that I am concerned about the bias that I have seen time after time, I am not interested in having any political appointees determining what is balanced. That is the dilemma that we face.

Even if a particular program was not created with public funding, the entity which airs the program, and is a grantee of taxpayer funds, in this case PBS, should be held accountable to the American people for ensuring that the objectivity mandate of the statute is met.

Mr. President, the American people do not routinely keep copies of the Public Broadcasting Act around the house. Many Americans are not aware of the complex funding structure which maintains, and effectively insulates, CPB from accountability. They are not aware that PBS and National Public Radio are independent entities unaccountable to Congress, yet are recipients of millions of dollars in grants each year.

To most Americans, public broadcasting is not the CPB. To them, public broadcasting thriving from their taxes is PBS. It is NPR. The medium is the identification, not the independent entity. The Independent Television Service was created by Congress in 1988. Yet, there is still no accountability for the money they spend.

That is why the American people are outraged by the fact that they turn to their local over-the-air broadcast station to find such liberal, leftwing programs as "Tongues United," which I will not even describe, "After the Warming," and "Maria's Story." To them it is unimportant that PBS was not statutorily created as was the CPB. To them it is irrelevant that PBS and NPR are merely grantees of Federal funding. What strikes them, and rightly so, is that their hard-earned tax dollars went toward funding either the actual program or the station which airs the program.

Mr. President, there are those who will eagerly turn around and say that the criticism of the CPB's failure to meet the statutory mandate to provide balanced programming is tantamount to censorship and an effort to deprive our children of access to Big Bird and Mister Rogers.

I know that the American people cannot be fooled so easily. I have always supported the educational programming on public television and I continue to do so today. My concerns have nothing to do with the educational programming which we all agree is of high quality and effectively serves the public interest.

Nor do my concerns stem from an interest in flooding the airwaves with only conservative viewpoints. On the contrary. I strongly support the mandate in the original act which sets out to provide diversity in programming and diversity in sources for programming. In my view, it would be just as outrageous to have a publicly funded system espouse only conservative viewpoints as it is for them to promulgate only liberal ones.

I do not believe that systems receiving Federal funding should become government mouthpieces. That was not the intention of Congress in establishing the CPB. For that reason, the inclusion of a mandate for balance and objectivity was crucial to ensuring that these systems did not become vehicles for the dissemination of propaganda for a particular party or ideology.

Nevertheless, it is not working as it was intended, Mr. President. The system is broken. The revelation that political programming on public stations is extremely biased has taken hold. It has even produced criticism from the print media which alleges intervention from Members of Congress advocating certain programs. The Wall Street Journal editorial of February 7, 1992, sarcastically entitled "Friends of Public Television", strongly suggests that the system mixes politics with programming, and recommends that alternative programming be left to the many other outlets available to viewers, and not public stations.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

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

[From the Wall Street Journal; Feb. 7, 1992]

FRIENDS OF PUBLIC TELEVISION

Public television to most people means an oasis of intellectually respectable programming. They think of Ken Burns's series on the Civil War, MacNeil-Lehrer, "Nature," "Mystery" or wonderfully acted dramatic series. But somewhere off in the far corners of American life, there are those who believe that public television's real mission is programs such as "Endangered Species: The Toxic Poisoning of Communities of Color" or "Tears: The Ho Chi Minh Trail."

A nice little flap has now developed around the decision by Senator Bob Dole and other

Republicans to hold up funding for the Corporation for Public Broadcasting until a good explanation is given for why federal money should underwrite efforts such as "Citizen Dhoruba," a documentary extolling the virtues of a former Black Panther convicted of shooting two New York policemen. This, of course, has raised cries and screams of censorship, but it's also given everyone a chance to have a closer look at the relationship between Congress's politics and public TV's politics.

Conservatives rail tirelessly at public TV's stream of left-wing documentaries, but sources in an around the Corporation for Public Broadcasting make a pretty good case that more than a little of this stuff is shoved down their throats by congressional Democrats.

The "alternative" documentaries are the fruit of an intensive lobbying campaign going back to 1988. At that time Rep. Henry Waxman (D., Hollywood) led the charge for authorization and funding of $24 million to support a small group of "independent" television producers, Independent Television and Video Service, who claimed their work was being given short shrift by public television.

Because Rep. Waxman is well connected in Hollywood—especially among the rich contributors to liberal Democratic election campaigns—he had no trouble attracting the support of his House colleagues, notably Rep. Edward Markey of Massachusetts, for the ITV effort. "We knew" one corporation source said, "that it was a time bomb."

The ITV project exists not only because of an explicit directive; Congress also ensured that it wouldn't be accountable in any real sense to oversight by the corporation. On receiving grant money in 1988 from the Corporation for Public Broadcasting—public television's bank—ITV went on to announce some 25 films, more than half of them with such suggestive and compelling titles as "An Act of War: The Overthrow of the Hawaiian Nation" or "Warrior: The Case of Leonard Peltier." The Committee for Media Integrity, which has been holding CPB's feet to the fire on this, notes that "Citizen Dhoruba" would be the fifth film glorification of the Panthers shown on public TV.

Somehow, public television has got to get over its identity crisis. The programs of which it can justly be proud and the basis of its good reputation such as "Masterpiece Theatre" or the others mentioned above, get much of their funding from corporations such as Mobil, General Motors, AT&T, PepsiCo and the like. Meanwhile left-wing Congressmen turn the Corporation for Public Broadcasting into a vanity press for the film-making wing of their party.

Examples? A six-part series called, "Imperial Masquerade," which depicted the United States as the leading imperialist warmongering entity in the world. (This had the misfortune to air the week the Berlin Wall fell.) "Making Sense of the '60s," which aired last year, was a six-part tribute to the radicals of that wondrous decade. The point about all these efforts is that there is no other point of view.

To the extent any evidence exists of what the actual viewing public wants from public television, it's on the air during pledge weeks. This "market test" makes it clear that what most of the public-TV audience will support is quality entertainment and information programming, not tendentious politics.

But Henry Waxman is a powerful congressional solon, whose insistence that millions be bestowed on film makers congenial to his own politics says as much as ever needed saying about the dangers of government control of information systems.

We continue to believe that the best option for the people who think "Citizen Dhoruba" is what America needs to watch is to start their own cable-TV network, as did the Lifetime network for women, Discovery for nature lovers, MTV for rap lovers, the Weather Channel or the Home Shopping Network. Surely if there is a sustainable audience for the Progressive Network, advertisers will come forward to try to sell them whatever it is they buy from the hateful marketplace.

Mr. McCAIN. Public trust in the CPB and its use of taxpayers' funds is eroding, beginning with this Senator. I do not know the answer to this problem. A solution which balances the concerns of keeping Congress out of editorial content decisions on the airwaves and need for Congress to effectively ensure that programming remain objective is difficult to strike. One thing is certain: The American people will not abide by a federally funded system which remains unaccountable for how funds are spent. For that reason, I included an amendment to the Public Telecommunications Act of 1991 which would require the CPB to include in its annual report to Congress the name of the programs that receive grants, a description of their content, the amount of each grant, and the names of the producers of the programs.

I believe, Mr. President, that the American taxpayers have a right to know how their money is being used and for what kind of programming. With the inclusion of this information in the annual report, Congress and the American people can begin to closely monitor the programs to ensure that the mandate of providing balanced viewpoints is met.

It is very important for us to know where the money goes, who it is to, and the nature of the programming. I do not view that, Mr. President, as intimidating in any way, or in any way censorship. It is not censorship and it is not the end of Big Bird. It is a simple accountability to the American people. Congress requires accountability in other areas. It should do so in this one as well. I hope that public mistrust of the CPB and public broadcasting generally can turn to a more positive perception and debate such as this will not have to occur again.

Mr. President, in the Wall Street Journal article the editorial talks about some of the very fine programs, the "Civil War," "MacNeil-Lehrer," "Nature," "Mystery," and many of the other programs that are aired on public television which all of us appreciate and enjoy so much. There is another side, however; programs such as "Endangered Species: The Toxic Poisoning of Communities of Color," "Tears: The Ho Chi Minh Trail," and other programs which cry out for balance. Of course, when these programs are criticized, such as "Citizen Dhoruba," a documentary extolling the virtues of a former Black Panther convicted of shooting two New York policemen, this has raised cries and screams of censorships. But it also has given everyone a chance to have a closer look at the relationship between Congress' politics and public TV's politics.

There is an allegation in this editorial, Mr. President, that the ITVS, the Independent Television Service, is being funded and directed by certain Members of Congress. I am not sure that this is true. I do not have enough information on it. But I think we should look very carefully as to whether that practice exists and will continue.

I think it is very important that we review the original intent of the CPB and determine whether as much as $24 million should support a small group of independent television producers. I believe this deserves scrutiny by the Committee and perhaps should be the subject of an amendment here to prevent further occurrences.

Is it not possible to have some programs produced in another way rather than by a small, select group of television producers? I think that we should look into that extremely carefully. Some of the programs that were produced with grant money awarded in 1988 are listed—"An Act of War," "The Overthrow of the Hawaiian Nation," "Warrior: The Case of Leonard Peltier," and other programs that show bias. Again, what bothers me more than anything else, is the fact that there is no opposite viewpoint presented.

A six-part series called "Imperial Masquerade" depicted the United States as the leading imperialist warmongering entity in the world.

Let me repeat, citizens' tax dollars paid for a six-part series called "Imperial Masquerade," which depicted the United States as the leading imperialist warmongering entity in the world. Perhaps this program did not get as much viewership as might have been expected since the Berlin Wall went down the week of this program's inauguration.

We need to make sure that everything done in the name of education is done in a fair and objective and balanced fashion. As I said at the beginning of my remarks, Mr. President, it is not clear to me exactly how we obtain this balance because we would defeat the whole purpose of public broadcasting if we began to impose censorship, and probably the best solution might be for the people of the Corporation for Public Broadcasting—not the board of directors, but those who actually work in it—to begin policing their own system, to make sure there is balance. If they had done that, it is clear to me this rather routine authorization would have gone through the Senate, maybe even under the Unanimous-Con-

sent Calendar. But because of their failure in the view of many Americans to maintain that balance, we are now engaged in this debate, which, by the way, invites eventual proposals for some kind of censorship, which obviously I am opposed to, and to which I think most of the American people are opposed.

But again, we are talking about accountability. We are talking about what needs to be done in the interest of educating American people, which in the whole purpose, in a fair and balanced fashion.

I thank my friend from Hawaii, who has been one of the strongest advocates and supporters for the Corporation for Public Broadcasting, and fairness and balance because he is one of the most fair and balanced individuals I have had the privilege of knowing in my entire life.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CRIME CONTROL

Mr. LOTT. Mr. President, today I have joined a number of my colleagues as a cosponsor in the Crime Control Act of 1992. I have given a lot of thought to this piece of legislation over the past year but especially during the last couple of months. It has come more to my realization and I think a lot of other people in this city and across America that in many places crime is absolutely out of control; certainly here in our Nation's Capital it seems to get worse by the very day.

We have had instance after instance where there have been random shootings in people's homes; where a young couple is driving through part of the city, and the wife is shot for no reason at all. It is armed robbery; it is rape; it is murder. And it is not just Washington, DC. This is true, unfortunately, in the cities and in the smaller towns all across America, including my State of Mississippi.

There has been a startling increase in crime in Jackson, MS; and incidents in Greenville, MS, where there has been a marked increase in crime, some of it—perhaps much of it—drug-related.

Mr. President, we must do something. I talked to my colleagues on both sides of the aisle this very day. And they say: I feel so frustrated. I want us to do something to be helpful in this city of Washington, DC, or in my own State or city. What more can we do?

It is a tremendous burden for leadership in Washington, DC. I know that the mayor of this city is working to try to deal with this problem. It is not just Washington, DC, that we are talking about. This is a problem of mayors, Governors, and law enforcement people all over America. There must be something more we can do.

I think that this matter is so serious that the mayor should take extraordinary steps to impose control in Washington, DC, and if need be, I think the Congress, in concert with the President, should step in to try to help this city get a grip on what is happening to its innocent citizens. This is no way for human beings to live. The crime, the drugs, and out-of-control situation we have in this city have reached a breaking point.

Somebody has to deal with the problem. It requires leadership in the executive branch of the cities and of the Federal Government. But we in Congress have a responsibility, also.

This is not something I want to emphasize again that is directed just at Washington, DC. It applies to all of us, although here in the District of Columbia, District police reported 487 murders during 1991, including these drive-by shootings I referred to, and other random acts of violence.

Since 1987, more than 3,000 men and women have been stabbed and gunned to death. I fully support Senator SHELBY's bill which would impose the death penalty or life without parole on those who are found guilty of first-degree murder. The statistics are horrifying. I think it is time that we act here, in the statehouses, in the city halls, to deal with this problem.

I have not been brought to this feeling just by the incident this week involving the Sergeant at Arms of the House of Representatives. That is just the last in a series of examples where people go out of their homes, get two blocks away, have a gun stuck in their mouth and a trigger pulled for no reason when the person has already been robbed, given up their pocketbooks or their watches.

So it is time that we do more.

The Congress dealt with crime legislation last year. It took us a full year. What started off as a pretty good bill passed in the Senate; it went to the House, then to conference. And what we have pending before us now in terms of a conference report is a crime bill with no teeth—no teeth. It will not help. It may even make things worse, because it is not real legislation to help deal with this problem.

The crime control bill of 1992 is one that we should support. It includes Senate provisions with regard to the death penalty. It has safeguards against delay and frivolous litigation in death penalty cases. The Federal courts are required to defer to State court decisions which are full and fair. It also addresses Federal death-row inmate litigation.

The bill would take the Federal death penalty from part of the language of the House bill. It has a comprehensive death penalty, which is less onerous on prosecutors and will assure the jury will impose the death penalty where warranted.

It also would expand the current law on the exclusionary rule. The people—the average working, taxpaying people that are threatened by this crime—do not understand that we have this rule that for technical reasons people go to jail; they get back out; they commit crimes again. Two instances lately: A person has been arrested twice for rape; and another one had been arrested twice for armed robbery, and they come back and do it again.

In too many instances, technicalities, rules that exclude good-faith evidence, are used to put these people back on the streets. We must tighten up on that.

We also must make changes in habeas corpus. There must be a limit to the number of appeals. There should be real death penalties, and there should be a limit on how many times you can go up through the court systems, again and again, to avoid what really should be done to a heinous criminal, with the taxpayers paying the price over and over again.

So I think that it is way past time that we add some additional teeth to our criminal laws in this country, and I think we should back it up with money. We have to put some real bite to go behind this bark. We talk about reordering priorities in the Federal Government. This is a place where we should spend some money.

We should help cities like Washington, DC, with additional funds for people on the streets. I think it would help in Washington, DC, if we could get the policemen back on the street, walking the beat. If we had policemen on more street corners in Washington, DC, fully prepared to deal with the criminals that they are having to face, then maybe the crime would not be so bad.

We have to put more money in the hopper for State and local law enforcement. We need more assistance for Federal law enforcement, but I am not talking about Justice Department lawyers in Washington, DC. I am talking about people out in America dealing with drugs and crime: The DEA; the FBI. And more assistance to U.S. attorneys, so that they can try these cases when they need be.

I also think that we should provide additional assistance for Federal prisons. We cannot allow Federal judges or any judges or prosecutors to use as an excuse for not prosecuting people that they do not have a place to put them. We are going to have to deal with this problem. We will have to put our money where our mouths are.

So, Mr. President, I urge my colleagues in the Senate to take a look at this new legislation that has been introduced; it is good legislation. And something more must be done. The time to do it is now.

The burden is on us. How long will we allow this to continue happening, and not even be able to pass a serious, tough crime package? A year is long enough. A year is too long, when you consider the fact that the criminal laws of this country have been used for the past 20 to 30 years, really, to protect the criminal, to the avoidance of the concerns of society, and without proper consideration for the victims.

Let us pass this legislation. Let us do it now. That is the least we can do in the Congress to help deal with the criminal problem in America today.

I yield the floor, Mr. President.

THE PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to proceed to S. 1504.

Mr. INOUYE. S. 1504 is the bill to authorize funds for the Corporation for Public Broadcasting?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUYE. Mr. President, I asked this question just so that those who are watching the proceedings will know that we are now debating the public broadcasting bill, and not the crime bill.

Mr. President, I wish to spend a few moments responding to the concerns expressed by my distinguished colleagues on the Republican side. First, my friends from Arizona and from Kansas both spoke eloquently of the need for balanced presentation.

Mr. President, I concur. In fact, in June of 1987—I think it would be well for all of us to remind ourselves—the Senate of the United States and the House of Representatives passed a measure that we refer to as the "fairness doctrine."

This bill said very simply: A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Mr. President, this is the fairness doctrine. It was part of the rules of the Federal Communications Commission. But when the court suggested that these rules should be codified, the Congress responded as I indicated. In the summer of 1987, we passed the bill. It was sent to the President, and the President vetoed that measure. So, following the dictates of the President, in August of that year, a few weeks later, the Federal Communications Commission repealed their rule which required all broadcasters to air opposing views on subject matters of controversy.

The situation we have today is not of our making. In fact, Mr. President, I have a bill here, S. 217, that was introduced on January 15, 1991, by the chairman of the Commerce Committee, Mr. HOLLINGS, the ranking member of the Commerce Committee, Mr. DANFORTH, Mr. FORD, Mr. GORE, Mr. BREAUX, Mr. ROBB, Mr. GORTON, Mr. WIRTH, and myself, which would have done exactly what we tried to do in 1987, to require that a broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

When this measure was discussed by the committee, we were notified by the White House that the President would veto this measure if passed. That is the present situation.

The second matter of concern has been public funding. Yes, public broadcasting has been funded by taxpayer's money, but I do not wish the people of the United States to get the impression that we taxpayers are the only ones who are funding public broadcasting. In fact, public television is funded by taxpayers to the tune of 13.6 percent; 3.2 percent is funded by local governments; 19.2 percent by State governments; 6 percent by State colleges and universities; 2.4 percent by private colleges and universities; 4.7 percent by foundations; 15.9 percent by businesses; 21.9 percent by subscribers; 1.8 percent by auctions; about 8 percent from other sources.

Because we do have 13.6 percent of taxpayers' money, we are able to impose rules upon public broadcasting, such as the number of directors, the term of directors, and we place caps on their salaries. Without the public funding, I suppose the president of any one of these broadcast stations could be receiving pay that other broadcasters receive, like CBS, NBC, or ABC.

We have set very clear rules, such as equal opportunity rules, such as the requirement to carry children's television. So, all in all, I say, Mr. President, we are getting our money's worth. Public broadcasting is now reaching about 98 percent of all households. And if the people of the United States want the fairness doctrine, I hope they will write in to their Representatives and Senators and seek the immediate consideration of S. 217, a bill that would require a broadcast license to give reasonable opportunity for the discussion of conflicting views on issues of public importance.

I am in favor this. I am one of the coauthors. If the President is in favor of this, as suggested by my colleagues, then the President should so indicate, instead of telling us that this bill would be vetoed. Let us not confuse the people any further. If the President is for this bill, let us know. But, as of this moment, the record shows that he is against it. So I hope that the President will not come before us and say he is for equal opportunity for discussion of all sides and, yet, at the same time, tell us that he will veto a measure that will permit that.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from North Carolina.

Mr. HELMS. Mr. President, I commend the distinguished Senator from Hawaii on the tone of his efficacy of the pending legislation. Typically, he is factual. Having said that, I must say that I am mystified by some of the semantical exercises that I heard earlier on this floor today. Some of them, as lawyers say, are reductio ad absurdum.

I do not know of anybody who wants to kill Big Bird. When I listened to some of the Senators today, I wondered if Big Bird was the one that my grandchildren see on "Sesame Street," or whether he was a Presidential candidate. "Sesame Street" itself is not even a matter of contention in this legislative debate. But there are a lot of questions that I believe my friend from Hawaii would agree are legitimate.

Let me start back from the beginning. The original premise is that we have a duty to analyze carefully all authorization bills and all appropriations bills. Today, I had three groups of young people from North Carolina visit me. We talked about various problems, such as the cause of the economic distress, and other things of interest to the young people.

I mentioned, for example, that as of the close of business on Friday afternoon, the Federal debt stood at $3,829,058,789,074.10. You may say, what does that have to do with Big Bird or public broadcasting? It has one heck of a lot to do with it, and I am going to get into that question as I move along.

But the young people are beginning to realize that increased Federal spending, every time an appropriations bill comes up or an authorization bill comes up, the debt goes higher and higher. And the interest on the national debt for the last fiscal year cost the American taxpayers $5.5 billion a week.

You better believe that the people who some Senators exhort to write in to us are concerned about Federal spending. They are fed up with runaway spending.

Let's get down to the nitty-gritty. This bill is a $1.2 billion 3-year bill for the Corporation for Public Broadcasting, hereinafter to be called the CPB. This amounts to a 40- or 50-percent increase depending on how you calculate

it. A 40-percent increase in Federal spending for that one entity.

Mr. President, the young people and their daddies and mamas and grandpas and grandmas, are asking with repeated emphasis and repeated frequency, when is all of this going to stop? Now, it is a fair question as to whether Congress should reward CPB with a 40-percent increase in funding. My good friends on the other side of the aisle may be able to make a case for it. But I doubt it, in this time of exigency.

For the most part, I would acknowledge PBS provides valuable service and PBS provides some quality programming. If anybody wants to know whether JESSE HELMS from North Carolina votes for Big Bird, I do. And I vote for "Sesame Street" and I vote for some of the other programs. But I vote "no" on some of the programming discussed earlier by Senator BOB DOLE and others. I think they are exactly right.

Mr. President, I hear all of this stuff about Republicans trying to put Big Bird out of business. Mr. President, the Republicans are not doing any such thing.

Furthermore, contrary to allegations that I heard earlier this afternoon, those who are concerned about this issue are not trying to intimidate anybody. As a matter of fact, I believe my good friend, whom I admire so much, DANNY INOUYE, will say it is the duty of the U.S. Senate to probe, examine, and question.

I cannot speak for any other Senator, but that is all I want to do. I am concerned about how the taxpayers' money is used. I can concerned about the necessity for balancing programming. These are the issues that are at question here. They are legitimate issues and legitimate questions. I think we ought to help PBS get its house in order, and I think before I am through I am going to demonstrate that there is a great deal of disorder in the Public Broadcasting Corporation.

Mr. President, we need more disclosure and accountability. The public has a right to know how the taxpayers' money is being spent.

Furthermore, balance is a legitimate question and you better believe there are millions of Americans out there who share the view that the programming on public television is not balanced.

Now, Big Bird is balanced as far as I could see him. We are not talking about Big Bird and we are not talking about "Sesame Street." We are talking about some of these commentators and some of these people who pick the issues and the spin that is put on these issues. That is what we are talking about. This is a legitimate discourse for this U.S. Senate, and I look forward to working with the managers of the bill as we jointly seek some solutions to the legitimate problems that I think I see very clearly.

Let us take a brief look at the finance and bias issues. The Corporation for Public Broadcasting in 1990 doled out $236 million to the PBS and NRP stations. How was that money spent? You are not going to find it in any record available to the U.S. Senate.

The PBS supporters claim that the PBS stations are in desperate financial condition and that they need more Federal funds. We hear that all the time from everybody who comes to Washington with his hands out. I have never seen anybody come to Washington and say give us less money.

Sometimes I want to get up on this floor and recite the story of Davy Crockett when he was a Member of the House of Representatives. A lot of people do not know that Davy served in the House of Representatives. A giveaway item was being considered by the House of Representatives way back then, and Davy listened with great interest because it was a stipend to be given to the widow of a naval officer. They got up and said how courageous this man was, and how entitled his widow is. And then Davy got up and asked a few questions.

He said, did the admiral receive his pay every month while he was in the service of his country? The answer was, "Yes."

He said, did the Government take care of his expenses? They said, "Yes."

He said, "Why, you know, if it were my money, Mr. Speaker, I would gladly, I would gladly furnish it, and I will give a month's pay to that lady from my own pocket, if every other Member of this House of Representatives would do likewise."

They were not interested in giving away their money which is the point that Davy Crockett made. The point is that when we give away money in the U.S Senate or the House of Representatives, we are not giving away our money. We are giving away the taxpayers' money.

Every once in a while I tip my hat to Davy Crockett because he made the point that has been long lost in the Congress of the United States, which is why we have that enormous figure in the Federal debt that I cited at the beginning.

As I said earlier, PBS supporters claim that stations are in desperate financial condition. But you know something, Mr. President, one director of a PBS station has a salary—and I know he must have a difficult time getting along with it, because it is only $304,000 a year. I am sure the Washington Post pays their reporters more than that. A pittance, $304,000 a year. There is also another PBS president with a salary of $242,000. Oh, yes, they are in desperate straits all right, desperate for some sort of foundation on which to defend such spending practices.

Mr. President, then there is the Children's Television Workshop. This is one of those so-called nonprofit groups that receives $4 million of the taxpayers' money. Now the Children's Television Workshop has an officer who receives a salary of $624,000 a year. But that is not all. He probably gets more than that in additional benefits. On top of that, this Children's Television Workshop is already sitting on $51 million in stocks and bonds. Oh, they are in desperate straits all right.

Then there is one of these public television stations in Pittsburgh where the president of that station, WQED, receives a salary of $175,000. But he also took home a second salary of $60,262, to be exact, from Q Productions, which is owned by his own station. An article in the Pittsburgh Press, I believe it was, reported that this subsidiary exists only on paper, and I am quoting, "exists only on paper and at least in recent years has produced no profit."

Is it fair to raise questions about that? I say, yes. And I plead guilty being one of those who insists that these questions be analyzed. Hopefully, some accord can be reached with those who defend the status quo with respect to public broadcasting.

But let me continue. There is an independent operation called ITVS, which is supposed to fund the production of some of the more controversial programs. We will get into that in just a minute. According to a report by the House of Representatives, this crowd spent $1.5 million on administrative costs and $100,000 on travel alone in addition. Boy, they must have run up a lot of frequent flier points.

The question is a legitimate question. Of course it is. I do not want to hear all of this defense of Big Bird and "Sesame Street" from the other side. We are not talking about that. We are talking about waste and extravagance of the taxpayers' money, and we ought to talk about it on every appropriation bill that comes up, every authorization bill that comes up. So these are just a few examples.

Mr. President, it is also a legitimate question to raise the issue of lack of accountability as to how Federal funds are spent by CPB and PBS. Now as I look at it—and maybe I can be persuaded that I am wrong about it—but as I look at it, the structure intentionally shields PBS, NPR, and other grantees—that is to say, the people receiving the money—from any responsibility for the programs produced or carried by the station. Legitimate question? You bet.

CPB claims that once it makes a grant it is out of their hands—you know, Pontius Pilate style. CPB claims that it cannot exercise any editorial control over the programs it funds. On the other hand, PBS and the other recipients of the money of the American taxpayers, act as though they are entitled to receive this money. They are untouchable, to hear them tell it.

And I say to that, horse feathers; horse feathers. This is a cop-out, pure and simple, and a convenient shield to deflect any legitimate criticism or inquiry, for that matter.

I can cite one example which I think is demonstrative. CPB gave a grant to a group called Point of View, which in turn bought a program called "Tongues Untied." Now this program, without any question whatsoever, blatantly promoted homosexuality as an acceptable lifestyle. It showed, what should I call it? I will be kind. It shows homosexual men dancing around naked. And they put that out on public television.

Now a lot of decent Americans called my office, and wrote my office, and wrote to me, and have grabbed me by the jacket as I went through an airport lobby and said, "What the hell is going on when the taxpayers are required to fund such garbage as that?"

And did CPB accept the responsibility, having distributed the program over the Government-funded satellite system, and about half of the local stations carrying it? Did the CPB in fact accept responsibility? No, indeed. There reaction was, there's nobody but us innocent chickens—and I am not talking about Big Bird. I am talking about these people who cover up, deny any responsibility, or any wrongdoing.

Let me quote you exactly what CPB said about this:

> The corporation provided funding for the series, "Point of View," which showcases the works of independent producers such as "Tongues Untied." By law, CPB is mandated to carry out its functions in ways that will most effectively assure the maximum freedom from interference with program content.

That is the Lord's truth. They did not give a darn about the content of this "Tongues Untied."

Let me continue with the statement:

> Accordingly—

How is this for pomposity?

> it is CPB's practice to make funding decisions without interference in the editorial freedom of the producers or the content of the program.
>
> The decision to release * * * a program over the satellite system is made by PBS not CPB, which is prohibited by law from playing a role in scheduling or distribution.

And that is the end of the quote.

Well, that statement is malarkey. It is the good 'ol shuffle game—where you shuffle over the responsibility to somebody else.

Mr. President, let's consider the suggestion by many that there is a liberal bias PBS and NPR. I would say hundreds of thousands of people resent a lot of the things going on with public television. They contend—and I think there is some validity to their conclusion—that PBS and NPR are dominated by what several visitors to my office have called leftwing radical programs. BOB DOLE is exactly right about this—there is certainly a definite lack of balanced programming, and that is a legitimate question.

Mr. President, the other side will get up and piously proclaim that, oh, we must not touch it. Why of course they like it the way it is, PBS and the public broadcasting programs are singing the songs of the liberals, including the ones in this Senate. They like it the way it is.

But there are a lot of Americans out there, and a few here, who say: Well, let us look at it and consider it. It is a legitimate question and I insist that it is our duty.

One final thing and I shall conclude, Mr. President. This business of whether the programming is balanced may be subjective but it also may be provable. That is for us to determine.

There was a story in the Washington Post, which I was surprised to see this morning. The Washington Post carried an article about a study conducted by the Center for Media and Public Affairs. They talked about the study. And I got to the office and I asked that a copy be obtained for me. And here it is.

The study reviewed 225 programs aired in 1987 and 1988. There was a 3-year analysis. And the conclusion by this Center for Media and Public Affairs went as follows. This report was referred to in the Washington Post, and I feel a little bit faint for having seen this there because I did not expect them to use it. I quote: "PBS documentaries lacked ideological balance. * * * The balance of opinion * * * consistently favored liberal positions. * * * These PBS documentaries failed to meet the standard of either diversity or balance." Those are the results and the conclusions of the researchers. They are not my opinions, even though I share them.

Mr. President, the report summarized its findings as follows:

> The preponderance [of PBS programs] questioned [the] justification for armed conflict and nuclear development, supported the primacy of environmental concerns over human needs [and] upheld liberal interpretations of constitutional rights ranging from gay rights to search and seizure provisions.

In short, this report makes a strong case that there is a serious leftwing bias at PBS. But we do not have to take anybody's word for it. The legislation at hand and the presentation by the distinguished minority leader of the U.S. Senate BOB DOLE, and others, requires us to decide for ourselves. At a little later time I will have more to say on this subject, but I think I have said enough for the time being.

For that reason, Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. PELL). The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I would like to take this time to address some comments made by my friend from North Carolina.

First of all, as I indicated in an earlier statement, in 1987 the U.S. Senate, together with the U.S. House of Representatives, passed a measure called the fairness doctrine, a bill that would have required broadcasters or licensees to cover controversial measures and subjects by permitting opposing views an equal opportunity. This would have provided a balanced presentation of controversial subjects.

However, the President of the United States, Mr. Reagan, for his reasons, decided to veto that measure, and soon thereafter the Federal Communications Commission, taking directions from the White House, repealed its own rules which then provided for fairness.

In January 1991, at the beginning of this session, several senior members of the Commerce Committee, together with the chairman of that committee, introduced S. 217, a bill that would have provided for fairness in the presentation of conflicting views. And this is what it says:

> A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

If my friends on the other side are so concerned about a balanced presentation of controversial matters all they have to do is to tell the President of the United States of their support and to plead with him not to veto this measure. He has already indicated that if this measure passes, it will be vetoed. So we have to, as some of my friends would say, either fish or cut bait.

On the matter of why the committee felt that significant sums should be authorized for public television, may I cite the following. Today, there are approximately 42 million children in this country between the ages of 2 and 13 years of age. These children attend schools 5 days a week, and by the time they reach the age of 18 they will have spend 13,000 hours in school, assuming they stayed in school until they were 18. That is an assumption that one cannot make because of the high dropout rate.

These children spend from 11 to 28 hours a week watching television. By the age of 18, they will have watched 15,000 to 20,000 hours of television. Keep in mind, 13,000 hours in school, and 20,000 hours before the TV set.

By the age of 3, studies indicate that children spend from 2 to 4 hours a day, on average, watching television—2 to 4 hours a day. Children spend more time watching television than any activity other than sleep.

I do not wish to embarrass ourselves by comparing our situation with that of Japan and Britain and Germany because we all know they spend more money on children's television. They spend more time and express their concern about what we feed the minds of our children.

There is another set of statistics that should frighten Americans. About 4 years ago a study was conducted by the

Department of Education and the following are the findings: 52 percent of Hispanic adults are functional illiterates; 47 percent of adult blacks are functional illiterates; 13 percent of adult whites are functional illiterates; 13 percent of high school graduates are functional illiterates. They can hardly read signs, directions on medicine bottles. And we are talking about high technology competition in this world and our children are not being prepared.

We have so few children's television programs that all we can refer to is the Big Bird. That is one of the few public television shows we can refer to, Sesame Street. We should be ashamed of ourselves.

Concerning the Children's Television Workshop that my friend from North Carolina spoke about, we provide only 3 percent of its funding. We are encouraging Children's Television Workshop to be a private enterprise. And in order to become a private enterprise they need to attract talent. And in this free enterprise system you do not get talent for $100,000. You want a good executive and fundraiser, you need to spend good money for him or her.

But, because we do provide funds for CPB and for public television and radio, we set caps, by law. And I think we are fortunate we are able to attract committed public citizens who are willing to give up their time and talent to work for that small amount. And all of them I know can easily get jobs paying five, six times the amount they receive from CPB, or public television or radio.

This measure, the CPB authorization bill, is long overdue. If we are concerned about children, then we should be concerned about the statistics that are presented to us: 20,000 hours before the TV set by the time children are 18. We are talking about literacy. And what sort of children's programs do we have? Since we have very little control over free over-the-air television, Saturday morning cartoons are considered children's television. Ask any parent if that is children's television. That is what they watch: violence all Saturday morning.

That is all we want to do: educate our children so that they are capable when their turn comes up to take over this Government. Imagine this country being run by a majority of men and women who are functionally illiterate.

Mr. President, that is not far-fetched. If we do not do something about it now, it will happen.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to beg the indulgence of my friend from Hawaii. It seems as though his piece of legislation, which stands on its own merits and which I support, is drawing a whole lot of—how can I say it—nonsubstantive and occasionally gratuitous criticism. It seems like as if this may be the opening shot of politics in this Presidential year.

I am sorry the Senator has now found himself in the position where he has had a number of our colleagues come to the floor and talk about crime and the crime bill on this legislation he has before the Senate. If not attaching it, using this as a vehicle to discuss it, although it still may be attached; Lord only knows. So I apologize to him for feeling somewhat compelled to come, as we say in our business, to set the record straight.

I acknowledge, at the outset, it does not directly relate to public television. But I would like to beg his indulgence for 5 or 10 minutes to discuss and speak to some of the things I have heard mentioned on the floor by some of our Republican colleagues relating to the crime bill and the crime problem in America.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. BIDEN. I will be delighted to.

Mr. INOUYE. Mr. President, I am well aware of the realities that we are confronting at this moment. We know that some of our friends on the other side of the aisle are preparing to submit to the Senate an amendment, a crime bill amendment, on this public broadcasting bill.

I am pleased that we have with us our Nation's foremost expert, the chairman of the Committee on Judiciary, to explain the situation as we see it at this moment; to tell us that we have on the desk a crime bill; to tell us what that crime bill proposes to do.

So I hope he will set the record straight, Mr. President.

CRIME BILL

Mr. BIDEN. Mr. President, I thank my colleague from Hawaii. I will attempt to be as brief as possible. We have an unusual situation. And that is our Republican colleagues are talking about their desire to have a crime bill. And they have spoken to us in the past about having the President's crime bill.

I would like to at least state where we are at this moment relative to crime legislation. Last year in this Congress—but last year—the President introduced a crime bill. And I, on behalf of a number of people, introduced the so-called Biden crime bill. We debated both those bills. We held hearings on both those bills. We had a vote in the full Senate on both those bills. Essentially, what passed was the Biden crime bill. We rejected the President's crime bill.

And then the House of Representatives took up the President's crime bill, debated it, and they introduced a crime bill as well. As the legislative process works, after months of debate and discussion, they voted, and they voted a crime bill that was not the President's crime bill.

Then we went to conference, and after weeks of delay on the part of my Republican colleagues, not allowing me to go to conference on an argument about ratios of the conferees, the number of Democrats to Republicans, et cetera, but finally thinking, I suspect—this is my subjective judgment—that we would have no time to pass a crime bill before we left last year, and not wanting to be seen doing what they were doing—that is, blocking a crime bill—they let me go to conference.

Lo and behold, the conference reached agreement and we passed a crime bill. The conference report came back to the Senate and we said: Let us now vote on what the police organizations have categorized—and I want to make sure I have it straight; I will paraphrase it for now—one of the toughest crime bills that has come before the United States Congress. Let me be precise here. It says:

> We call on Congress to adopt and for the President to sign this bill. It is the toughest anticrime legislation to emerge from the Congress in recent memory, and it should become law.

That is what the Fraternal Order of Police said, and other police organizations said similar things. The only outfit I know that openly opposed the conference report was the District Attorneys Association.

So we said: At least, let the Senate work its will and let us vote on what the House of Representives passed, what the United States Senate passed, and what the House and the Senate agreed upon in conference and compromised on, and what the House of Representatives passed; the conference report. Let us vote.

My hard-charging, anticrime Republican friends came to the floor and said: No; we will not let you vote. Notwithstanding the fact that a majority of the Members of the Senate present and voting voted for the crime bill conference report, notwithstanding that, it has not become law for one reason—they required us to have a supermajority, and required us to invoke cloture. That is the fancy Senate term for saying 50 percent is not enough; a majority of the Senators voting for something is not enough. You have to provide us a supermajority. You have to get above 60 votes.

Every newspaper in America got it right, conservative, liberal, moderate, or any other description. The headlines in every newscast were: Republicans kill tough crime measure; or Republicans kill crime bill.

And then the American public began to focus on this, and the polling organizations went out and said, who is best equipped to handle crime in America: This Republican President, President Bush; or the democratically controlled

Congress? And they said: A democratically controlled Congress.

So I guess my Republican friends started feeling the heat. The President came, in his State of the Union Message, and said: I want a crime bill. And the press basically laughed at him. They said: You have a crime bill. The Congress worked its will; a majority of the Members of Congress passed a bill that the police agencies—the police agencies—said is a tough crime bill.

So I have been speaking with the majority leader. It is, as we say in this body, a privileged matter. It is sitting at the desk, that conference report. I have tried to negotiate with my Republican colleagues, with the administration, and say: OK, you want to work something out; we know we cannot get 60 votes right now. You can thwart having a tough crime bill. You can thwart having a death penalty in law right now. You can thwart spending $700 million on prisons. You can thwart antiaging legislation. You can thwart $1 billion in aid to local police officers. You can thwart the Brady bill. You can stop these things. But please do not.

I will give more. What do you want? The police need help. The American public needs help.

But, no; I did not hear a word. I am going to say something somewhat presumptuous and dangerous. I doubt whether there is any Member in this body on either side that says I will not negotiate in good faith and compromise to get something good. I do not expect a whole loaf. But no one would talk.

I say to my friend from Hawaii, to my great surprise this morning, my Republican friends walked to the floor and introduced a crime bill, and said we need a crime bill.

Guess what the crime bill has in it? It has almost all the Biden bill in it. It has the money for local police, the same number, that the President said he was opposed to.

It has the antigang legislation in it. The President said he would veto a crime bill possessing that. It has in the bill, money directly for local policy. The President said, "I do not want to do that." It has in the bill boot camps, our boot camp legislation the President said he would consider vetoing if it was in our bill. It has in the bill the Police Corps. The President said he would veto it if it were in our bill.

So what are these folks talking about? The President's crime bill did not pass here. A majority of Democrats did not vote for it, and some Republicans. It did not pass in the House, the Republican's crime bill. And now the Republicans have come into town, on the floor, and they have rejected the President's crime bill. What are we talking about? And guess what? They conveniently dropped the Brady bill, which is part of what passed both Houses and the President said he supported in the context of a tough crime bill. I guess the gun lobby wins again. The gun lobby comes in and says, "Tough crime bill. Drop out Brady."

So what do we have? We have a bill introduced here—and I have not had a chance to read it all. It is hundreds of pages. But I read the summary of the bill they passed out at the press conference, my Republican friends, for whom I have great respect, and I mean that sincerely.

First of all, it characterizes things that are in the Democratic crime bill or the conference report now that has passed both Houses—I mean it passed the House and is waiting for us to vote on, and they will not let us vote on it. It mischaracterizes the death penalty legislation. We have more death penalties in the bill than the Republican bill does. I am not suggesting that is reason to vote for this. But this is not something—there are over 53 death penalty bills in the Biden bill and that became part of the conference.

It says "Federal prisons" in this sheet they handed out to the press. If this is not what they call a side by side. It talks about what their bill has and what our bill has. It says they authorize new prisons, to which the administration is opposed, by the way, and it puts over here on the conference report, "no provision." We have $100 million for prison construction.

I will not bore my colleagues with a detailed point by point here. But we have to stop playing politics, Mr. President. People are dying. Under this administration, more people have been murdered than any time in our history—24,600 murders in America. Hard core drug users, the people who are murdering people, have increased every year under this administration.

The number of felonies—the list goes on and on. We have what the police characterize as one of the toughest crime bills to come out of the Congress in recent history sitting right there behind that marble facade at the desk. If we bring it up tomorrow and five Republicans change their vote to allow us to have cloture, that is the bill we will pass and send to the President tonight, and the President can have the tough crime bill he wants.

But what are they proposing? They are proposing this new bill. And they are going to show us something here. They are going to teach us a lesson, a political lesson. Let us assume their bill passed, Mr. President. It then has to go to the House of Representatives and debate it all over again. We have to go through the process of passing it there. Then it has to go to conference, Mr. President. Then we have to vote on it in conference. And then it comes back to the Senate, like this bill right before us. And then, if it has Brady in it because the House put Brady in—and they will—they will filibuster it again. They will not let us vote on it again. The gun lobby will win again.

What is this all about, Mr. President? It is all about a thing called habeas corpus. We say if someone is in jail, they basically get one chance to file a habeas corpus petition. They want to wipe out habeas corpus. We drastically change the way it is in the conference report that this body has passed, that body has passed, and is now before us again. They do not like that. They want to wipe it out. That is the crux of it—this and guns.

Mr. President, the way they talk about it, you would think habeas corpus was some person's name, a guy crouched in an alley hiding behind a garbage can ready to jump out and mug somebody. Habeas corpus means that whoever files a habeas corpus petition is already in jail, already behind bars, already arrested, already out of the public way, already in a position where they cannot harm the public. How is that going to affect crime in the streets?

In the meantime, while they dally over this, cops are being killed, police officers are in jeopardy, the Brady bill is not passed. The thing the police want as much as anything they have ever wanted for their own safety's sake, money to help local police officers, is stuck here because they will not let it pass. Money for new prisons is not going out. We are not building new prisons because they are holding up a bill, and 30 some States are under Federal court order, as they arrest somebody and put them in, to move another criminal out the door; there is not enough prison space. And they want a crime bill?

Let us assume for the sake of discussion, Mr. President, that they are right about habeas corpus. Is it not the fair thing to do, since they have included every other thing that I have here in my bill that is in the conference report, to pass what we have and fight over further changes in habeas corpus tomorrow, literally tomorrow? Pass this tonight and fight over habeas corpus tomorrow.

But who is tough on crime? Well, the record is clear. This administration has been abysmal on crime—white collar crime, violent crime, drug-related crime. Abysmal. It has the worst objective record of any President in the history of this country in terms of volume and has the audacity to talk about passing a crime bill. I wonder how, with straight face, people can come here to the floor and say, "We need a bill tough on crime. That conference report is procriminal."

If it is procriminal, why are the police agencies for it? Since when have police agencies come to us and said pass a bill, please, that anyone in their right mind, in good conscience can look at a constituent and say, "Well, you know those cops have turned procriminal. They want us to pass this legislation to help criminals because

they are not occupied enough. I guess they want a bigger challenge." That is ludicrous.

Mr. President, I am prepared to vote on the conference report. Let us get a bill down to the President, put it on his desk, a bill, conference report that is before us.

Let me just read a few things that it has. It has the Brady bill, 5-day waiting period; death penalty for 53 crimes, for gun murders, for drive-by shootings, for rape and murder; $1 billion in aid for local and State law enforcement; tougher penalties for gun use during violent crime including the death penalty; provides aid to rural law enforcement, drug treatment, and prevention; boosts penalties for drunk driving when a child is present in the car while a drunk driver is driving; grants college scholarships to students who will commit 4 years of service as police officers; and provides in-service education opportunities; expands aid to victims of crime.

Let me stop there by the way. Kind of interesting. They include it and I have to make it clear. I do not want to say for certain I know what they have in the bill. But I am just reading from the Republican press release that has been put out. It says here as it relates to victims, it removes the existing cap on the crimes victim fund. I have tried to do that for 2 years. They oppose it. The reason why they do not have it in the conference report is the Republicans opposed it. Now they submit a bill that includes it. What is this game that we play?

The bill that is at the desk establishes background collection for daycare workers; and the death penalty for child-abuse murderers; establishes ten regional prisons to hold drug criminals; uses military bases for boot camp programs; increases the penalties and authorization for anticrime programs; provides $300 million to cities hardest hit by the drug crisis; permits good faith exception where there is a warrant issued and the police make a mistake in good faith; limits death row prisoners to one habeas corpus petition within 1 year.

That is what is at the desk right as we speak, I say to my friend from Hawaii. That could be passed tomorrow, except for a Republican filibuster, supported by the President of the United States of America, that filibuster. What do you think we are, silly here? Then they come forward and say, well, no, granted we do not like that bill now, but we do not want to filibuster crime. We want to help. And then they introduce a several hundred page bill that takes almost everything that is at the desk that they opposed before, they opposed 4 months ago, include it now in a Republican crime bill, eliminates the Brady bill, which both Houses have passed. But we are for being tough on crime and, they say with a straight face, we can pass this bill.

59-059 O—96 Vol. 138 (Pt. 3) 41

Look, the police agencies would like some of the things that are not in my bill or in the conference report. They prefer the Republican version of habeas corpus to the one that is in the bill. There are a few other things they prefer. But, Mr. President, we are talking about, to paraphrase the President on another matter when he went like this, he said the economy is getting better this much. That is all. It is getting better. I will not get off on that.

But, the difference between everything the police want and what is in the conference report is this much.

Mr. President, if this is about being given credit for who has what crime bill, I am prepared tomorrow, if we bring up the conference report, to call it the Thurmond-Dole Republican crime bill. I do not care what it is called. In the past, all the crime bills we passed have been Biden-Thurmond, Thurmond-Biden.

I do not care who gets credit, but I do care about one thing, Mr. President, about getting tough anticrime legislation. It is a crying shame that it sits there at that desk, literally beneath your feet, that this instant the majority leader could walk in, call up and we could vote in 5 minutes and it could be whistling its way—downtown is that way—downtown to land on the President's desk between his intellectual exchanges with Mr. Buchanan. And he could say I veto it, or I sign it and we would know where everybody stood.

But, Mr. President, I cannot stand silent. Again I apologize for speaking on this bill, but to hear people come to the floor and talk about an anticrime measure, tough anticrime measure, that contains a significant number of elements that they fought for just 4 months ago, contains provisions that the President said if they are in the bill that I put in, he would veto. And takes out one of the most hotly contested, strongly supported initiatives in the United States of America in the last several years—that is the Brady bill—rips it out, he reads it and then says—and it is all in the name of habeas corpus. He lives at 427 Washington Avenue, John Habeas Corpus. What are we talking about?

I apologize for my letting my frustration show, Mr. President. But I, as many Republicans as well, have worked very, very, very, very hard to produce a tough crime bill and we are at the summit, Mr. President. We are at the top of the mountain. It takes only five Republicans to say yes.

Let them vote on this, and we can vote up or down, Senate parlance, or we can have a vote and decide whether 51 Members of this body are for the tough crime bill that the police agencies support. And if they are, Mr. President, then there are no more hearings, there are no more House votes, there are no more Senate votes, there are no more press conferences, there is no more debate, there is no more discussion. It goes whistling downtown, and is placed on the desk of the President of the United States.

Then I want him to look at those police, and say I am vetoing this bill that would give you a billion dollars, that would increase the penalty for murder, for the death penalty for 53 crimes, that would turn around and build 700 million dollars' worth of prisons, that would in fact provide for a police court, that would in fact have some initiatives for antigang initiatives, that would in fact give some backbone to our anticrime effort. Veto it, Mr. President, if you will.

But once again, he is being protected by a loyal cadre of very disciplined, very bright, and very decent Republicans who are not even going to let us have this vote. They are not even going to let us vote on the crime bill.

So I hope if they bring up their crime bill, and I invite them to do that, we will then say all right, let us vote. Let us vote. Let us vote on that conference report that is before us. And we will see, Mr. President, who wants a crime bill.

In conclusion, Mr. President, it is a simple proposition. Since they have adopted almost everything I suggested to them a year ago, that they fought, there is only one really outstanding issue if they were willing to leave in the Brady bill, that is habeas corpus.

No one can deny that we have greatly proscribed the writ of habeas corpus. Let us pass this. If they want to proscribe it more, let us bring it up separately and do it.

But, for Lord's sake, do not deny the police in this country the protection of a 5-day waiting period for a handgun. Do not deny the police in this country $1 billion. Even if we do not appropriate all of that—we always have by the way—do not deny them the hundreds of millions of dollars in direct aid they need now for everything from Narco wear vests to antigang initiatives. Do not deny the cities, including this one, that are absolutely being buried in the debris that is the fallout of the drug epidemic in America. Do not do that.

Let us begin to fight crime. We can fight each other on enough things. We have enough things that we can provide for. If we can take up the time of the Senate—and I am not criticizing anyone for doing it, but I am making a point—and spend hours and hours on whether or not public broadcasting should have run a single program—a single program—I respectfully suggest, had Mr. Buchanan not run his ad, we might not be here debating this issue.

But I respect those who wish to debate it. If we can take up the time of the Nation to debate a single program and spend hours and hours on it, for Lord's sake, why can we not do something about the crime issue? We are

that far, again to paraphrase the President, from equipping the police with more artillery and ammunition, figuratively speaking, to help us fight crime than we have at any time in recent history.

To paraphrase a character from a Shakespeare play, but for the want, not of a nail, but for the want of five Republican votes. But for the want of five Republican votes not to vote for this. Just five Republican votes to allow us to vote on the crime bill that has passed the Senate, that went to the House, passed the House, passed the conference, passed the conference report in the House, and is sitting there at the desk to be voted on. But for the want of five good people on the Republican side to allow us to vote.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 2309 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT

Mr. PRESSLER. Mr. President, I rise today to bring to the attention of our colleagues a recent New Republic review of Senator AL GORE's book, "Earth in the Balance: Ecology and the Human Spirit." I have read our distinguished colleague's book, and the review written by Roger Rosenblatt validates my own impression. The book is an impressive analysis of the relationship between man and nature. It is written by a man unequaled in all of Government for a personal understanding of Earth's ecological equilibrium.

Mr. President, as my chairman of the Science, Technology, and Space Subcommittee, I have worked closely with Al on a number of scientific and technical issues. On a number of topics, I often learn more from discussions with Al than listening to three panels of witnesses. As this review says, "the specific recommendations that he offers, his 'global Marshall Plan' are clear, sensible, and, for the most part, they seem to this nonscientist to lie within the world's reach."

I urge my colleagues to not only read this review, but to study closely the recommendations our colleague makes in this matchless book.

Mr. President, I ask unanimous consent to have this review printed in the RECORD.

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

HEART AND SOIL

(Review by Roger Rosenblatt)

EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT BY AL GORE

Senator Al Gore is a rare bird among politicians not only because he is interested in the survival of rare birds, but because he is concerned with the grimy particulars of process, unabashedly shows a religious streak, and is devoted to an issue that makes nightmares for campaign managers. The issue is "the environment," the mere sound of which inspires most voters to frenzies of nodding and yawning. Gore knows this from his experience as a presidential candidate in 1988; he was once derided by an opponent for sounding "as if I was running for national scientist." No matter. He has studied his subject. And the case he makes for environmental reform in this elegant book is persuasive.

I confess that I, too, usually wish for the threatened earth to open up and swallow me whenever someone starts in on the greenhouse effect or the ozone layer or chlorofluorocarbons. But Gore's book, which is politely addressed to dullards like myself, awakens converts, or at least it fills the indifferent with anxiety. The specific recommendations that he offers, his "global Marshall Plan," are clear, sensible, and, for the most part, they seem to this non-scientist to lie within the world's reach. Among his suggestions for achieving ecological balance are: tax incentives for technologies that improve the environment; building world training centers for environmental technicians; a redefining of gross national product to include the ecological costs of growth; and various regulations in such areas as automobile manufacture, to keep bad air from turning worse.

Gore's overall idea of linking environmental concerns to economic choice is both interesting in itself and goes counter to current American policy, which fairly ignores the environment as an economic matter. As he observes, "Anything that economists wish to forget about is called an externality and then banished from serious thought." What he urges is for us to begin placing the environment at the center of our economic planning. If businesses were taxed for the pollution they dumped into the atmosphere, there would be less pollution. Common sense; but he goes further. As things stand, says Gore, "we tax work and we subsidize the depletion of natural resources." What, he asks, if we lowered the tax on work and raised it for the polluters? That would not only help our natural resources, it would also affect our rising unemployment. Tax revenues would remain the same, more people would be working, and the country would be cleaner and safer.

Occasionally, though, Gore steps toward the deep end: one of his proposals is to have teachers and schoolchildren in different countries monitor the Earth on a daily basis to measure water and air pollution. given the state of American education, however, most teachers would be delighted simply to monitor their own classrooms. Still, the unusual strength of Gore's book lies in the kind of thinking that it exemplifies.

Such thinking is not merely senatorial. Gore's mind stretches far beyond matters of policy, which is appropriate to the subject: it is hard to reflect for long on the future of the planet without coming to reflect on ultimate questions. And so Gore states plainly that for people to appreciate fully the dangers of the environmental situation, they need finally to establish a spiritual state of mind. The spiritual, of course, is slippery ground for politicians. Usually those who say "spiritual" are selling bigotry, or themselves, or both. It is refreshing, for this reason, to hear a politician broach these matters in a mood of sympathy, tolerance, and intellectual curiosity.

In his introduction, Gore writes:

"I have . . . come to believe that the world's ecological balance depends on more than just our ability to restore a balance between civilization's ravenous appetite for resources and the fragile equilibrium of the Earth's environment; it depends on more, even, than our ability to restore a balance between ourselves as individuals and the civilization we aspire to create and sustain. In the end, we must restore a balance within ourselves between who we are and what we are doing." And in the book's riskiest chapter, called "Environmentalism of the Spirit," he puts the matter more boldly still:

"We routinely choose to indulge our own generation at the expense of all who will follow. We enshrine the self as the unit of ethical account, separate and distinct not just from the natural world but even from a sense of obligation to others—not just others in future generations, but increasingly even to others in the same generation; and not just those in distant lands, but increasingly even in our own communities. We do this not because we don't care but because we don't really live in our lives."

What Gore means by saying that we do not live in our own lives is, I believe, that we have lost a sense of privacy. He relates such a sense to the needs, the perils, and the beauties of the natural world; but the ideal of lost privacy suggests a more general complaint about modern life as a whole. To live one's own life is to go counter to the conspicuous introspection that passes for genuine feeling nowadays. It is the antithesis of encounter groups and grievance groups and men sitting in circles baying like hounds. It is to live really inwardly, that is, in the troubled, unsure, ambiguous quiet places.

Unconnected to ourselves, says Gore, we have lost our connection with the natural world. I remember a couple of years ago French farmers staged a protest demonstration by laying out slabs of wheat fields in the middle of the Champs-Elysées. The effect on the city was immediate and astonishing: citizens, including policemen who were there to keep fights from breaking out, began romping in the sudden fields, as if they had never been touched by the countryside before. Gore appeals to this buried affection for nature. There is, I have to admit, a New Age quality to his book, and there are passages at which I slightly cringed; but most of his thinking does not melt into air. Quite the contrary, it is grounded in something solid, if invisible.

He certainly goes all out: this is not a book by a politician who worries about a paper trail. Most of those who write on the environment tend to stay clear of mentioning God or formal religion, probably because they consider environmentalism a kind of religion in itself. Gore does not. He writes about God's designs and dominion over the natural world from the viewpoint of a traditional believer; and his quotations from the Bible leave one with the impression that he is devoted to it outside the purposes of research for his book. When he says that the land and the seas are sacred, he means sacred. Whether or not you like his term "spiritual triangulation" (I don't), the idea of recognizing and celebrating an alliance among God, human beings, and nature has a nice, old-fashioned daring.

This impressive book is not the work of somebody who is running for something. As I say, in the matter of the environment, and in higher matters as well, Gore is a believer. And *Earth in the Balance* is a plea for moral responsibility made by someone who understands both words in his bones. Good bones.

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

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

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

Mr. INOUYE. Mr. President, in the presentation of his remarks by the distinguished Senator from North Carolina [Mr. HELMS] he referred to an editorial in the Wall Street Journal.

I ask unanimous consent that a response by Mr. Ken Burns to that editorial dated February 13, 1992, be printed in the RECORD.

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

FLORENTINE FILMS,
Walpole, NH, February 13, 1992.

NED CRABB,
The Wall Street Journal,
New York, NY.

TO THE EDITOR: I would like to respond to the terribly misguided and myopic editorial about public television that ran in Friday's Wall Street Journal. The fact that your editorial complimented my work in the service of your lame arguments only makes this response imperative.

The editorial took aim at a series of shows funded by a new branch of PBS, the Independent Television Service. As an independent producer myself, I was delighted to learn about the funding made available by ITVS. Finally an institution has been created to foster the kind of challenging programming that independent filmmakers typically want to produce and often lack the means of doing so.

The initial roster of shows funded by ITVS seems promising, and cut across the political spectrum (if indeed, political bent is the primary means of judging a program, which I do not believe.) ITVS has funded an animated film for children based on Carl Sandburg's poem "Arithmetic," a documentary on elderly couples who have been together 50 years or more, and many other fascinating subjects. Hardly radical stuff. Indeed, your editorial completely failed to mention PBS's regular "conservative" programs, in many ways the back bone of the system, Firing Line, the McLaughlin Group, Wall Street Week, etc. etc.

What emerges from the editorial, however, is a sense that all public programming should fall under a narrow, safe definition of mainstream values, eschewing all investigation, controversy, opposing points of view. It seems to suggest that there is only one history, a history of the State that cannot even conceive of, let alone allow to democratically co-exist, alternative perspectives, points of view, and healthy disagreement. It seems clear that you would finally prefer no oppostion—a sentiment shared only by the many world-wide dictatorships we have all—The Wall Street Journal and PBS alike—struggled to eliminate. I cannot conceive how a dominant, confident mainstream, as you almost hysterically seem to suggest you represent, could in any way be threatened by an exposure to differing viewpoints in the marketplace of ideas. Perhaps you are not so confident, emperors beginning to sense a lack of clothes. The old argument that Government shouldn't fund this is ridiculous; the welfare state that so enriches your subscribers (and does such a lousy job with those who need welfare) enriches our intellectual landscape with the vigorous thinking all of these new programs, good and bad, generate.

I also detect a typical air of patronizing contempt for the very audience you sanctimoniously attempt to shield. The American public is not as gullible or taken in as you think. At its best, public television is a unique democratic institution. PBS offers a vital meeting place for Americans to see creative, thoughtful shows that are not dependent on the whims of advertisers or programmers concerned only with the bottom line. For almost twenty years, I have made films that I believe needed to be made, and I alone have controlled their content. I have chosen to work independently and solely within public television because I know that regardless of their form or content, my shows would have a home on a public television service that was tolerant, open-minded and unfettered. We should welcome the kind of shows that a funding source like ITVS can help make possible, and celebrate the kind of diversity that is only possible on public television.

Public television is too important a part of our national life to subject it to this kind of partisan and destructive posturing.

Sincerely,

KEN BURNS.

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

The PRESIDING OFFICER. (Mr. KOHL). Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, the matter before us, of course, is the motion to proceed to the public broadcast bill. I would like to address that matter. I rise today to outline some very serious concerns that I have about the bill before us.

I do not need to remind my colleagues of the debt that faces our Nation at this time. That debt is rapidly approaching the $4 trillion figure. Nor do I need to remind my colleagues that we managed to pile $320 billion into our debt load last year for our children and our children's children to pay off.

There may be some type of irony here. There has been so much discussion on the floor regarding Big Bird. "Sesame Street" was so much a part of my family. My children grew up with it, and I have no problem whatsoever with the educational value of that program. Nor do I have any problem with many of the educational programs which were provided on public broadcast as well, specifically channel 11 in my home State of New Hampshire.

But I also must point out, Mr. President, that this debt is dampening our economic recovery. It is described by Federal Reserve Chairman Alan Greenspan as the most anemic he has ever seen. In other words, there is no recovery, and a large reason for that, a big reason for that, is the fact that we are piling more debt on and on. And ironically, those same children who were somewhat placated by watching Big Bird on television perhaps need to be placated, because if they realized or comprehended what this generation is doing to them with the debt that we are piling on them, they would be very angry and may in fact rise up and turn the television off.

And yet, we now find ourselves contemplating a bill that would give the Corporation for Public Broadcasting $1.1 billion over fiscal years 1994 through 1996; $1.1 billion, Mr. President. This represents a 50-percent increase in funding over the last 3 years. Has anybody else in America got a 50-percent increase in anything, especially income? Let us be honest. When so many vital programs are strapped for cash, when our Nation finds itself without the funds to address urgent needs, such as health care and our eroding educational system, it is really time to shovel millions of dollars in additional funding into television and radio programming?

I hear people in the educational area, of which I am a product—I am a former teacher, former school board member—I hear people tell them there is too much television; kids watch too much television. It seems to me to be the antithesis of what we want. I think most Americans would say no, we should not spend that much money.

Public television and radio is certainly responsible for many valuable programs. I have already talked about Sesame Street. My kids grew up watching it, as I said. PBS has made possible such popular programs as "Masterpiece Theater" and "Mystery," and they have also produced some very compelling documentaries, such as New Hampshire's Ken Burns' "Civil War" series.

But the success of these programs attests to the strength of our public broadcasting, which is why I must ask: Why does the Corporation for Public Broadcasting need a funding increase of 50 percent? Why?

Our seniors this year got a raise of 3.7 percent, Mr. President, over what they received last year. Some are trying to pay their rent and to provide food on the table with that bare subsistence of income from Social Security. But we are willing to give PBS and Bill Moyers a 50-percent increase.

We give our veterans a 3.7-percent increase, people who fought and were in-

jured in our country's wars—3.7 percent over what they got last year—while we ask the taxpayers to boost public broadcasting by 50 percent. Is that right? Is this fair? Is it necessary? I think my constituents and I think the constituents of many of my colleagues would say no, it is not.

What does the Corporation for Public Broadcasting do with this money? Let me indicate a few examples. And I realize that these are only examples, and that every public broadcast station does not do this, and I understand that. And I want that to be understood by my colleagues and by anybody who may be watching, what I mean by that, and that the fact is that that is the case.

Congress has funded PBS and National Public Radio with millions of dollars which have been used to air programs condemning the United States, extolling Cuba, promoting the Black Panthers, and glorifying homosexuality.

Do the taxpayers of America, the seniors, the veterans, the people who got that bare 3-percent COLA last year, do you want your tax dollars spent for that? I do not mind tax dollars being spent for Big Bird and Sesame Street, and some of the fine programs that I just discussed, and they are commendable and admirable, but not those kinds.

Let me give you some examples. Balance is very important in public broadcasting. Since it is taxpayers dollars, there ought to be balance in programming, and I do not think we always have that.

On March 18, 1986, just days before a House vote on Contra aid, a controversial subject, a PBS Federal Frontline series aired a story called "Who's Running the War?" It portrayed the Contras as brutal killers of innocent civilians, including closeups of alleged atrocities. Not the other side; no balance. The other side was not shown, Mr. President.

In July 1991, right before a Senate vote on grazing fees, PBS aired a documentary produced by the Audubon Society, which claimed cattle grazing was destroying the open fields of the West. Maybe that is true; maybe it is not true. I do not support some of those grazing fees. That is my particular position. But why not show both sides, if it is being paid for by the taxpayers?

On April 16, 1991, PBS's Frontline aired "Election Held Hostage," which was the name of the story regarding the alleged October Surprise. The program was allegedly based on information from House Democrat staffers, which relied on discredited sources like Richard Brenneke. No balance; the other side was not shown.

In 1990, PBS aired "After the Warming," which was presented as a scientific program about the greenhouse effect. Science fiction might be more accurate. The program said half of Florida would be submerged in water, and 20 million people would die of starvation and floods. PBS refused to carry "The Greenhouse Conspiracy," which presented the other side of the issue. Perhaps somewhere in the middle is the truth of both of those. But why not show the other one? What are we afraid of? Why are we afraid to show the balance here?

In 1986, a documentary aired called "Cuba, in the Shadow of Doubt," of which the New York Times said, "At its best, the documentary has a romantic infatuation with Cuba; at its worst, it is calculated propaganda." That is the New York Times saying that.

In 1989, a PBS station aired "Days of Rage"—that was the name of it—extolling the virtues of the Palestinean intifada. An official of another PBS station called it propaganda and refused to carry it. Again, why do we show one side and not the other?

One more. A series of pro-Sandinista programs called: "Nicaragua: Report From the Front," from which a New York Times reviewer concluded: "Sandinistas are good; their opponents are bad. There is no middle ground." Again no balance; that was the side shown.

Mr. President, there exists a consistent pattern here of offering only one side. I do not have a problem with the programs. I do not have a problem with any of those programs, providing there is a balance. If the taxpayers are going to be expected to fund these programs, they should get their money's worth and they should get balance, and they are not getting either.

Furthermore, it is questionable whether public broadcasting needs this money at all. I know that is controversial, and I will get some letters from home on that one. But public television in particular has become big business, successfully soliciting corporate sponsorships and selling advertising.

The Children's Television Workshop alone takes in $100 million a year in licensing fees and magazine sales. Seventy major public television stations now advertise for such companies as Kraft Foods and Mercedes-Benz, and others. While public broadcasting becomes less and less public, I might ask you, Does it really need $1 billion in public funds? I do not think so.

Mr. President, national spending is spiraling out of control. The Corporation for Public Broadcasting consistently ignores a congressional mandate for balance and fairness. Public broadcasting has been transformed into big business. And given these factors, I do not believe the taxpayers can afford this bill.

Thank you, Mr. President.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may just spend a few moments responding to my friend from New Hampshire? My friend brings up a very valid charge, if it were correct. I, too, favor balanced presentation of controversial subject matter. In fact, in 1987, the Congress of the United States, the U.S. Senate and the House of Representatives, passed a measure which we called the fairness bill. And that measure would have required the broadcaster, the one who holds the license to broadcast, to give every opportunity to persons with conflicting views to present themselves on controversial matters. In fact, these are the words that appeared in the bill:

> A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

That would have been a requirement to receive a license. However, the President of the United States, President Reagan, vetoed that measure. And a few months later, the Federal Communications Commission, which at that time had a rule requiring the fairness doctrine, decided to repeal that rule. So, today we do not have a fairness requirement in our laws. And, so, in January of 1991, the chairman of the Commerce Committee, together with senior members, Democrat and Republican, introduced S. 217, a measure that would carry out the intent of the fairness doctrine. The same wording:

> Broadcast licensees shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

But we have been, once again, advised that President Bush would veto this measure if this measure should pass.

So, those who are concerned about one-sided presentation of controversial matters should seriously look at S. 217, should call upon the President of the United States and suggest to him that the time has come for the incorporation of the fairness doctrine into our laws. Then you will have two-sided presentation; not just pro-Israel, but anti-Israel; not just pro-Palestine, but anti-Palestine; not just pro-environment, but anti-environment—if that is the case.

So it is easy to criticize. But here we have an opportunity to pass this measure. The committee is ready to proceed with this. But as long as the threat of a veto hovers over us, we cannot get too far with it.

Mr. President, I hope my friend from New Hampshire will consider cosponsoring S. 217. That would cure the problem that he speaks of.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

THE CRIME BILL

Mr. SIMPSON. Mr. President, I will not be speaking on the measure before us, but I did want to respond to some of the comments of my good friend from

Delaware, Senator BIDEN, if I could just briefly, some of the points made by our fine chairman of the Judiciary Committee. I very much say that; he is a good chairman. He has been very fair with the minority, and he tries in an extremely diligent way to care for our needs on the committee.

Today, too, he shows his loyalty to a bill—loyalty to a fault, I might admit here in this instance—presented as a conference committee compromise. but there are just a few points our distinguished chairman seems to have missed, and I think they are points that need to be brought clearly to the Senate.

We do not need to be distracted—diverted—by the money arguments. It is true, there is a whole bale of money in the bill "behind the marble facade," as the quote was made.

It is interesting that the chairman used that phrase: "marble facade." That, Mr. President, is what the conference proposal is—it is a facade. A procriminal rights bill hidden behind a huge pile of money—facade.

That is the problem.

I will not talk about all the differences. I do not believe any police agency is for is for that measure we came up with. This is why the groups will not vote for it, or not support it. The combined effect of three provisions in particular will not only enrage the public, but can put the lives of every officer on the line in even greater jeopardy. Here is how that would happen:

The habeas corpus rules are broadened. I can assure you that is true. Yes, I am well aware that these murderers and other violent criminals are in jail today. I hear that. I understand that. I practiced law for 18 years. The habeas provisions in this bill will make it even easier for capital convicts to avoid the death penalty for even longer periods. I am talking about the compromise bill. They will, thus, stay in jail to work their magic on the next two provisions of the compromise, or the conference agreement.

The exclusionary rule is being changed. There is not any question about that. This section of the conference proposal further weakens the ability to present evidence of wrongdoing.

Then the compromise bill does something that neither body approved of, and this is what conference committees on the crime bill usually do. The committee proposal overrules the harmless error rules that have been applied by the Supreme Court over a number of years.

I do not intend to take all the time on the floor to discuss and argue the intricacies and nuances of each of these provisions. I will trust my colleagues to ask independent, objective counsel to confirm what I am about to tell you would be the result if the committee proposal were by some weird chance—and it would have to be a weird chance—if it were to become law.

Convicted criminals will be able to use the expanded habeas review process to argue for reversals of sentences and, under the harmless error changes, to argue for new trials. The end result of that will be that some of those convicted criminals—murderers and those types—will end up with new trials, many years after the fact and, in all likelihood, plea bargain down to some lesser offense. The end result: It is very possible that some could even be back on the streets.

That may not be a likely result in many, or even most, of those cases. To be absolutely certain, we would have to be able to predict the future, and I think the entire Congress has dropped out of that particular role.

But, Mr. President, we can all pause to think about the combined effect of the changes in the committee proposal that the distinguished chairman of the Judiciary Committee so ably defends. Who among us wants to even take the risk that a murderer can be back on the streets? And money is not the answer.

It was a curious thing. It has been for me, as a member of the Judiciary Committee, to serve on two conference committees—many conference committees because of the Judiciary Committee membership. But the last two that have had to do with the crime bill have truly been almost of a dream world quality. The last one—and I am not suggesting or naming the chairman; I am not speaking in that sense; I am just speaking in ephemeral and extraordinary recollections—the last time we met, it was at halftime of the Dallas Cowboys-Washington Redskins game. We were told we must meet for a conference committee. It was a Sunday.

I said, "Is it really that vital?" I happened to be at the contest.

They said, "Yes, it is critical, and we are going to start."

So we all showed up. The sole purpose was for those on the other side of the aisle to prove that the President of the United States would not beat their brains in about failing to do something with a crime bill. The sole purpose, I think, then on the other side of the aisle was to prove that bill indeed had been a crime bill that had come from them and the poor Republicans were stumbling in the wilderness and unable to come up with anything.

So we went through a real ritual on that Sunday, which was done in good humor because it was so funny and so absurd. Because they just passed stuff. They took the worst of both bills and just kind of dumped it into a big pot and dragged the laundry through and said: That is the conference committee report.

That was not in the Senate version. We were given our usual way of expressing ourselves, and we did. But the House, it was absolutely a travesty. The conference committee has always been loaded with people who could not want a crime bill unless it is absolutely just toothless.

We have the ultimate toothless conference report. That does not serve America. And remember, the Chairman was speaking, if I recall, of the issue of a super majority and how that could be. If you will recall, the RECORD will disclose that on the cloture vote last year, only 49 Senators—not even a majority—voted to invoke cloture. It was that bad a bill. It could not even get close to 60. Everybody just kind of held on tight, put the clothespin over our nose, stepped down there and, it was that bad, we stepped away from it. And we should step away from it again because it is completely unworkable and would not do what we say it would do.

This bill that Senator THURMOND presents is the Republican bill, which is based upon a lot of work over the years—10 years. It is based on a lot of hearings. It is based on something that will work. It is based on something that the people would want. It has no bend, or no willingness to accept any of the absurd conference committee activities where we saw the worst of both worlds come into one bill. There is no reference in Senator THURMOND'S bill about gun control. That will come up in the individual amendment process.

We have all seen now how gun control works in the District of Columbia. They always, out here, kind of give you the saliva test. They say, now you are from Wyoming, I suppose you are not in favor of gun control. I say that is very correct. Out in our part of the world gun control is how steady you hold your rifle. So I have never been in favor of that.

Then they kind of give you a little paternalistic kicking, telling you to shape up and join the world and get sensible. And I do not in any way intend to cast aspersions on the most remarkable person who carries this issue, and that is Sarah Brady. Would that all Americans would listen to her. She is perfectly ready to speak to them and Jim Brady often accompanies her.

I was sad to see the other day that she was hooted from the stage. It was not in my State. Surely there is little place in America for that kind of activity when someone is talking about an issue as important, whichever side you are on, of gun control. Certainly that was a sad thing and she handled it with her usual grace and good humor. But that is certainly a disgusting procedure. Whoever was responsible for it should go back and read the Constitution and things about free speech and discussion of that type.

There is so much of that now. If somebody does not agree with you, they hoot you down. That is not America. I had a little hooting today myself.

I was speaking to a veterans group and told them I thought they made a grave mistake with regard to trying to and effectively killing off the rural health care initiative, trying to get Ed Derwinski, the Secretary of Veterans Affairs, fired. This is the VFW.

I happen to be a lifetime member of the VFW. I am very proud to be a member of the VFW. But I must say I am very troubled when I see that their entire activities, when they make their presentation to the Congress, is to tell their Members how bad Congress is and how we do nothing for them and this Government does nothing for them. I can tell you that offends me as a veteran, and it should offend many of us.

At one point in my remarks, there was hooting, a huzzahing I believe we used to call that, and the good chairman of the joint hearing, SONNY MONTGOMERY, a most unique and marvelous man, pulled that quickly back into perspective. I said hoot all you want, I am not through here yet.

If more people would do that, I think we would realize the purpose of great public discourse is to let the other side show up and then put in your two bits' worth and then repudiate theirs or let them repudiate you and let it stand in the arena of ideas and speech.

So, in the Senator's bill, we did not get into the issue of gun control. As I say, the toughest gun laws in the United States of America are right here in the District of Columbia, and they blow people away in batches every week. So obviously that is not a very sensible procedure. We will get into that. We need to do that debate, but it is also one that just polarizes issues, like most of the issues in America today.

So I simply say that this bill of Senator THURMOND'S is about criminal rights or criminal law reform, reform under the Thurmond proposal introduced today. I urge my colleagues not to be misled by the facade of money that hides the real impact of the committee proposal. We have much to do. I think we can do it.

Senator BIDEN I have watched come right into the opposing camp as we were gathered by the fires in the evening damp and say, here I am, what is it we can do to get a bill. That takes courage in the legislative process and I have seen him do that. So let us be about getting a crime bill that works instead of some pathetic thing, especially in an election year, which is just simply for the purpose of getting the heat off. These are the things that create the anxiety in the people of the United States about what we do.

So I ask that we turn our attention to that and get ourselves busy on a crime bill. Let the House come up with another one because, remember now, the last conference committee representing the House twice has repudiated the majority position of the House in certain instances.

I know that sounds hard to believe when a Democrat conference committee is overturning a majority vote of the Democrats in the House, but that has happened on several occasions. And, of course, that is not legislating, that is not democracy. I would say it if it were a Republican conference committee repudiating the majority Republican position in a legislative body.

So that is how bad it is and that is why we have to be about our work. And I will certainly pledge my part in that. I thank the Chair.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

MOTION TO PROCEED

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator hopes and believes that by tomorrow we will have agreed to this motion to proceed to S. 1504 and will be engaged in a debate on the substance of that bill.

In preparation for that debate, however, I have a few remarks on the bill itself which I would like to present to the Senate.

Perhaps the most significant is that 85 percent of all public broadcasting revenues comes from non-Federal sources, not from the Corporation for Public Broadcasting, 53 percent, more than half, from private donations and 30 percent from State and local government. These facts show the very strong and broad support for what public broadcasting provides to the people of the United States both through television and through public radio stations.

The bulk of the funding for the Corporation for Public Broadcasting goes toward community service grants which are used by television and radio stations to produce and acquire programming, to finance new production equipment and facilities, to watch community outreach services in connection with public service broadcasting, and to pay for satellite interconnection services.

The Corporation for Public Broadcasting is something of an umbrella organization. It differs from the Public Broadcasting Service, and National Public Radio, both of which are owned by member stations.

CPB helped, however, to establish both of those organizations. CPB provides grants to qualified public television and radio stations and also funds some program production. PBS buys programs and distributes them to public television stations, while NPR does the same thing with respect to public radio stations.

Perhaps the best way I can illustrate this, Mr. President, is to use the examples with which this Senator is most familiar, those which exist in the State of Washington. For example, if this bill is funded at the full $375 million, a little bit more than 1 percent of that, just under $4.5 million, will go to the State of Washington in community service grants for public television stations in Pullman, Seattle, Spokane, Tacoma, and Yakima. An additional more modest amount will go to public radio stations in those and other cities throughout the State of Washington.

Let us get very specific in this connection. What kind of services arise as a result of this kind of assistance?

"The Unquiet Death of Eli Creekmore," a KCTS–Seattle production aired nationally on PBS, won a national Emmy award. This was a documentary about child abuse, and it had a profound impact on the laws of Washington State, and I think elsewhere, together with its impact on agencies responsible for protecting children from abuse.

KCTS also participates in a partnership program with a neighboring school in its own area. The cornerstone of the relationship is a tutoring-mentoring project that has KCTS staffers working with students one-on-one once a week. The KCTS staff serves 123 school districts in Washington and British Columbia benefiting more than 360,000 students. It offers 32 weeks of instructional television each year during school hours for a total of 110 services with 1,000 individual programs.

KYVE in Yakima produces "Apple Bowl," a quiz series now in its 12th season, that brings together teams from 24 area high schools for academic competitions.

Community service grants are also used for radio stations like KSER–FM in Lynnwood, WA. It is a small station that provides public affairs programming, music, literature, drama, and 4½ hours a week of children's programming.

As my friends at KSPS in Spokane point out, millions of young people got their head start in school because of Big Bird and Ernie on "Sesame Street." This does not touch on the actual in-school programming public television provides thousands of schools across the country. Educational programming continues for adults who receive college credit for telecourses.

Mr. President, none of these programs has been controversial.

I have listened during the course of the afternoon to some of those who object to the balance of the many advocacy programs on PBS. They are not by and large criticizing the type of services which I have described to this point in my remarks, services which are helped by, I want to emphasize again, funding through the Corporation for Public Broadcasting which totals about 15 percent of the revenues received for public radio and public television stations across country. Yet it is an important 15 percent. It is a signifi-

cant amount of money even in this Congress, and it is a question with which we should have serious concerns.

Mr. President, I share some of the concerns which have been expressed by critics here in the course of debate this afternoon. I believe the Corporation for Public Broadcasting and many of the station themselves can and should consider better balance in the type of advocacy programs they present.

I am not objecting, and I do not believe that a majority of Members of this body are objecting even, to some of the more radical presentations of views which are out of the mainstream. But the Corporation for Public Broadcasting should see to it that ideas out of the mainstream on the other side of the political spectrum, or within the mainstream, conservative as well as liberal, are also given a fair presentation through the corporation itself and by member stations.

The debate we will have tomorrow on these issues is a serious one. It is one about which Members will speak quite passionately. In my opinion that is a tribute to public broadcasting. It remains that public broadcasting really counts, that people do listen to it, and that they are influenced by it.

As a force for good, as an educational tool in this country, it has been absolutely first rate. It certainly serves literally millions of people in the United States.

But it is just because it has such an effect it is very important it be equally fair. If we can, during the course of the debate, without making major changes necessary to what is an important bill, cause that concern to be felt and heeded between the time of this debate and the next time a reauthorization bill comes before it, we will have provided a very real service to the people of the United States.

It is important that all concerns and all sides be heard not only in this debate but through the programs financed by the Corporation for Public Broadcasting as well.

Mr. INOUYE. 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. 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.

Mr. EXON. Mr. President, I rise to support S. 1504, the reauthorization bill for the Corporation for Public Broadcasting. As a member of the Senate Commerce Committee which reported this bill, I urge my colleagues to support it.

I am proud of the extensive public broadcasting network we have in Nebraska. Nebraska was the first State to purchase a dedicated multichannel satellite transponder for statewide educational use involving all sectors of education. The Nebraska ETV Network has established crucial links to the public school and university system. It has also become highly regarded for producing programming for national distribution.

The Nebraska ETV and Radio Network is the single largest statewide resource for the presentation of education, culture, and the arts. The size of the audience in Nebraska for arts performance programming alone is equivalent to filling Nebraska's Big Red football stadium each and every week for the entire year. None of this would have been possible without the Federal Government effort. These services provided to the people of my State and our Nation depend on the continued support from Congress.

It is hard to imagine education in Nebraska without Nebraska Educational TV. It plays a critical role in bringing courses in subjects like the Japanese language, the humanities, and agriculture, as well as other services, to both young and old students in all areas of the State. Many of our rural schools would not be able to afford the kind of instruction they receive for their students without the Nebraska Educational TV Network.

However, the potential for educational TV has not yet been fully realized. More can be done and this bill will move our Nation toward reaching educational television's potential for our Nation's students.

Mr. President, I urge prompt support of my colleagues' passage of this bill.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

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

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

RELATIVE TO THE DEATH OF SAMUEL ICHIYE HAYAKAWA, FORMER SENATOR FROM THE STATE OF CALIFORNIA

Mr. SIMPSON. Mr. President, on behalf of Senator SEYMOUR and Senator CRANSTON, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 262, expressing our sorrow with respect to the death of our former colleague, S.I. "Sam" Hayakawa.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 262) to express the sorrow of the Senate upon the death of Samuel Ichiye Hayakawa, former Senator from the State of California.

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977–83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation: Now, therefore, be it

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution.

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 262) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 262

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977–83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation; Now, therefore, be it

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

RELATIVE TO PROTECTION OF CERTAIN HAITIANS IN THE CUSTODY OF THE UNITED STATES

Mr. INOUYE. Mr. President, I understand that the Senate has received from the House H.R. 3844, an act to ensure the protection of certain Haitians in the custody of the United States. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The bill will be read for the first time.

The bill was read for the first time.

Mr. INOUYE. I now ask for a second reading.

Mr. SIMPSON. Mr. President, I object to that request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read on the next legislative day.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 517 through and including 528, and all nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

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

Mr. INOUYE. I further ask unanimous consent that the Senate proceed to their immediate consideration, that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations, considered and confirmed en bloc, are as follows:

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Rudolf F. Peksens, [redacted] Regular Air Force.

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be brigadier general

Col. Glen W. Van Dyke, [redacted] Air National Guard of the United States.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas S. Moorman [redacted] U.S. Air Force.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Richard A. Chilcoat, [redacted] U.S. Army.

Col. Edward L. Andrews, [redacted] U.S. Army.

Col. Thomas E. Swain, [redacted] U.S. Army.

Col. John A. Van Alstyne, [redacted] U.S. Army.

Col. Arthur T. Dean, [redacted] U.S. Army.

Col. Robert L. Herndon, [redacted] U.S. Army.

Col. Robert S. Coffey, [redacted] U.S. Army.

Col. Ralph V. Locurcio, [redacted] U.S. Army.

Col. Daniel M. Kelleher, [redacted] U.S. Army.

Col. David K. Heebner, [redacted] U.S. Army.

Col. Howard J. von Kaenel, [redacted] U.S. Army.

Col. Morris J. Boyd, [redacted] U.S. Army.

Col. Robert R. Hicks, Jr. [redacted] U.S. Army.

Col. John P. Rose, [redacted] U.S. Army.

Col. Larry R. Ellis, [redacted] U.S. Army.

Col. Donald B. Smith, [redacted] U.S. Army.

Col. Lawson W. Magruder III, [redacted] U.S. Army.

Col. Stewart W. Wallace, [redacted] U.S. Army.

Col. Russell L. Fuhrman, [redacted] U.S. Army.

Col. David H. Hicks, [redacted] U.S. Army.

Col. Montgomery C. Meigs, [redacted] U.S. Army.

Col. Charles G. Sutten, Jr [redacted] U.S. Army.

Col. James W. Boddie, Jr., [redacted] U.S. Army.

Col. James M. Wright, [redacted] U.S. Army.

Col. Billy K. Solomon, [redacted] U.S. Army.

Col. Paul J. Kern, [redacted] U.S. Army.

Col. Gerard P. Brohm, [redacted] U.S. Army.

Col. Charles C. Cannon, Jr. [redacted] U.S. Army.

Col. Henry S. Miller, Jr. [redacted] U.S. Army.

Col. Roger G. Thompson, Jr. [redacted] U.S. Army.

Col. James M. Link, [redacted] U.S. Army.

Col. Randolph W. House, [redacted] U.S. Army.

Col. John Costello, [redacted] U.S. Army.

Col. Charles W. Thomas, [redacted] U.S. Army.

Col. Johnny M. Riggs, [redacted] U.S. Army.

Col. Peter J. Schoomaker, [redacted] U.S. Army.

Col. Jack P. Nix, Jr. [redacted] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code. 1370:

To be lieutenant general

Lt. Gen. William H. Reno, [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Thomas P. Carney [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United Sates Code, section 601(a):

To be lieutenant general

Maj. Gen. Alfred J. Mallette [redacted] U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Allen E. Chandler, [redacted]

Brig. Gen. Daniel J. Hernandez, [redacted]

Brig. Gen. Charles H. Perenick, [redacted]

Brig. Gen. James F. Rueger, [redacted]

Brig. Gen. Nathaniel James, [redacted]

Brig. Gen. Larry E. Lee, [redacted]

To be brigadier general

Col. Robert J. Brandt, [redacted]

Col. James D. Davis, [redacted]

Col. Edward H. Gerhardt, [redacted]

Col. Tony G. Idol, [redacted]

Col. John F. Kane, [redacted]

Col. Allen F. McGilbra, [redacted]

Col. Felix E. Ocasio-Belen, [redacted]

Col. Bruce W. Vander Kolk, [redacted]

Col. James E. Walker, [redacted]

Col. Bernard M. Watson, [redacted]

Col. Jerry R. Wyatt, [redacted]

Col. Eugene S. Imai, [redacted]

Col. Noah D. Daniel, [redacted]

Col. Ernest T. Edwards, [redacted]

Col. Jerry W. Fields, [redacted]

Col. Edwards L. Goett, [redacted]

Col. Harold M. Goldstein, [redacted]

Col. Roger H. Greenwood, [redacted]

Col. Gary R. Truex, [redacted]

Col. Ronald P. Woodson, [redacted]

IN THE MARINE CORPS

The following-named brigadier generals of the U.S. Marine Corps for promotion to the permanent grade of major general, under the provisions of title 10, United States Code, section 624:

Brig. Gen. Jefferson D. Howell, Jr., [redacted] U.S. Marine Corps.

Brig. Gen. James A. Brabham, Jr., [redacted] U.S. Marine Corps.

Brig. Gen. Michael J. Byron [redacted] U.S. Marine Corps.

Brig. Gen. Charles E. Wilhelm, [redacted] U.S. Marine Corps.

Brig. Gen. Charles C. Krulak [redacted] U.S. Marine Corps.

Brig. Gen. Arthur C. Blades [redacted] U.S. Marine Corps.

Brig. Gen. Peter D. Williams [redacted] U.S. Marine Corps.

The following-named colonels of the U.S. Marine Corps for promotion to the permanent grade of brigadier general, under the provisions of title 10, United States Code, section 624:

Col. Larry T. Garrett, [redacted] U.S. Marine Corps.

Col. Frank Libutti, [redacted] U.S. Marine Corps.

Col. Terrence R. Dake, [redacted] U.S. Marine Corps.

Col. Leslie M. Palm, [redacted] U.S. Marine Corps.

Col. James L. Jones, Jr. [redacted] U.S. Marine Corps.

Col. John E. Rhodes, [redacted] U.S. Marine Corps.

Col. Michael J. Williams, [redacted] U.S. Marine Corps.

Col. Thomas L. Wilkerson, [redacted] U.S. Marine Corps.

Col. Peter Pace, [redacted] U.S. Marine Corps.

Col. Ray L. Smith [redacted] U.S. Marine Corps.

Col. Lawrence H. Livingston [redacted] U.S. Marine Corps.

The following-named colonel of the U.S. Marine Corps Reserve for promotion to the permanent grade of brigadier general, under the provisions of title 10, United States Code, section 5912:

Col. Bobby G. Hollingsworth, U.S. Marine Corps.

The following-named brigadier general of the U.S. Marine Corps Reserve for promotion to the permanent grade of major general, under the provisions of title 10, United States Code, section 5912:

John T. Coyne.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Janet S. Drew, [redacted] and ending Robert A. Snortum, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Air Force nominations beginning Douglas K. Acheson, and ending Marie D. Fisher, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Air Force nominations beginning Robert O. Amaoon, and ending Thomas G. Rundle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Air Force nominations beginning Maj. Garnett T. Alexander, Jr. [redacted] and ending Maj. Francis H. Zeck, Jr., [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1992.

Army nominations beginning James M. Norton, and ending Lewis R. Mackey, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 24, 1992.

Army nominations beginning Jerry W. Black, and ending Robert Vickers, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 24, 1992.

Army nominations beginning James E. Brown, and ending Anna R. West, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 24, 1992.

Army nominations beginning Emmett M. Ade, and ending Gordon Westenskow, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Army nominations beginning William V. Adams, and ending William A. Woodruff, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Army nominations beginning Robert L. Ackley, and ending Craig P. Wittman, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Army nominations beginning Walter M. Braunohler, and ending John C. Wright, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Army nominations beginning Brad A. Case, and ending Harold D. Young, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Army nominations beginning Thomas C. Ada, and ending Molly S. Maguire, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Army nominations beginning William R. *Addison, and ending Robert J *Yates, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Army nominations beginning James E. Albritton, and ending James Zarinczuk, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 24, 1992.

Army nominations beginning John A. Atwood, and ending Frank Ziemkiewicz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Army nominations beginning John G. Angelo, and ending Timothy J. Purdue, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Army nominations beginning Robert F. Gonzales, and ending Michael A. Randolph, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Army nominations beginning Francisco B. Iriarte, and ending Donald T. Stuck, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Army nominations beginning Lucien A. Brundage, and ending Christopher T. Rores, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1992.

Marine Corps nominations beginning Arnoux Abraham, and ending Robert H. Willis, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Navy nominations beginning Edward L. Spires, and ending Lisa C. Hilderbrand, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 24, 1992.

Navy nominations beginning John G. Hannink, and ending Anthony H. Carpenter, which nominations were received by the Senate on January 22, 1992, and appeared in the CONGRESSIONAL RECORD of January 23, 1992.

Navy nominations beginning Michael Narciso Abreu, and ending Joseph Salvator Zurzolo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Navy nominations beginning Mason X. Dang, and ending Jon S. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Navy nominations beginning Bruce W. Glasko, and ending Glen C. Crawford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Navy nominations beginning Paul R. Cox, and ending Cathy L. Wagstaff, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Navy nominations beginning John Geoffrey Speer, and ending Mary Catherine Costa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

Navy nominations beginning Neal Adams, and ending Stanley D. Rhoades, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 29, 1992.

STATEMENT ON THE NOMINATION OF PETE SCHOOMAKER TO BRIGADIER GENERAL

Mr. SIMPSON. Mr. President, let me also just very briefly say how proud we are of a young man on this list—the Executive Calender unanimous-consent request—a fellow Wyomingite, for achieving the rank of general officer in the Army.

It is an occasion for special recognition. So I ask the Senate to recognize Col. Pete Schoomaker. We are very proud of him in Wyoming. He is a genuine, real American hero, and indeed, has a military record beyond comparison.

He has been involved in some military adventures that are the essence of what they make movies about in Hollywood.

When a fellow Wyomingite achieves the rank of general officer in the Army, it is an occasion for special recognition. So it is that I ask the Senate to recognize Col. Pete Schoomaker or "Coyote" as he is affectionately known by his close friends.

We are very proud of Pete Schoomaker in Wyoming. Pete is the genuine article, a real American hero. As I often like to say, "Many people can talk the talk, but very few can walk the walk." Pete is one of those very few who can "walk the walk."

Before volunteering for the Army, he was one of the best defensive tackles that the Wyoming Cowboys ever had—he took us to the Sun and Sugar Bowls. While at the University of Wyoming he was also a distinguished military graduate.

In the early stages of his career, Pete served as an armor officer in command and staff positions in both infantry and armored cavalry units. But it was in 1978 that he found his true military calling—in special operations.

Among these elite forces, he has held command responsibilities at all levels. He has also served as staff officer at J-SOC, the Joint Special Operations Command.

He has been a key player in operations such as Eagle Claw, Urgent Fury, Just Cause, and Desert Storm. Much of the work he has done is classified information.

Pete is a Ranger and is Special Forces qualified. He has been awarded the Combat Infantryman's Badge, the Master Parachutist Badge, and awards for valor and achievement such as two Bronze Stars, the Defense Superior Service Medal, and the Legion of Merit.

I would not be at all surprised if we didn't see Pete's name on future promotion lists as well.

Mr. President, on behalf of the people of Wyoming it is with a great sense of pride and admiration that I will be voting to confirm Colonel Schoomaker's promotion to brigadier general.

I know that the people of Wyoming have a great sense of pride and admira-

tion for this special man. We are very proud of him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING PRINTING OF CIRCLE OF POISON—SENATE RESOLUTION 263

Mr. INOUYE. Mr. President, on behalf of Senator LEAHY, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 263) authorizing the reprinting of the publication "Circle of Poison Publication."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 263) was agreed to, as follows:

S. RES. 263

Resolved, That the Committee on Agriculture, Nutrition, and Forestry be authorized to reprint the publication "Circle of Poison: Devastation to Third World Workers by U.S. Pesticides" (Hearing 102-17).

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

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

The motion to lay on the table was agreed to.

LITHUANIAN INDEPENDENCE

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 239, relating to Lithuanian independence, just received from the House.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 239) congratulating the people of Lithuania for their successful peaceful revolution and their continuing commitment to the ideals of democracy.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 239) was agreed to.

The preamble was agreed to.

TORTURE VICTIM PROTECTION ACT

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 392, H.R. 2092, an act to carry out obligations of the United States under the U.N. Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table; and that statements with respect to passage of this bill be inserted in the RECORD at the appropriate place.

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

The Senate proceeded to consider the bill.

Mr. GRASSLEY. I appreciate the efforts Senator SPECTER has made to alleviate some of the concerns I have about this bill. He has added a statute of limitations, and established a threshold requirement that plaintiffs show they have exhausted their remedies at home. Nevertheless, I remain concerned about the basic effect of the bill, which is to open up U.S. courts to foreign lawsuits with no connections to the United States, and to involve the judiciary in the conduct of U.S.-foreign relations. With the hope that he can alleviate some of these concerns, I would like to ask the Senator from Pennsylvania some questions about his bill.

First, I would like to know why should this country open its already overburdened Federal courts to lawsuits that have absolutely no connection—neither parties nor subject matter—to the United States?

Mr. SPECTER. As explained in the committee report (S. Rep. 102-249) at 7, only defendants over which a U.S. court has personal jurisdiction may be sued. In order for a court to have personal jurisdiction over a defendant, that individual must have minimum contacts with the jurisdiction. Therefore, the alleged torturer must have sufficient minimum contacts with this country to satisfy the requirements of the Constitution. Because of this requirement, foreign nationals may not sue another foreign national with no connection to the United States under this act. The act is intended to deny torturers a safe haven in this country. If a torturer does not come to the United States and establish sufficient contacts, then he or she cannot be sued under this act.

Mr. GRASSLEY. Well, I am not a lawyer, but as I understand it, the minimum contacts test for individuals is easily satisfied: Mere physical presence is enough.

Mr. SPECTER. That may be so. Even if it is, that is not an argument against this bill. Realistically speaking, few suits would be filed against defendants over whom personal jurisdiction may constitutionally be exercised but who maintain no assets in this country. In addition, one reason for enacting this bill is to discourage torturers from ever entering this country. There is no question that torture is one of the most heinous acts imaginable, and its practitioners should be punished and deterred from entering the United States. The Senate has ratified the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which obligates state parties to adopt measures to ensure that torturers within their territories are held accountable for their acts. This bill accomplishes that purpose in a manner consistent with the Constitution.

Mr. GRASSLEY. Will the bill involve the judicial branch of Government in foreign affairs?

Mr. SPECTER. I do not believe that it will. While it will allow a remedy for acts committed in foreign countries, torture is universally condemned by the family of nations. No nation officially supports or condones torture. Therefore, I do not expect that this act will entangle the judiciary in sensitive foreign policy matters.

Mr. GRASSLEY. What is the constitutional basis of this extension of Federal jurisdiction to these cases? What legal authority supports the Senator's position?

Mr. SPECTER. In response to the Senator's question, I would refer the distinguished Senator from Iowa to the committee report at 5-6, which specifies that article III of the Constitution grants authority to the Federal courts to hear cases "arising under" the "law of the United States." International law is part of the law of the United States. *The Paquete Habana*, 175 U.S. 677, 700 (1900). The "arising under" clause also allows Congress to confer jurisdiction over actions between foreign plaintiffs and foreign defendants. *Verlinden B.V.* v. *Central Bank of Nigeria*, 461 U.S. 480 (1983).

I understand that the Senator believes there was a direct U.S. connection in Verlinden. Even if there was, I think that such a connection would exist in cases under this act, as the defendant must have sufficient minimum contacts with the United States.

In addition to the article III basis, article I, section 8 of the Constitution authorizes Congress "to define and punish * * * Offenses against the Laws of Nations." (Emphasis supplied). This is a separate, independent, and wholly sufficient basis for establishing Federal jurisdiction, as the first Congress itself believed in enacting the provision of the Judiciary Act of 1789 that became the Alien Tort Claims Act, 28 U.S.C. 1350. I would point out that the courts have previously upheld the ability of foreign plaintiffs to bring an action against a foreign defendant under 28 U.S.C. 1350 for alleged torture occurring in another country. *See Filartiga* v. *Pena-Irala*, 630 F.2d 876 (2d Cir. 1980).

Mr. GRASSLEY. Will courts retain their discretion to decline jurisdiction over lawsuits under this bill? Will they be able to dismiss such suits in favor of a more convenient forum in another country?

Mr. SPECTER. The answer to both questions is yes. Nothing in this legislation is intended to or does affect the doctrine of forum non conveniens, which remains applicable to any lawsuit brought under this act.

Mr. GRASSLEY. How many lawsuits does the Senator expect will be filed under this new Federal cause of action? How will successful plaintiffs enforce their judgments?

Mr. SPECTER. Because a cause of action for torture in a foreign country has existed under 28 U.S.C. 1350 and was recognized under Filartiga in 1980, we have had some experience with people filing claims for torture in other countries. While exact figures are not known, I have been informed there have only been a few such cases brought since 1980. The number of such cases has not been very high, and I do not expect it to increase significantly because of this act.

The issue of the enforceability of judgments under the act raises concerns that can only be dealt with in particular cases and does not go to the desirability of enacting the legislation. In some instances, a defendant who is found liable may have assets in this country, in which case the judgment could be enforced easily. In other cases, the individual defendant may not have assets that could readily be attached, and enforceability would be uncertain.

Because this act provides a cause of action against the individual(s) responsible for the torture and not against the foreign state or Government, I do not foresee any successful efforts to enforce judgments obtained under this act against the foreign state or government.

Mr. GRASSLEY. How will evidence be collected in such a case? Is it not unrealistic to expect an American court to make full and fair factual findings concerning conduct which occurred 10 years ago in a foreign country? How will we compel witnesses to attend? What about real and physical evidence? What about the language barriers? It seems very impractical, unless the Senator is just providing victims of torture with a forum for getting default judgments that will be hard to collect.

Mr. SPECTER. Again, I believe that such matter can only be resolved on a case-by-case basis. There may be problems of proof in any particular case, but that will be a problem for each plaintiff or defendant to handle. Of course, the plaintiff continues to bear the burden of proof and must come forward with sufficient evidence to prove his or her case. If plaintiff cannot satisfy the burden of proof, then the case must be dismissed. This act is not designed to create a forum for default judgments. A defendant may also have difficulty obtaining evidence to defend him or herself in a particular case, but the court may be able to compensate for problems of proof in such a case. I do not believe that one can make an argument against enactment of this legislation based on problems that may occur in any particular case over proof.

Mr. GRASSLEY. I have no interest in protecting autocratic leaders of totalitarian governments, but I recognize the importance of sovereign immunity. Under this bill, could an individual ever be held liable for conduct which was within the scope of his actual or implied authority as an agent of his government? If so, does that not conflict with the Foreign Sovereign Immunities Act and the international law act of state doctrine?

Mr. SPECTER. I know full well the dedication of the Senator from Iowa in opposing totalitarian regimes. We have worked together to pass a civil remedy for victims of international terrorism and similar violations of international law. I do not believe that this act conflicts with the Foreign Sovereign Immunities Act, 28 U.S.C. 1330, 1332(A) (2)-(3), 1391(f), 1441(d), and 1602-1611 [FSIA], or the act of state doctrine.

As noted in the committee report at 7-8, the act does not override the FSIA and allow a suit against the foreign state. It only allows a suit against the individual(s) responsible for the torture, either by performing it or ordering it. Nor does this act override traditional principles of diplomatic immunity. In order to take advantage of the FSIA, a defendant would have to prove an agency relationship with the foreign state, which would have to "admit some knowledge or authorization of relevant acts." 28 U.S.C. 1603(b). All foreign states are officially opposed to torture and extrajudicial killing. Therefore, the FSIA would not normally provide a defense to an action under this Act. If an agency relationship with the foreign state can be proved, however, then the FSIA would operate to bar the suit.

The act of state doctrine does not provide a shield from liability under this act. This doctrine precludes U.S. courts from sitting in judgment on the official public acts of a sovereign foreign government. *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964). Because this doctrine applies only to public acts, and no foreign government commits torture as a matter of official policy, this doctrine cannot be violated by allowing a cause of action for torture. Again, if any sovereign state acknowledges that it engaged in torture or extrajudicial killing as a matter of official policy, then the act of state doctrine might bar a suit under this act. I think that such a circumstance under which a foreign government would acknowledge violating the universal taboo against torture or extrajudicial torture would be unheard of, and, therefore I would not expect the act of state doctrine to bar suits under this act.

Mr. GRASSLEY. How is this bill within the parameters of the U.N. Convention on Torture?

Mr. SPECTER. This act is fully consistent with the parameters of the U.N. Convention by denying torturers and those who commit extrajudicial killings a safe haven in this country by making such individuals legally accountable for their heinous acts committed in violation of international norms. In addition, the definition of "torture" in this bill includes word-for-word the understandings included by the Senate concerning the definition of torture in the Torture Convention when it ratified the convention. See committee report at 6-7.

Mr. GRASSLEY. Do international law doctrines of jurisdiction allow one state to involve itself judicially in disputes between aliens with minimal connections to the interfering state?

Mr. SPECTER. Under international law, the exercise of jurisdiction over torture cases is lawful and proper under the doctrine of universal jurisdiction, under which the courts of all nations have jurisdiction over offenses of universal interest, for example, torture, terrorism, and piracy. See committee report at 5 and note 3. In any event, the U.N. Convention on torture, which was ratified by the Senate in 1990, is a clear expression of the fact that international law condemns torture and extrajudicial killings and requires adherent states to adopt legally enforceable measures against tortures within their borders.

Mr. GRASSLEY. I thank my colleague from Pennsylvania for his forthright answers.

Mr. SIMPSON. I also want to thank my colleague from Pennsylvania for his accommodation and for taking the time to clarify some points about this legislation and to address these concerns. Our colleague from Iowa raises matters that, I think, are very important.

My primary concern was with the possibility that foreign nationals could come to our courts and file lawsuits against other foreign nationals when neither party has any real connection to the United States. If U.S. courts are free to exercise their discretion and refuse to entertain these suits under the doctrine of forum not convenience, as the distinguished Senator from Pennsylvania has indicated, then that concern has been addressed.

I am also encouraged to hear that, as a practical matter, this legislation will result in a very small number of cases, indeed. I trust that the parties will pay for the costs to U.S. taxpayers that this open door policy could generate.

Did I understand my colleague from Pennsylvania to say that these cases will not be accepted in U.S. courts unless a defendant has certain contacts with this country?

Mr. SPECTER. As I indicated in response to the questions of the distinguished Senator from Iowa, jurisdiction over an individual defendant can only be exercised if that defendant has sufficient contacts with the United States to satisfy the requirements of the Constitution. If the defendant does not have sufficient minimum contacts with the United States, then the court may not constitutionally exercise personal jurisdiction over the defendant.

Mr. SIMPSON. What provisions of the act ensure that an unsuccessful plaintiff will reimburse the costs of a civil action?

Mr. SPECTER. No provision of the act addresses this issue. Rather, the act incorporates current law, under which an unsuccessful litigant is generally billed for costs. If a plaintiff files a frivolous action or fails to research the facts or the law adequately, then the court may impose additional sanctions against the plaintiff under rule 11 of the Federal Rules of Civil Procedure. There is judicial authority awarding rule 11 sanctions to the Government to reimburse the costs to the courts of the frivolous action. This act does not disturb this authority.

Mr. SIMPSON. I thank my colleague from Pennsylvania.

Mr. SPECTER. I want to thank the distinguished Senator from Wyoming, our able assistant Republican leader, who chairs the Subcommittee on Immigration and Refugee Affairs for his courtesy and interest in this legislation and for working with me on this legislation. I also want to thank my distinguished colleague from Iowa, the ranking member on the Subcommittee on Courts and Administrative Practice, who has played a constructive role in the development of this legislation.

The PRESIDING OFFICER. Without objection, the bill is considered read the third time and passed.

So the bill (H.R. 2092) was passed.

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

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

The motion to lay on the table was agreed to.

MEASURES INDEFINITELY POSTPONED—S. 313 AND SENATE RESOLUTION 95

Mr. INOUYE. Mr. President, I further ask unanimous consent that Calendars Nos. 382 and 332 be indefinitely postponed.

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

STAR PRINT—S. 2295

Mr. INOUYE. Mr. President, on behalf of Senator RIEGLE, I ask unanimous consent that S. 2295 be star printed to reflect the change I now send to the desk.

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

INJUNCTION OF SECRECY REMOVED—TREATY DOCUMENT NO. 102-24

Mr. INOUYE. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Second Supplementary Extradition Treaty with Spain—Treaty Document No. 102-24—transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Second Supplementary Treaty on Extradition between the United States of America and the Kingdom of Spain, signed at Madrid on February 9, 1988. I also transmit for the information of the Senate the report of the Department of State with respect to this Supplementary Treaty.

The Second Supplementary Treaty supplements and amends the Treaty on Extradition between the United States of America and Spain, signed at Madrid on May 29, 1970, as amended by the Supplementary Treaty on Extradition, signed at Madrid on January 25, 1975 and is designed to update and standardize the conditions and procedures for extradition between the United States and Spain. Most significant, it substitutes a dual criminality clause for a current list of extraditable offenses so that, *inter alia*, certain additional narcotics offenses will be covered by the Treaty. The Second Supplementary Treaty also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

This Supplementary Treaty further represents an important step in combatting terrorism by excluding from the scope of the political offense exception serious offenses typically committed by terrorists, e.g., murder; voluntary manslaughter; voluntary assault and battery inflicting serious bodily harm; kidnapping; abduction; hostage-taking; illegal detention; the illegal use of explosives, automatic weapons, and incendiary or destructive devices or substances; attempt or participation in such offenses, as well as conspiracy or illicit association to commit such offenses. It also excludes from the reach of the political offense exception a murder or other willful crime against the person of a Head of State or a member of the first family of a Contracting Party, as well as any offense for which both Contracting Parties have a multilateral treaty obligation to extradite the person or submit the case to prosecution.

The provisions in this Supplementary Treaty follow generally the form and content of extradition treaties recently concluded by the United States. Upon entry into force, it will supplement and amend the existing Extradition Treaty and Supplementary Extradition Treaty between the United States and Spain.

The Supplementary Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Supplementary Treaty and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *March 3, 1992.*

TRIBUTE TO FORMER SENATOR HAYAKAWA

Mr. SIMPSON. Mr. President, if I may just make a brief comment about our dear, departed friend, Sam Hayakawa. He was a very congenial and stimulating man, and he was here when I came to the Senate. I found him to be a very energetic and spirited person, who loved the Senate and loved the institution and seemed to thrive here. He took part in so many of our activities, and he will be greatly missed.

I just want to wish his family well. I did not know them well, but I certainly came to know him well as a very marvelous, bright, earthy gentleman, who certainly brought great pleasure to others and was a very fine man.

May he rest in peace.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. 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.

MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

INTERPRETIVE CENTER AT BOWERMAN BASIN

Mr. GORTON. Mr. President, last year's Interior appropriations bill

failed to live up to a longstanding commitment by the Department of Interior to the people of Grays Harbor County, WA. It neglected to include funding for a year-round interpretive center at Bowerman Basin in the city of Hoquiam. Despite my efforts, and those of my House and Senate colleagues from the State of Washington, the importance of this project was overlooked. I stand before you today to say that the interpretive center will be a priority for this Senator in this year's appropriations cycle.

In 1988 Congress passed legislation that authorized the U.S. Fish and Wildlife Service to purchase 63 acres of land owned by the city of Hoquiam for the purpose of establishing the Grays Harbor National Wildlife Refuge. The city of Hoquiam agreed to transfer the land, but one of the conditions for this sale was the commitment by the Fish and Wildlife Service to construct and staff year round an interpretive center. Today, nearly 5 years later, this condition still has not been met.

Construction of the interpretive center will help rebuild a struggling community; Grays Harbor County is classified as an economically distressed region. Its unemployment rate is 10.9 percent. This is due, in large part, to the fact that the supply of timber from the nearby Olympic National Forest has dropped from an average harvest of 112 million board feet over the past 5 years to a projected level of 2 million board feet last year by reason of the controversy over the spotted owl. For a community that relies on Federal timber as much as Grays Harbor County, this reduction of 99 percent can lead to only one conclusion: certain economic failure.

The creation of the refuge left the city of Hoquiam with only 12 of its approximately 75 acres of industrial land. This cost the city the leases of two businesses located on the site, and the resulting business and occupational taxes, as well as several other businesses that could have been located on the land. In an effort to counteract their losses, one of the city's prime diversification efforts is directed at promoting tourism. If Bowerman Basin is to be a viable tourist attraction, the promised interpretive center is essential.

Construction of the interpretive center is of vital importance to the people of Grays Harbor County. The first step will be to secure funding for planning and design. While I cannot make any promises with Federal money, this will be a priority for this Senator this session. The people of the city of Hoquiam, and indeed those of Grays Harbor County at large, put their faith in Congress when they agreed to the creation of a wildlife refuge on the city's prime industrial land. I will work to prove that this faith was not misplaced.

IN PRAISE OF CYRUS VANCE

Mr. MOYNIHAN. Mr. President, Monday's New York Times contains an eloquent and much deserved tribute to one of this Nation's finest public servants: Cyrus Vance. The article, by Leslie Gelb, praises former Secretary of State Vance as a "deeply tenacious, deeply moral man." I know that my Senate colleagues share my sense of respect and gratitude for all that Cyrus Vance has done to promote the cause of peace and the interests of the United States in the world and I ask unanimous consent that Mr. Gelb's article be reprinted in the RECORD.

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

[From the New York Times, Mar. 2, 1992]

VANCE: A NOBEL LIFE

(By Leslie H. Gelb)

Cyrus Vance guards himself with smiles, manners and friendliness. So the warlords of Serbia and Croatia were surely disarmed into believing they could stare down his efforts to arrange a cease-fire between them—as they had done many times before with other mediators.

But like so many committed to conflict and killing, the warlords had misjudged and underestimated this deeply tenacious, deeply moral man.

Earlier this month, the haters and leaders of haters of the former Yugoslav nation formally agreed to stop killing each other. And the United Nations Security Council, which had dispatched Cyrus Vance to the scene months ago, voted to deploy some 14,000 troops to keep the peace.

The New York establishment lawyer used no magic or guile, no outlandish promises or prevarications, no table-pounding or theatrics, to do his job. He knew these tricks well, as practiced by other recent American Secretaries of State. But he did not believe that tricks produced lasting results. And as a man of the old school, they were not his way.

Rather, Mr. Vance wore the haters down as he had often done before in places like Cyprus in 1967, where he kept Greece and Turkey from each other's throats, and in the Camp David accords of 1978, when he played such a critical role in keeping Israel and Egypt at the bargaining table.

Each time, as in Yugoslavia, he bore down on them relentlessly with the simple credo: Killing is wrong—and most decidedly not in your real interest.

"I explained to the leaders of the Serbs and Croats," he said in a recent interview in his midtown New York office, "that they had to choose between settling for less and continuing to kill each other. I explained that more killing would not lead to a durable solution. I explained that they were only damaging themselves and their people, and that they were only putting off the day when they would do what they knew they would have to do—live and work together."

Mr. Vance's words of reason and humanity were not new to me. His life and mine have intertwined many times in politics and friendship. He gave me great honor when he asked me to run the State Department's Bureau of Politico-Military Affairs during the Carter Administration.

Perhaps the words were not novel to the Serbs and Croats either. But they had to note something special about the man who was saying to them: He was an absolute mule in the pursuit of agreement. His oratory would never be overwhelming, but he would never tire of pressing for common ground.

Cy Vance's stubbornness would prove a match for their fiery nationalism. And his morality, coming as it did more from bone marrow than the mind would prove as strong as their mutual historical hatreds.

Also, he was not above tossing in reminders that failure to stop the killing would lead to a cutting off of all outside aid and commerce. And he would wait and wait until pressures for settlement grew inside and outside Yugoslavia, and help these pressures along.

"In almost every conflict, the natural tendency is to look at the other side as evil," he said. "That's human nature. On the other hand, you need to find solutions to political problems that lead to killing."

But Mr. Vance, a Navy officer in World War II and a former Deputy Secretary of Defense, was quick to point out that not all disputes can be resolved by reason and compromise because some adversaries are simply too evil. "There are extreme cases like Hitler and probably Saddam Hussein with whom you cannot negotiate. But even with Saddam we probably should have given talks more time.

The Vance guideline in Yugoslavia and almost everywhere else has been that adversaries should be treated as adversaries, not devils. And even with the worst of adversaries, "you have to listen to them" and "keep looking for that point beyond which it's against their interests to keep on disagreeing and fighting."

Cyrus Vance always proceeds as a lawyer, not a philosopher. He would be the last to pretend otherwise. His persuasive power rests in his rectitude, in stubbornly knowing what is right and in stubbornly knowing that killing is almost always wrong.

This is what sets him apart from so many leaders who fear to fail even in pursuit of peace and so abandon the quest. Is this not a Nobel quality?

HANS BETHE ON STAR WARS

Mr. MOYNIHAN. Mr. President, last week the Committee on Foreign Relations was privileged to hear the testimony of Dr. Hans Bethe of Cornell University, one of the most distinguished figures of the nuclear age. Dr. Bethe was head of the theoretical physics division at Los Alamos and was standing next to Dr. Oppenheimer at Alamogordo when the first nuclear test took place. He won a Nobel Prize in physics in 1967. His service to this country has been so extensive and important that it is scarcely within my power to describe it.

During Dr. Bethe's testimony I had occasion to solicit his views on the star wars concept. Five years before President Reagan made his now famous speech about an antimissile shield that would render nuclear missiles impotent and obsolete Dr. Bethe warned me that such a proposal was coming. He has continued to study this issue closely and has strong feelings on the subject which I think will be of interest to the Senate. Ambassador Paul Nitze, another of our Nation's most distinguished public servants, was also

present and contributed his important insights as well.

I ask unanimous consent that my exchange with Dr. Bethe and Ambassador Nitze be printed in the RECORD at this point, along with a Washington Post editorial of February 27, 1992, on the same subject.

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

HEARING BEFORE THE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 25, 1992

Senator MOYNIHAN. I recall that 15 years ago, Dr. Bethe, you and Mrs. Bethe very graciously came to lunch, and you tried to warn me against something I never heard of. I really didn't know what you were talking about. It turned out to be Star Wars.

You described, as I recall, having met with a Soviet physicist in a conference in Rome or some such place and you both agreed that there were those people who thought one could have a small nuclear device explode in space and send out a laser beam that would zap something on the other side of the universe. You both agreed that it was crazy but that there were plenty of crazy people in both our countries and they were likely to try it. You were not wrong.

But now we are further down in our notions. Brilliant Pebbles I think is the most recent formulation.

Do you think we should pursue this kind of anti-missile technology at this level? I know that you thought at the grand level it would not prove coherent, and it did not. But might it at a lower level? Did you have any thoughts for us on this?

Dr. BETHE. I have a strong opinion on Star Wars. I thought it was misconceived from the beginning, and by now I think there is no reason at all to pursue it or to pursue any variation of it.

Senator MOYNIHAN. Or to pursue any variation of it.

Dr. BETHE. The Brilliant Pebbles, in contrast to the X-ray laser, are likely to be technically feasible. But I am terribly nervous about having 1,000 such devices cruising about above the atmosphere. One of them might hit an asteroid. They tell me and I think they are right that they have precautions against that. But I believe that the only thing that should be done is research. That should continue. But we should not deploy any of these devices.

Senator MOYNIHAN. Did I hear you correctly when you said that it might hit an asteroid?

Dr. BETHE. Yes.

Senator MOYNIHAN. I thought for a moment you had said "astronaut." But it might be both or either, for that matter, if it comes to it.

May I say to the Chairman and to my colleague, Senator Robb, that in 1977, Hans Bethe on our back porch in upstate New York, said one of these days some crazy scientist is going to come along to you fellows in the Senate and say I have a plan whereby we put these nuclear weapons in place all over the atmosphere and at a certain point we detonate them and they produce a laser and it goes zap. And he said it's coming and when it comes, tell those people they are loony.

Well, it came, just as he predicted. In 1945, he wrote that the Soviets could have the bomb in 5 years; they got it in 4. After our luncheon in 1977 we got Star Wars in 5, I think.

We could have saved ourselves a lot of grief, it seems to me, if we had listened to you in the first place. You know, the people who built these bombs know something about how they work. Dr. Bethe, you've even suggested you could go down into the basement and turn uranium into reactor fuel. It is not that much of a technical feat.

But you would keep the research going on the general principle that you ought to know as much physics as you can but leave it on the ground and not deploy any Brilliant Pebbles or Sullen Sods or whatever.

Dr. BETHE. I think we should not deploy any of this. I think even if they are effective, everybody has agreed that they are no good against a strong enemy like the Soviet Union used to be. I think it would be a mistake to deploy such devices against accidental launch of Third World countries.

Is that the answer you wanted?

Senator MOYNIHAN. Yes. I wanted your view, but that was the question I wanted answered. Yes.

Does Ambassador Nitze have a different view?

Ambassador NITZE. I think the terms involved are very confusing and are not precisely defined. With respect to the interception of shorter-range ballistic missiles, for instance, such as the Patriot missile, which was used during the Gulf War, I think that is an important thing which one should continue to develop.

Dr. BETHE. [Nods affirmatively.]

Senator MOYNIHAN. I think you are getting agreement from your colleague at the table. But those are ground-based or at least based within the atmosphere.

Ambassador NITZE. They are ground based, the Patriot missile. I think most of the devices which might be used against, for instance, shorter-range things, such as SCUDS, would be ground-based. But there are some that are not.

The man who really invented Brilliant Pebbles—I forget his name—now works at Los Alamos and he believes that one ought to go for something which he calls "burros," being the stupidest animal around. Instead of having these bright interceptors, you have ones with low capability but which would be very good against shorter range missiles, which would be in the lower atmosphere. I think he may be right about that.

So if there are ways and means of dealing with the shorter range threats, which the Saddam Husseins or the Iraqis and so forth are capable of, I think we ought to be willing to deploy those in the event the technology works out.

So it's a question of I want to know precisely what it is that we are talking about when we say don't do it or do do it.

Senator MOYNIHAN. Dr. Bethe does not seems to disagree with that.

Dr. BETHE. I agree that it would be good to have an effective means against shorter-range missiles. Brilliant Pebbles is not the right thing, and I believe some knowledgeable people think that we can have such a device. When we see one, I am in favor of it.

Senator MOYNIHAN. Thank you very much.

[From the New York Times, Feb. 27, 1992]

DON'T RUSH TO DEPLOY ABM'S

When Iraqi Scuds began slamming into Israel and Saudi Arabia, they sent a shudder through Americans. How long would a new nuclear-armed Iraq take to build missiles capable of reaching the United States? Sensing the anxiety, Congress wants to deploy anti-missile defenses on the ground, starting in 1996.

But why rush into a costly deployment when U.S. intelligence indicates that the danger from renegade third world nations is still on the distant horizon? Further research is surely justified, but there is no compelling reason now to install anti-missile defenses.

True, such defenses could also offer some protection against an accidental or unauthorized launch of missiles from Russia. But the quicker, cheaper way to reduce that risk is to negotiate deep cuts in offensive missiles and take the rest off hair-trigger alert. Once that is done, the U.S. could try to work out ways to deploy defenses in cooperation with Moscow.

Limited anti-missile defenses could protect the nation against only some dangers. They could detect a few ICBM's traveling over the North Pole and destroy them with ground-based anti-missile missiles. But far more elaborate and expensive defenses would be needed to protect against missiles launched from a submarine offshore. And such defenses would be useless against airplanes or cruise missiles, or against bombs smuggled into the U.S. in a suitcase.

Buying antiballistic missiles is like buying insurance against lightning but not against fire or theft. And even limited ABM defenses would cost billions more than any other Pentagon program in history.

If Washington nevertheless decides that defenses are worth the price, it will need Moscow's consent. That's because an effective limited defense can work only against a minimal offense. That requires deep cuts in missiles. But Moscow might balk at such cuts because defenses could negate the retaliatory capability of remaining offenses, endangering deterrence.

Hard-liners in Washington want to take advantage of Moscow's weakness and deploy defenses unilaterally. But nothing would revive Moscow's military-industrial complex or restore hard-line rule quicker than such a threat.

Some Star Wars enthusiasts see in recent statements by Boris Yeltsin, the Russian President, a willingness to cooperate on defenses. He called for the U.S. and Russia "to develop, then create and jointly operate a global defense system."

But their excitement seems premature. Mr. Yeltsin's idea of cooperation is much more comprehensive than anything Washington seems ready to embrace. Strategic Defense Initiative officials have expressed interest in buying critical technologies from the Russians. But the Administration has yet to allow the sale even of personal computers to Russia, never mind sharing S.D.I. technology, subsidizing Russia's protection or consulting over use of its own ABM's.

Mr. Yeltsin was also careful to insist that any defensive system "strengthen stability against a background of sharp cuts in strategic offensive arms." That condition won't be easy to satisfy. But by deploying ABM's without satisfying it, Washington will endanger, not defend, the peace.

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, a treaty, and a withdrawal which were referred to the appropriate committees.

(The nominations, treaty, and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT ON HAZARDOUS MATERIALS TRANSPORTATION MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 112

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 2, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying reports; which was referred to the Committee on Commerce, Science and Transportation:

To the Congress of the United States:

In accordance with the requirements of section 109(e) of the Hazardous Materials Transportation Act (Public Law 96-633; 49 U.S.C. 1808(e)), I transmit herewith the Annual Report on Hazardous Materials Transportation for calendar year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

AGREEMENT BETWEEN UNITED STATES AND REPUBLIC OF FINLAND ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 113

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 2, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216; 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Republic of Finland on Social Security, which consists of two separate instruments—a principal agreement and an administrative arrangement. The agreement was signed at Helsinki on June 3, 1991.

The United States-Finland agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries.

I also transmit for the information of the Congress a report prepared by the Department of Health and Human Services, providing explanation of the key points of the agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. In addition, as required by section 433(e)(1) of the Social Security Act, a report on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also enclosed. I note that the Department of State and the Department of Health and Human Services have recommended the agreement and related documents to me.

I commend the Agreement between the United States of America and the Republic of Finland on Social Security and related documents.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

REPORT ON HARVEST OF YELLOWFIN TUNA—MESSAGE FROM THE PRESIDENT—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Pursuant to the provisions of subsection (b) of the Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978(b)), I am reporting to you that the Secretary of Commerce reported to me that shipments of yellowfin tuna or products derived from yellowfin tuna harvested by Venezuela in the eastern tropical Pacific Ocean (ETP) have been prohibited from the countries of Costa Rica, France, and Italy since June 25, 1991.

The Secretary's letter to me is deemed to be a certification for the purposes of subsection (a) of the Pelly Amendment. Subsection (a) requires that I consider and, at my discretion, order the prohibition of imports into the United States of fish and fish products from Costa Rica, France, and Italy to the extent that such prohibition is consistent with the General Agreement on Tariffs and Trade. Subsection (b) requires me to report to the Congress within 60 days following certification on the actions taken pursuant to the certification; if all fish imports have not been prohibited, the report must state the reasons for so doing.

After thorough review, I have determined that sanctions against Costa Rica, France, and Italy will not be imposed at this time while we continue to work toward an international dolphin conservation program in the ETP. Costa Rica, France, and Italy will continue to be certified. I will make further reports to you as developments warrant.

GEORGE BUSH.

THE WHITE HOUSE, *March 3, 1992.*

MESSAGE FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House had passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3844. An act to assure the protection of certain Haitians in the custody of the United States, and for other purposes; and

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent, and referred as indicated:

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3844. An act to assure the protection of certain Haitians in the custody of the United States, 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-2687. A communication from the Deputy Assistant Secretary of Defense (Installations), transmitting, pursuant to law, a report describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors for fiscal year 1991; to the Committee on Armed Services.

EC-2688. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on the implementation of a reduced Departmental force structure in conjunction with a lessening of world tensions; to the Committee on Armed Services.

EC-2689. A communication from the Secretary of the Navy, transmitting, pursuant to law, notice of a breach of the Unit Cost threshold of a major defense program acquisition cost; to the Committee on Armed Services.

EC-2690. A communication from the Chairman of the Board of Directors, Panama Canal Commission, transmitting, a draft of proposed legislation to authorize expendi-

tures for Fiscal Year 1993, for the Panama Canal Commission to operate and maintain the Panama Canal and for other purposes; to the Committee on Armed Services.

EC-2691. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2692. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology for calendar year 1991; to the Committee on Commerce, Science and Transportation.

EC-2693. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, the annual report on the relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the United States, together with recommendations as to how shipyards may compete for work on an equalized basis for calendar year 1991; to the Committee on Commerce, Science and Transportation.

EC-2694. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2695. A communication from the Deputy Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2696. A communication from the Assistant Secretary of the Interior, transmitting, a draft of proposed legislation to amend the Surface Mining Control and Reclamation Act of 1977, as amended, to extend authority to collect abandoned mine reclamation fees; to the Committee on Energy and Natural Resources.

EC-2697. A communication from the Secretary of Labor, transmitting, pursuant to law, a quarterly report on the expenditure and need for worder adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-2698. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to authorize recovery of supplemental security income overpayments from social security benefits; to the Committee on Finance.

EC-2699. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend part D of title IV of the Social Security Act to authorize financial incentives for more effective child support enforcement programs, to provide for the charging of fees for State child support enforcement services, and for other purposes; to the Committee on Finance.

EC-2700. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to provide for equity in the Medicare Supplementary Medical Insurance Premium; to the Committee on Finance.

EC-2701. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend title XIX of the Social Security Act to add requirements concerning health insurance coverage of children by absent parents; to the Committee on Finance.

EC-2702. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to enable recipients of aid to families with dependent children to set aside savings in order to achieve self-sufficiency through self-employment or other means to improve their ability to obtain and retain employment or for the purchase of a home; to the Committee on Finance.

EC-2703. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to reduce costs in the Medicare program, and for other purposes; to the Committee on Finance.

EC-2704. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Social Security Act to specify the purposes and duration of emergency assistance under part A of title IV; to the Committee on Finance.

EC-2705. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Enterprise for the Americas Initiative: A Vision for Economic Growth in the Western Hemisphere"; to the Committee on Foreign Relations.

EC-2706. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on programs, transactions and other relations conducted or carried out by any agency of the U.S. Government with respect to Taiwan; to the Committee on Foreign Relations.

EC-2707. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, a report on the Department's Compliance with, and the Effectiveness of, the Anti-Lobbying Act; to the Committee on Governmental Affairs.

EC-2708. A communication from the Environmental Protection Agency, transmitting, pursuant to law, the annual report summarizing actions taken under the Program Fraud Civil Remedies Act for the year ending September 30, 1991; to the Committee on Governmental Affairs.

EC-2709. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the annual report of the Commission for the Calendar year 1991; to the Committee on Governmental Affairs.

EC-2710. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-151 adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2711. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-157 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2712. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-158 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2713. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-159 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2714. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-160 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2715. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-161 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2716. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-162 as adopted by the Council on February 4, 1992; to the Committee on Governmental Affairs.

EC-2717. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2718. A communication from the Director of Public Affairs and Press Secretary, Department of Agriculture, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2719. A communication from the Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1729. A bill to amend the Public Health Service Act to require drug manufacturers to provide affordable prices for drugs purchased by certain entities funded under the Public Health Service Act, and for other purposes (Rept. No. 102-259).

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. MOYNIHAN:

S. 2303. A bill to amend title IV of the Social Security Act to require full funding of the job opportunity and basic skills training program under part F of such title, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. SIMON, Mr. DIXON, and Mr. METZENBAUM):

S. 2304. A bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. BROWN, Mr. DOLE, Mr. GRAMM, Mr. LOTT, Mr. D'AMATO, Mr. STEVENS, Mr. WALLOP, Mr. MCCAIN, Mr. NICKLES, Mr. DOMENICI,

Mr. MCCONNELL, Mr. GARN, Mr. BOND, Mr. COATS, Mr. MURKOWSKI, Mr. ROTH, Mr. MACK, Mr. CRAIG, Mr. SMITH, Mr. BURNS, Mr. SEYMOUR, Mr. WARNER, and Mr. HELMS):

S. 2305. A bill to control and prevent crime; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. MCCAIN, and Mr. SIMPSON):

S. 2306. A bill to amend the Social Security Act to provide for the designation of certain health insurance plans as qualified plans, and for other purposes; to the Committee on Finance.

By Mr. CONRAD:

S. 2307. A bill to amend the Internal Revenue Code of 1986 to provide a temporary special depreciation allowance permanent for certain farm-processing equipment, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2308. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2309. A bill to require the Federal Communications Commission to use all available methods and procedures to free radio spectrum for new, emerging technologies and services; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 2310. A bill to reduce the authorized number of officers of the United States Secret Service Uniformed Division from 1,200 to 1,000; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S.J. Res. 263. A joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; 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. SIMPSON (for himself, Mr. SEYMOUR, and Mr. CRANSTON):

S. Res. 262. A resolution to express the sorrow of the Senate upon the death of Samuel Ichiye Hayakawa, former Senator from the State of California; considered and agreed to.

By Mr. INOUYE (for Mr. LEAHY):

S. Res. 263. A resolution authorizing the reprinting of the publication "Circle of Poison"; considered and agreed to.

By Mr. WARNER:

S. Con. Res. 97. A concurrent resolution to commemorate the 50th anniversary of the Battle of Midway; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. MOYNIHAN:

S. 2303. A bill to amend title IV of the Social Security Act to require full funding of the job opportunity and basic skills training program under part F of such title, and for other purposes; to the Committee on Finance.

WORK FOR WELFARE ACT OF 1992

• Mr. MOYNIHAN. Mr. President, in his State of the Union Address the President returned once again to an issue which has concerned American Presidents for some three decades:

Ask American parents what they dislike about how things are in our country, and chances are good that pretty soon they'll get to welfare.

Americans are the most generous people on earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become "a narcotic" and a "subtle destroyer" of the spirit.

Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy.

It's time to replace the assumptions of the welfare state, and help reform the welfare system.

Just recently the President's re-election campaign has produced a television advertisement entitled "Agenda." The President returns to his State of the Union theme, pledging: "to change welfare and make the able bodied work. * * *"

Today I am introducing a bill to do just that. It can be on the President's desk by March 20.

The citations in President Bush's State of the Union Address were from President Roosevelt's State of the Union of 1935. FDR was not addressing the subject of welfare as we know it today. He was referring, as he stated, to the then gigantic "relief rolls" which cared for able-bodied men and their families in the depths of the Great Depression. Probably a quarter of the work force was then unemployed. He was proposing a giant public works program.

What we now call welfare is title IV of the Social Security Act which was enacted later in 1935. Originally designed as a "widow's pension," it has since become a vast program supporting single parent, female headed households. There are at present twice as many AFDC cases as unemployment cases. AFDC supports some 4.4 million adults at this time, along with 9 million children, over 13 million Americans in all.

In 1988 the Family Support Act, overwhelmingly passed by Congress and signed by President Reagan changed the terms of the AFDC program. A new social contract was put in place. Society will help the dependent in return for a concerted effort by dependents to help themselves. Welfare was to be temporary; welfare was to lead to work.

Title II of the act created the Job Opportunities and Basic Skills Training Program [JOBS].

The terms of the JOBS Program are simple and direct. All able-bodied adult recipients of AFDC must enroll or lose their benefits. The exceptions are mothers with children under age 3, or, at State option, under age 1.

The program has been coming along. There are now some 500,000 adults in the JOBS pipeline, with about half that number actually in education or jobs programs. Current expenditures, including day care, are $1.5 billion per year.

Indeed, while denouncing welfare in New York City yesterday Vice President Quayle visited and approved America Works, a private-for-profit job training and placement corporation. This is paid for by the JOBS Program.

However, Federal funds for JOBS are capped at $1 billion, and the State match is such that in the current recession many states are not using all the Federal funds available.

The Work for Welfare Act of 1992 would respond to this emergency by: eliminating the cap on Federal funds, and eliminating State matching requirement beyond current outlays.

The additional funding will come to $4.5 billion, including some $1.4 billion for day care.

The bill answers the President's call for action. As of the date of enactment, signing up for JOBS becomes part of signing up for welfare.

The legislation includes a designation by the Congress of the additional spending as an emergency requirement within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985. We trust the President will agree.

The script for the President's new television advertisement "Agenda" ends with this stage direction: Pic of Bush at desk with female assistant handing him something to sign.

Here indeed is something to sign. I would hugely welcome the President's support for this bipartisan measure. We had as much and more from President Reagan.

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. 2303

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 "Work for Welfare Act of 1992".

SEC. 2. FULL FUNDING OF JOB OPPORTUNITY AND BASIC SKILLS TRAINING PROGRAM.

(a) IN GENERAL.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended—

(1) in subparagraph (B)(i), by striking "and State resources otherwise permit"; and

(2) in subparagraph (E)(i), by striking "and State resources otherwise permit".

(b) REMOVAL OF FEDERAL PAYMENT LIMITATION AND IMPOSITION OF STATE MAINTENANCE OF EFFORT.—Section 403(k) of such Act (42 U.S.C. 603(k)) is amended—

(1) in paragraph (1)—

(A) by striking "of the applicable percentages (specified in such subsection)"; and

(B) by striking "but such payments" and all that follows through "the State";

(2) by striking paragraphs (2), (3), and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) In order to receive the payments described in paragraph (1), each State must maintain its payments in any fiscal year under this part at or above the level of such payments as of fiscal year 1991.";

(3) by redesignating paragraph (5) as paragraph (3); and

(4) by adding at the end the following new paragraph:

"(4) The State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.".

(c) REMOVAL OF CERTAIN PAYMENT LIMITS AND MANDATED STATE PARTICIPATION RATES.—Section 403(l) of such Act (42 U.S.C. 603(l)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "Notwithstanding paragraph (1), the" and inserting "The";

(B) by striking "(in lieu of any different percentage specified in paragraph (1)(A))";

(C) in clause (iv), by striking "11" and inserting "40";

(D) in clause (v), by striking "15" and inserting "50"; and

(E) in clause (vi), by striking "20" and inserting "50";

(2) in paragraph (3)(C), by striking "(in lieu of paragraph (1)(A))";

(3) in paragraph (4)(B)(i), by striking "40" and inserting "50"; and

(4) by striking paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(d) REPEAL OF STATE MATCH REQUIREMENT FOR SUPPORTIVE SERVICES.—Section 402(g) of such Act (42 U.S.C. 602(g)) is amended by striking paragraph (3)(A) and inserting the following:

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, there shall be no requirements for State resources for purposes of section 403(a), except that no such State shall expend amounts for child care in any fiscal year less than the amount such State expended in fiscal year 1992.".

(e) TIME LIMITATION.—Section 482(b) of such Act (42 U.S.C. 682(b)) is amended by adding at the end the following new paragraph:

"(4) For all individuals required to participate in the program pursuant to section 402(a)(19)(C), the State agency shall conduct the assessment, develop the employability plan, and refer the individuals to a program component (as required in this subsection) within 60 days of the date upon which the individual is found eligible for such program.".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to expenditures made after September 30, 1992.

SEC. 3. EMERGENCY DESIGNATION.

(a) EMERGENCY DESIGNATION.—Pursuant to sections 251(b)(2)(D)(i) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congress hereby designates all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EFFECTIVENESS.—Notwithstanding any other provision of law or any other provision of this Act, none of the preceding sections of this Act shall take effect unless, not later than the date of the enactment of this Act, the President submits to the Congress a written designation of all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.•

By Mr. LAUTENBERG (for himself, Mr. SIMON, Mr. DIXON, and Mr. METZENBAUM):

S. 2304. A bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes; to the Committee on the Judiciary.

STOP ARMING FELONS ACT [SAFE]

• Mr. LAUTENBERG. Mr. President, today, along with Senators SIMON, DIXON, and METZENBAUM, I am introducing legislation, the Stop Arming Felons Act, or the SAFE Act, to close two loopholes in current law that allow convicted violent felons to possess and traffic in firearms.

The bill would abolish a procedure by which the Bureau of Alcohol, Tobacco and Firearms can waive Federal firearm restrictions for individuals otherwise prohibited from possessing firearms. In addition, the bill would end a practice by which States are restoring the firearm rights of individuals convicted of violent felonies.

In essence, Mr. President, this bill stands for two propositions.

First, convicted violent felons should not be allowed to possess firearms.

Second, taxpayers should not be forced to pay $10,000 so that a convicted felon can possess these deadly weapons.

Mr. President, it's hard to believe that many Americans would disagree with these propositions. They're not exactly radical. To the contrary, they're really just common sense.

Surely, someone who has demonstrated his or her willingness to commit a crime of violence should not be entrusted with highly dangerous, deadly weapons.

And if someone violates basic social norms, and is convicted of committing a felony, surely law-abiding taxpayers should not be forced to pay $10,000 so he or she can later possess firearms.

Unfortunately, the law in this area has drifted far from common sense.

Under federal law, any person convicted of a crime punishable by a term of imprisonment exceeding 1 year is prohibited from possessing, receiving, shipping interstate, or transporting interstate, any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

In short, felons cannot possess firearms.

However, Mr. President, there are two gaping loopholes. I call them the "guns for felons loopholes".

First, if all the felon's basic civil rights have been restored under State law—that is, rights like the right to vote, the right to hold public office, and the right to sit on a jury—then the conviction is wiped out and all firearm rights are restored. This is true unless the restoration of rights explicitly maintains the firearm ban.

Many States now automatically restore the civil rights of convicted felons. Sometimes, the restoration is effective immediately after the felon serves his or her sentence. Sometimes, the felon must wait a few years.

As a result of this loophole, which was added with little debate in 1986, even persons convicted of violent crimes can legally obtain firearms. That's wrong.

First, and most obviously, it endangers public safety. But in addition, it impedes Federal prosecutors' efforts to help State and local law enforcement agencies crack down on violent offenders. Prosecutors report that it's a very serious problem.

Our bill would close this loophole. Under the legislation, persons convicted of violent felonies would be banned from possessing firearms, regardless of whether a State restores other rights.

Let me turn now to the second guns for felons loophole.

Even if a felon's civil rights have not been restored under State law, the felon can still apply to the Federal Bureau of Alcohol, Tobacco, and Firearms [ATF]. Upon application, ATF performs a broad-based field investigation and background check. If the Bureau believes that the applicant does not pose a threat to public safety, it can grant a waiver.

Since 1985, well over 2,000 waivers have been granted.

Mr. President, this relief procedure has an interesting history. It was first established in 1965 not to permit common criminals to get access to guns, but to help out a particular firearm manufacturer, called Winchester. Winchester had pleaded guilty to felony counts in a kickback scheme. Because of the conviction, Winchester was forbidden to ship firearms in interstate commerce. The amendment was approved to allow Winchester to stay in business.

Because it was drafted broadly, however, the waiver provision applied not only to corporations like Winchester, but to common criminals. Originally, waivers were not available to those convicted of firearms offenses. But the loophole was further expanded in the 1986 McClure-Volkmer bill, which allowed even persons convicted of firearms offenses, as well as those involuntarily committed to a mental institution, to apply for a waiver.

Between 1988 and 1990, ATF processed about 3,000 applications at taxpayer expense. While some applications are withdrawn or disposed of easily, many require a substantial amount of scarce

time and resources. ATF officials perform investigations that can last weeks, including interviews with family, friends, and the police.

In the late 1980's, the cost of processing and investigating these petitions worked out to about $10,000 for each waiver granted.

It's hard to imagine a more outrageous waste of hard-earned taxpayers dollars.

Mr. President, from 1985 to 1991, ATF spent well over $20 million to process and investigate applications for relief. That's more than $20 million to put guns in the hands of convicted terrorists, thugs and the like, while pressing domestic needs have gone unmet and our budget deficit has skyrocketed.

Of course, Mr. President, giving firearms to convicted felons is more than a problem of wasted taxpayer dollars and misallocated ATF resources. It also threatens public safety.

Under the relief procedure, ATF officials are required to guess whether a given convicted felon can be entrusted with deadly weapons. Needless to say, it is a difficult task. Even after Bureau investigators spend long hours investigating a particular criminal, there is no way to know with any certainty whether he or she is still dangerous.

Officials are now forced to make these types of guesses, knowing that a mistake could have tragic consequences for innocent Americans; consequences that could range from serious bodily injury to death.

Mr. President, thrusting this heavy responsibility on ATF officials is not fair. It's not fair to the innocent Americans whose safety is at risk. And it's not fair to the officials themselves.

What happens when convicted felons get their firearms rights back? Well, some apparently go back to their violent ways. Those granted relief subsequently have been rearrested for crimes ranging from attempted murder to rape and kidnaping.

Mr. President, this simply has got to stop. Our bill would eliminate the relief procedure altogether. As we see it, taxpayers shouldn't be forced to pay a single cent to arm a felon.

Mr. President, I appreciate that many Americans are very concerned about any effort that could lead to unreasonable restrictions on the rights of law-abiding citizens to get access to guns for sporting or other lawful purposes. So I want to emphasize something: this is an anticriminal bill. And a protaxpayer bill.

It's in no way an attack on the right of law-abiding citizens to possess firearms.

I also want to emphasize that we are not criticizing the many dedicated men and women who work for ATF. To the contrary, the role they play is vitally important, and they deserve our appreciation and support. The problem in this case is not with the Bureau itself, but with the law that they are obligated to implement.

Mr. President, firearm violence has reached epidemic proportions. And we have a responsibility to the victims and prospective victims to take all reasonable steps to keep this violence to a minimum. Keeping firearms away from convicted violent felons is the least these innocent Americans should be able to expect.

I urge my colleagues to support the legislation, and ask unanimous consent that a copy of the bill be printed in the RECORD, along with other related materials.

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

S. 2304

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 "Stop Arming Felons (SAFE) Act".

SEC. 2. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting ", or such restoration of civil rights occurs following conviction of a crime of violence (as defined in section 924(c)(3))."

SEC. 3. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARMS PROHIBITIONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first sentence by inserting "(other than a natural person)" before "who is prohibited";

(2) by striking the second and third sentences;

(3) in the fourth sentence—

(A) by inserting "person (other than a natural person) who is a" before "licensed importer"; and

(B) by striking "his" and inserting "the person's"; and

(4) in the fifth sentence, by inserting "(i) the name of the person, (ii) the disability with respect to which the relief is granted, and, if the disability was imposed by reason of a criminal conviction of the person, the crime for which and the court in which the person was convicted, and (iii)" before "the reasons therefor".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) applications for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed and actions for judicial review brought after the date of enactment of this Act.

[From the Washington Post, Sept. 25, 1991]

WHY ARE WE REARMING FELONS?

In this era of budget shortages and service cut-backs, it is ludicrous that the federal government is spending money to help rearm convicted felons, but because of a congressional directive, that is being done. A sensible federal law bars convicted felons from possessing, shipping, transporting or receiving firearms or ammunition, but an amendment adopted in the '60s creates a loophole so that the secretary of the Treasury can grant relief in cases where the applicant "will not be likely to act in a manner dangerous to public safety." The Violence Policy Center, which studied the operation of this law and recently released a report, says that the loophole was created as a favor to the Winchester firearms company whose parent corporation, Olin Mathieson had pleaded guilty to felony counts in a kickback scheme. Without the amendment, Winchester would have gone out of business.

Despite this narrow intent, the amendment is broad enough to accommodate individuals, and they have been applying by the thousands for relief. To make matters worse, Congress amendment the law again in 1986 creating a right to appeal an adverse decision to the U.S. District Court. Thus while the secretary had been free to withhold relief in almost every case, there is now what amounts to a presumption that this privilege will be restored and that he has to have a good reason for turning down each applicant.

In the past six years, the Treasury's Bureau of Alcohol, Tobacco and Firearms has had to process about 10,000 applications for relief. Some are easily disposed of, but most require a full field investigation of the applicant, including interviews with family, neighbors, employers and the like. About one out of four requests is granted. To BATF's credit, its judgment has proved wrong in only 2.6 percent of the cases. But the task of deciding who is not likely to pose a danger to the community at some time in the future is a formidable one, given the frequency with which supposedly reformed and nonviolent criminals disappoint the psychiatrists, parole boards and others who thought they would do no further harm.

As far as we are concerned, the fewer felons walking around armed, the better. Why is it wrong to decide that no one convicted of a felony can own a gun again? Why is it important that this privilege be restored? Felons lose other rights as a consequence of conviction—the right to vote or run for office, for example—which in most cases can only be restored by a pardon. Why is the privilege of owning a firearm easier to regain? Congress made a mistake in creating this loophole in firearms regulation, and that mistake was compounded in 1986. Legislators now considering the crime bill should reassess this law.

[From the Washington Post, Nov. 27, 1991]

FOUR MILLION A YEAR TO REARM FELONS

Congress, reluctant for so long, to buck the National Rifle Association, has come to understand the importance of controlling firearms. Whether or not the measure becomes law this year, both houses have now voted for a waiting period before the purchase of a handgun, and the Senate was even willing to prohibit the sale of certain kinds of semiautomatic assault weapons. Another proposal to limit gun possession, first suggested by the Washington-based Violence Policy Center, was offered too late for inclusion in the crime bill will be introduced by its sponsors, Rep. Edward Feighan (D-Ohio) and Rep. Lawrence Smith (D-Fla.), when Congress returns in January.

By statute, the Treasury's Bureau of Alcohol, Tobacco and Firearms is required to process applications submitted by convicted felons seeking to have their right to own guns restored. In general, such individuals are prohibited from possessing, shipping, transporting or receiving firearms, but a special exception was created to allow the federal government to restore these rights in some circumstances. The loophole was created to save the Winchester Firearms Co.—whose parent company had been convicted in a kickback scheme—from bankruptcy. Un-

fortunately, the law is broad enough to encompass individuals who are found "not likely to act in a manner dangerous to public safety," and because special appellate rights have been granted to applicants who are turned down, BATF must take every application seriously and be able to justify every ruling.

How does a federal agency go about deciding which felons, of the 10,000 who have applied for restoration of gun rights, would constitute a danger to society if allowed to own a firearm? By full field investigations, involving interviews with family, friends, neighbors and business associates of the applicant, by reviewing criminal records and parole histories and by relying on the expert judgment of professionals trained to assess an individual's potential for violence—if, indeed, that can be done. All this takes a great deal of time and costs the taxpayer about $4 million a year.

The idea of the government's making a special effort to rearm convicted felons is difficult to fathom. The continued expenditure, in tight budget times, of millions of dollars to implement this program is impossible to justify. Both situations should be remedied by the passage of the Feighan-Smith bill early next year.

FELONS GRANTED RELIEF FROM DISABILITY UNDER FEDERAL FIREARMS LAWS—TEN CASE STUDIES

(By Josh Sugarmann, Executive Director, Violence Policy Center)

(Excerpted from the upcoming Violence Policy Center study, "Putting Guns Back Into the Hands of Criminals: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," to be released in March 1992.)

In September 1991 the Violence Policy Center, a non-profit educational foundation that conducts research on firearms and violence in America and works to develop violence-reduction policies and proposals revealed that the federal Bureau of Alcohol, Tobacco and Firearms (ATF) was spending millions of taxpayer dollars annually to help convicted felons, including those involved in drug dealing, violent crimes, and terrorism, legally regain the privilege of possessing firearms.

Under federal law, convicted felons automatically lose the privilege of owning firearms. Yet as the result of a 1965 amendment to the Federal Firearms Act of 1938, convicted felons can apply to ATF for "relief" from the "disability" of not being able to possess a gun. The 1965 law was passed as a congressional favor to firearms manufacturer Winchester, a division of Olin Mathieson Corporation. In 1962 Olin Mathieson pleaded guilty to felony counts stemming from a kickback scheme involving Vietnamese and Cambodian pharmaceutical importers. Because of its parent company's conviction, Winchester could no longer ship firearms in interstate commerce. The law was enacted to allow Winchester to stay in business and specifically excluded those convicted of firearms crimes.

Because of its broad wording and loose, interpretation by ATF, the law soon became a convicted felons' second-chance club. Under the law, relief can be granted if: "the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." In 1986, as the result of the National Rifle Association-drafted McClure-Volkmer firearms control bill, relief privileges were extended to those who had been convicted of crimes involving a firearm, involuntarily committed to a mental institution, or who had violated the Gun Control Act of 1968. McClure-Volkmer also added wording expanding the ability of federal courts to overturn decisions by ATF to deny relief.

In the last decade, ATF has processed more than 22,000 applications for relief. Between 1985 and 1990, approximately one third of those seeking relief were eventually granted it (see Chart One and Two on the next page). (Of those not granted relief, ATF estimates that a third drop out at some point during the process and that a third are denied relief.)

CHART 1.—APPLICATIONS RECEIVED, 1985–90

	1985	1986	1987	1988	1989	1990	Total
Year:							
Applications received	1,584	1,584	1,179	1,083	891	940	7,261

Source: ATF Public Affairs Office.

CHART 2.—RELIEF GRANTED BY TYPE, 1985–90

Type of relief granted	1985	1986	1987	1988	1989	1990	Total
Firearms	584	474	294	258	298	256	2,164
Explosives	4	3	1	2	2	1	13
Firearms and explosives	33	4	18	19	20	6	130
Total	621	481	313	279	320	263	2,307

Source: ATF Public Affairs Office.

Since 1985, the relief from disability budget has steadily climbed from $2.7 million in fiscal year 1985 to $4.2 million in fiscal year 1991 (see Chart Three below).

CHART 3.—RELIEF FROM DISABILITY PROGRAM BUDGET FIGURES, 1985–91

	Full-time employees	Cost
Fiscal year:		
1985	43	$2,751,000
1986	41	2,516,000
1987	35	2,575,000
1988	43	3,065,000
1989	43	3,094,000
1990	46	3,470,000
1991	NA	4,270,000

Source: ATF Public Affairs Office.

ATF estimates that for those granted relief from 1985 to 1989, the recidivism rate—overall—is 2.6 percent. Those most recently granted relief, not surprisingly, have the lowest recidivist rates, while those granted relief earlier in the decade—with more time to once again commit a crime—have the highest rates (see Chart Four below). The agency offers no specifics as to the subsequent crimes committed.

CHART 4.—THOSE GRANTED RELIEF WHO ARE SUBSEQUENTLY REARRESTED, 1985–89

	Relief granted	Number rearrested	Percentage rearrested
Year:			
1985	386	14	3.6
1986	491	23	4.7
1987	327	8	2.5
1988	259	2	0.8
1989	318	0	0
Total	1,781	47	2.6

Source: ATF Public Affairs Office.

The names of those granted relief are printed in the Federal Register along with the court of conviction. The crimes committed are not printed. In 1989 the Violence Policy Center requested copies of the conviction records and ATF investigations under the Freedom of Information Act (FOIA). After a year of protracted negotiations, the agency refused to release the documents. The Violence Policy Center then independently obtained the original court records of randomly chosen applicants. A random sample of 30 cases of the thousands of names that appear in the Federal Register yielded drug dealing, sex crimes, and terrorism.

Robert Christopher Gunn pleaded guilty in February 1980 to two counts of delivery of a controlled substance, narcotics or cocaine and was sentenced to three to 20 years for each charge. In 1989, having been released from prison, he received his relief.

In 1976, 19-year-old John Wayne Young pleaded guilty in Minnesota to aggravated assault and aggravated robbery. Young had a history of sex-related offenses dating back to the age of 13. In 1989 he received his relief.

In February 1981 Jerome Sanford Brower pleaded guilty in federal court to charges of conspiracy to transport explosives in foreign commerce with intent to use unlawfully, violating the Arms Export Control Act, and unlawfully transporting hazardous material in foreign commerce. Brower had been part of an international terrorist plot masterminded by former CIA agents Edwin Wilson and Francis Terpil. In 1976, Brower, a federally licensed explosives dealer, met with Wilson and Terpil and agreed to supply explosives for an unspecified "operation" in Libya. In June, after meeting with Libyan officials, Terpil drafted a "secret proposal" outlining a six-month terrorist training program to be conducted for the Libyans. Brower transported explosives to Libya and instructed the Libyans in defusing the explosive devices. Brower was eventually allowed to plead guilty and received a four-month prison sentence and was fined $5,000. He received his relief four years later.

Soon after releasing this information, the Violence Policy Center filed an appeal with ATF regarding its FOIA request for the original investigative reports. In December 1991, having won its appeal, the Violence Policy Center reached an agreement with ATF to receive 100 consecutive cases from a specified time period. For all cases the names, locations, and much of the time frame have been deleted by ATF. Since then, the Violence Policy Center has received 30 cases, ten of which have been summarized for this excerpt.

The following information is taken from the upcoming Violence Policy Center report, "Putting Guns Back Into the Hands of Criminals: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," to be released in March 1992. In addition to full summaries of all 100 cases obtained by the Center under the FOIA from ATF, the study will include a history of the relief from disability program as well as recent federal court decisions affecting the granting of relief to convicted felons under state laws.

RELIEF FROM DISABILITY TEN CASES

Cases are taken from ATF investigative reports received by the Violence Policy Center under the Freedom of Information Act. Where dates or names can be ascertained, they are given. Missing names of applicants, victims, cities, states, and incomplete time frames reflect deletions in the documents made by ATF. All applicants cited were granted relief.

Armed robbery

Applicant served a term of 18 months for armed robbery in the second degree. He was

released after one year, and placed on probation for a period of one year which was completed in January 1980. Applicant had robbed a clerk at a K-Mart department store of $5,740 using a loaded 38 caliber revolver. Restoration was sought so that the applicant could go hunting. ATF acted on the request in 1989.

Burglary

In 1975 applicant pleaded guilty to burglary. The applicant and a juvenile had been arrested after they had broken into a mining company garage and attempted to take tools valued at approximately $3,000. In a pre-investigation interview with an ATF agent, applicant admitted that he had failed to list two other convictions on his application, one for burglary and the other for brandishing a firearm. Both had occurred in approximately 1980. The applicant stated that he hadn't listed additional convictions because he couldn't remember the exact dates. The applicant stated that with regard to the brandishing a firearm charge, he had come home drunk one night and got in an argument with his now ex-wife and her sister. He then went to the closet, took out an unloaded gun and asked his sister-in-law to leave his house. In his recommendation, the investigating agent stated that although the applicant's neighbors, co-workers, and references endorsed relief, "the fact that the applicant was not truthful in completing his application by withholding past convictions [and] is a recidivist, one conviction was for Brandishing a Firearm, and the date of his last conviction has been less than ten years, it is felt a denial of this application would be appropriate." Following a letter from the applicant after denial, the decision was apparently reversed. A 1989 letter from ATF stated that, "After careful review of our investigative report and other pertinent documents concerning your application, we have decided to grant your application for restoration. . . ."

Conspiracy to receive and transport in interstate commerce an illegally taken big horn sheep

Applicant pleaded guilty to conspiracy to receive and transport in interstate commerce an illegally taken Big Horn sheep and received five years imprisonment, with all but 90 days suspended. Applicant was placed on probation for five years, was required to perform 500 hours of community service, pay restitution of $16,000, and was fined $10,000. Applicant was released from probation in September 1988. Applicant was a licensed guide and outfitter who booked undercover U.S. Fish and Wildlife agents on a hunting trip where a Big Horn sheep was illegally shot and killed. Application for relief was made so that while applicant was acting as a guide in remote areas he could protect his clients from bear attack and be able to dispose of seriously wounded animals. ATF acted on the application in 1989.

Drinking and driving—homicide

The applicant was convicted of felony homicide and causing bodily injury by intoxicated use of a motor vehicle and was sentenced to a term of five years probation. The applicant has struck on oncoming motorcycle, killing the driver and seriously injuring the passenger. The applicant was released from probation in April 1987. In 1989 ATF acted on the applicant's relief application. Restoration was requested so that the applicant could hunt with family members.

Drinking and driving—injury

Applicant was found guilty of one count of Assault in the Third Degree With a Motor Vehicle and was sentenced to a five-year term of imprisonment with a one-year mandatory minimum in physical custody. It is unclear how much time was actually served. Applicant was released from final parole in January 1984. The conviction stemmed from the applicant's vehicle colliding head-on with another vehicle. According to witnesses, the applicant had been very drunk, and his car crossed the center line and hit an oncoming vehicle occupied by three people. During the course of the investigation additional arrests or convictions for the years 1967 to 1978 were discovered that had not been listed on the application, including: juvenile burglary, disorderly conduct, minor in possession of alcohol, and driving while under the influence. The applicant, who had stopped drinking since the accident, sought relief so that he could hunt. ATF acted on the request in 1989.

Drug distribution

Applicant pleaded guilty to conspiracy to distribute a schedule II controlled substance. On three separate occasions applicant had been surveilled by special agents of the Drug Enforcement Administration supplying ounce quantities of cocaine to another person. The cocaine was intended for street use, as evidenced by its low quality. Although applicant was initially suspected of being part of a large cocaine ring, DEA agents concluded that he was a low level user and supplier of cocaine. Applicant received a suspended prison term of five years, was placed on probation, ordered to perform community service, and required to pay a fine of $2,100. ATF acted on applicant's relief application in 1989. Applicant applied for relief to pursue his hobby of target shooting.

Drug Distribution

Applicant was found guilty of conspiring with four others to possess with intent to distribute 13.4 grams of 100 percent pure cocaine. Applicant was sentenced to five years in federal prison and was placed on parole. In August 1979 parole was terminated early. In 1989 AFT acted on applicant's relief request. Applicant applied for relief so that he could posses a firearms collection bequeathed to him by his father.

Firearms violation—illegal sale of machine guns

Applicant, Sherman Dale Williams, pleaded guilty to two counts of illegal transfer of machine guns and was sentenced to three years probation. Applicant was a gun collector who stated that he had four machine guns, two of which were registered as required by law, and two of which were not. Applicant eventually sold the guns to undercover Bureau of Alcohol, Tobacco and Firearms (ATF) agents for a total of $500. A federal search warrant was served and three more unregistered machine guns and five improvised destructive devices were recovered from the applicant's home. In interviewing the applicant's neighbors, one, who had know him for 15 years, said that he was "the type of neighbor that always keeps to himself" and that he was unsure whether the applicant would be a threat to the community if he were able to possess a firearm. He described the applicant as kind of strange acting, but was unable to say exactly why he felt this way. Another neighbor, who had known the applicant for 12 years stated that he did not like the applicant and that he had a reputation as a crook. He added that it would not surprise him if the applicant already had guns. One female neighbor who had known the applicant for 14 years stated that he was a "recluse" type that kept to himself. She stated that she was unable to comment further on him and added "that she preferred . . . if he were allowed to own firearms, [that the applicant] did it somewhere else and not in her neighborhood." The investigating agent noted that, "She was unable to express why she felt this way." Additional information obtained during the investigation revealed that in 1977 the applicant had possessed and sold a 22 caliber pistol to an undercover ATF agent in the presence of an informant. The U.S. Attorney's office declined to prosecute. When reminded of this incident by the investigating agent, the applicant explained that he had acted as the middleman in the transaction and had never actually touched the firearm. The agent to whom the handgun had been sold stated that the applicant did handle the weapon and took an active part in the transaction. Local law enforcement personnel, including the chief, three detectives, and a detective sergeant felt that if Williams were granted relief he would be a threat to the community. The officers, however, had no documentation (police reports, police contacts, or intelligence information sheets) to substantiate their fears. In his recommendation, the investigating agent noted that, "During this investigation, the law enforcement community and a few neighbors expressed great concern [regarding Williams'] being granted relief, however, no documentable reasons for denying him his relief were produced. Because of this lack of documentation, I have no choice but to recommend that [he be] granted relief."

Manslaughter

Applicant entered a plea of guilty to one count of voluntary manslaughter. Applicant had killed his cousin with a 16-gauge shotgun. He and his cousin had both been intoxicated at the time. Applicant stated that his cousin had beaten him severely and had threatened to kill him prior to the shooting. Applicant served approximately 24 months and was granted parole on November 11, 1976. ATF acted on his relief application in 1989.

Sexual abuse of a child

The applicant, 34 years old in 1989, was arrested pursuant to a complaint filed by his ex-wife. Applicant was arrested and charged with First Degree Felony, Rape of a child. The applicant pleaded guilty to Sexual Abuse and was sentenced to an indeterminate term of not less than one year nor more than 15 years. The sentence was suspended and the defendant placed on probation for 18 months with the stipulation that he spend one year in work release. The facts of the case, as determined by the local police department, were found to be as follows. The applicant's 14-year-old stepdaughter by a previous marriage was visiting his home. A "rough-house" type of play turned into a "tickling incident" and ultimately led to the applicant masturbating onto the girl's stomach. The girl later told her mother who made the complaint to the police. ATF acted on the application in 1989, noting that the felony conviction was five years old and nonviolent.

REMAINING TWENTY CASES—NOT DETAILED

Bribery and Fictitious Claims by a Government Contractor.

Conspiracy and Mail Fraud.

Drinking and Driving—Injury.

Driving While License Suspended.

Drug Distribution (5).

False statements to a Government Agency.

False Statements on a Federal Loan Application.

Firearms Violation—Illegal Possession of a National Firearms Act (NFA) Weapon.

Grand Larceny.
Illegal Planting, Cultivating, and Harvesting of Marijuana.
Robbery (armed with metal pipe).
Stolen Property—Transport, Receiving, or Concealing (2).
Theft by Failure to Make Required Disposition.
Tax Evasion (2).•

• Mr. SIMON. Mr. President, I rise today to introduce the Stop Arming Felons or "SAFE" Act, a bill to correct a dangerous legislative loophole.

Mr. President, taxpayers are paying millions of dollars each year so that convicted felons may obtain firearms. In an age of increasing violent gun crimes, not to mention an ever widening budget deficit, that just doesn't make sense.

Millions of dollars have been spent because a 1965 gun control statute has required the Bureau of Alcohol, Tobacco and Firearms [BATF] to process gun ownership applications submitted by convicted felons. While in general the 1968 Gun Control Act prohibits persons convicted of crimes punishable by imprisonment for a term exceeding 1 year from possessing a firearm, this 1965 loophole can grant relief from gun disabilities to those individuals who "will not be likely to act in a manner dangerous to public safety." Amazingly, an application for relief isn't always necessary: several States automatically restore gun privileges to felons upon the completion of their sentence. This is possible because Congress made it even easier for felons to receive firearms in 1986. The 1986 McClure-Volkmer amendments placed the responsibility for determining gun disabilities after conviction upon the State where the proceedings were held.

Certainly, this wasn't the intention of Congress when it passed the exemption in 1965. In fact, it was passed as a favor to the Winchester Firearms Co., whose parent organization had been found guilty of a kick-back scheme. Without the amendment, the company would have gone bankrupt. The language of the amendment was, however, sufficiently broad enough to allow individuals to apply.

According to the Washington Post, some 22,000 such applications for exemption by individuals have been processed by BATF in the past decade—at a taxpayer cost of approximately $4 million a year. This means that from fiscal years 1985 to 1991, BATF spent well over $20 million to investigate gun possession applications submitted by felons. Not only is the process costly it's also very laborious. Because the applicants' eligibility is dependent upon the laws of the State where they were convicted, BATF agents must be familiar with 50 different statutes. Furthermore, many of the numerous applications for relief require a background check and an extensive investigation of the former felon. These time-consuming, often tedious investigations are performed by agents who would otherwise be investigating violent crimes.

Who is ultimately relieved because of the loophole? A random survey done by the Violence Policy Center found that the gun relief went to individuals like former felon Robert Christopher Gunn, who pleaded guilty to two counts of delivery of a controlled substance and received a 3- to 20-year sentence for each count. In 1989, he was released from prison and granted firearms disability relief from BATF. 1989 was also the year that John Wayne Young received a restoration of his firearms privileges. In 1976, he had pleaded guilty to aggravated assault and aggravated robbery—his record of sex-related offenses dated back to his 13th year. Even Jerome Sanford Brower, who had been part of an international terrorist plot and had pleaded guilty to charges of "conspiracy to transport explosives in foreign commerce with intent to use unlawfully," was granted relief by BATF.

Perhaps the most disturbing case of them all has been that of Idaho felon Baldemar Gomez. He had been convicted of second-degree murder, voluntary manslaughter and battery on a correctional officer, However, because Idaho was one of the States that automatically restored convicts' civil rights upon their release from prison, in the words of Assistant U.S. Attorney Kim Lindquist, "When Baldemar walked out of the penitentiary, someone could have been standing there and handed him a shotgun and it would have been entirely legal * * *" In 1987, Gomez was rearrested during a drug raid and was convicted of violating the Gun Control Act. However, this conviction was overturned by the U.S. Court of Appeals because of Idaho's automatic relief provision. In response to the Gomez case, the Idaho legislature changed its law so that felons must wait 5 years after their sentence and then get State approval in order to own a firearm.

Unfortunately, the list doesn't end with Gunn, Young, Brower or Gomez. Former felons such as these are given the privilege of obtaining and possessing firearms every day—all at the taxpayers' expense. An average of one in four requests to BATF are granted, and to date, an average of 2.6 percent of relieved felons have been rearrested for other crimes. A computer criminal history check has shown that 47 individuals who were granted relief by BATF during the period of 1985–1989 were subsequently rearrested. Ten of these 47 individuals were rearrested for offenses involving firearms, such as the possession of firearms in drug crimes, malicious wounding, and unlawful use of a weapon. However, there are many other criminal charges among the 47 rearrests that could have also involved the use of a firearm, but the computer criminal history check could not make the distinction in these instances. In any case, it is apparent that these charges were violent in nature. Among these are crimes such as aggravated assault, robbery, kidnapping, wanton endangerment, rape and attempted murder.

Fortunately, we can eliminate this dangerous loophole by passing the "Felon Firearm Prohibition Act." Our act can put an end to this unnecessary expense and put the agents at BATF back to work on the investigation of violent crimes—not convicted felons. Specifically, the bill would prohibit individuals—including felons and fugitives from justice—from applying to BATF for firearms disability relief. Furthermore, States would be prohibited from restoring firearm privileges to violent felons. In several States, such as Illinois, this provision is already on the books.

How would this bill affect Illinois? Illinois law currently allows the State police to grant firearms privileges to non-violent felons. Forcible—or violent—felons may not apply for relief. Because our proposed bill and the current Illinois firearm privilege restoration procedures are so similar, Illinois would benefit from this bill, because the residents of Illinois would no longer have to fund the BATF relief procedure through their taxes.

I feel confident that most of my colleagues will support this measure. While many of us have differed in the past over issues such as controlling assault weapons and passing a handgun waiting period, I think we can all agree that convicted felons should not be applying to the Federal Government for firearms relief at the taxpayers' expense—nor should violent felons be getting relief from the States. This is simply common sense. I urge all of my colleagues to join me in this effort.•

By Mr. THURMOND (for himself, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. BROWN, Mr. DOLE, Mr. GRAMM, Mr. LOTT, Mr. D'AMATO, Mr. STEVENS, Mr. WALLOP, Mr. MCCAIN, Mr. NICKLES, Mr. DOMENICI, Mr. MCCONNELL, Mr. GARN, Mr. BOND, Mr. COATS, Mr. MURKOWSKI, Mr. ROTH, Mr. MACK, Mr. CRAIG, Mr. SMITH, Mr. BURNS, Mr. SEYMOUR, Mr. WARNER, and Mr. HELMS):

S. 2305. A bill to prevent and control crime; to the Committee on the Judiciary.

CRIME CONTROL ACT OF 1992

Mr. THURMOND. Mr. President, the average American today understands the problem of violent crime ravaging our cities and towns. Recently, even the U.S. Senate has become painfully and acutely aware of violent crime. Just weeks ago, a young man—who had moved to Washington to work for our colleague from Alabama, Senator SHELBY—was murdered only blocks

from here. A 17 year old was charged with the murder. Another Senator recently witnessed the abduction of his wife at gunpoint just eight blocks from where I stand. Just this past weekend, the Sergeant of Arms for the U.S. House of Representatives, Jack Russ, was shot in the face at point blank range by an assailant who robbed him. Reportedly, the assailant forced the muzzle of the pistol into the mouth of his victim and then pulled the trigger. This is an outrage.

Despite the violence we and other Americans witness every day, some in Congress tried unsuccessfully last November to force upon us a crime bill which actually would have expanded the rights of violent criminals. The partisan crime conference produced a procriminal conference report that is unacceptable. It is still being held at the desk.

It is clear to every American that the growth of violence can be largely attributed to a criminal justice system which has become soft on heinous criminals, failing to impose swift, effective punishment. Those who commit violent offenses no longer expect to be held accountable for their actions. Incredibly, there was still an effort to shove through Congress a feeble conference report which would continue this trend by siding with the criminal.

As every Member of the Senate knows, I have fought for a tough crime bill for a number of years. I have always worked with my colleagues in the spirit of bipartisanship in an effort to enact a true crime bill. For example, even during the crime conference 2 years ago—when House conferees forced a retreat on many tough criminal law reform measures significantly weakening the bill—I supported the crime bill that was reported.

Last year, the House and the Senate each passed a major crime bill. Both the Senate and the House bills contained proposals on the death penalty, habeas corpus reform, the exclusionary rule and firearms waiting periods. Yet, many of these proposals are significantly different and, unbelievably, a number even expand the rights of criminal defendants.

Prior to last year's crime conference, I had expressed a strong belief that there was an effort to stack the deck in favor of death penalty opponents and in favor of a weak crime bill. Unfortunately, I was correct. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored and summarily dismissed. Although the bill that was eventually reported is being called a "compromise" by some, it has been proven to be no such thing. With remarkable consistency, the partisan conference committee rejected the tougher option on the major points and opted instead for provisions that handcuff law enforcement and reduced the safety of law abiding citizens. The Attorney General has recommended that this sham bill be vetoed and President Bush has written the Senate Republican Leader stating his intention to veto the measure if it ever reaches his desk.

For example, the most troubling provision in the partisan conference report is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, 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.

Although the conference report 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 the report renders the death penalty meaningless since virtually no sentences will be carried out. The conference report also rejects the tough exclusionary rule measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. Unbelievably, the partisan report also 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 a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fluminante which correctly allows the harmless error rule to apply to confessions by criminals. According to the Department of Justice, the result of this "pro-criminal" provision will be the release of an untold number of murderers and other violent criminals.

Thanks to the diligent work of our Nation's prosecutors and victims groups who contacted Members of Congress, this fraud bill was stopped before it could be adopted. In addition, the few organizations which rushed to embrace this weak bill are now rethinking their positions in support of the measure. As we all know, the measure narrowly passed the House on November 27 by a vote of 205 to 203 after much partisan arm twisting. However, an effort to shove the "pro-criminal" bill through the Senate failed. In fact, the measure's proponents could not even muster up enough votes to make the bill the pending business.

Some in Congress may doubt whether a crime bill will be enacted into law this year. Nevertheless, I remain committed to passing a crime bill which provides law enforcement the assistance it deserves and which truly makes the urgently needed reforms to our criminal justice system. In furtherance of this objective, I consulted with the Department of Justice and several of my Republican colleagues in an effort to develop a true compromise measure. The result, a bill which I am introducing today, is a tough proposal which takes the best provisions from the Senate and House bills rather than the weaker provisions.

The need for this new conference report proposal is apparent because, rightfully, the "pro-criminal" report is going nowhere and no efforts to address this stalemate have been initiated by the majority. This new compromise proposal, which I am introducing as a bill, is a tough, true proposal that President Bush would sign into law today. It is a "deal maker"—not a "deal breaker." It is a sincere step to get a tough crime bill. It puts aside the rhetoric and comes through with the substance. Rather than the weak death penalty, habeas corpus, and exclusionary rule provisions adopted by the conference, this measure contains the tough Senate habeas reform. It contains the streamlined House death penalty and exclusionary rule proposals which prosecutors and law enforcement truly desire. In addition, it contains the enhanced and mandatory penalty provisions for firearms and sex offenses contained in the original bills.

This tough, true reform measure contains most of the remaining provisions in the Democrat proposal. For example, it contains the additional money proposed in the partisan conference report. It contains the anti-gang grants, the same terrorism provisions, improvements to the crime victims' fund, and child abuse background checks. It also provides all of the additional money for Federal law enforcement and $1 billion for State and local law enforcement block grants. This bill also provides an additional $500 million for prison construction. Finally, it adds a death penalty provision for aggravated murders in the District of Columbia.

In short, this tough version of the conference report contains virtually everything in the partisan conference report except for the provisions which expand the rights of criminals. In place of these provisions, this measure inserts the tougher passed versions on the death penalty, habeas corpus, and exclusionary rule. It also drops the unacceptable pro-criminal provision on confessions.

The question before the Senate is, "Does it now have the courage and wherewithal to back up what it has promised the Nation and send this bill

to the President?" I urge the Senate to pass this measure. It is time to pass a true, tough crime bill. Furthermore, I call upon those who enthusiastically supported the partisan conference report to support this measure as well. It does just what they claim to support—and more.

In closing, I would like to stress that this proposal is not a new piece of legislation. Everything contained in this bill is familiar to those who have been involved in the crime debate. With the exception of the $500 million for more prisons and the D.C. death penalty, this bill contains only provisions which passed in either the House or Senate crime bills. This is not a new bill—it is a tough resolution of the Senate and House bills. it embodies a true conference report which should have been reported last November. It provides additional aid to our Nation's law enforcement while also striking at the heart of the violent, invidious crime plaguing our Nation's streets.

The American people are demanding that the Congress pass real reform. Anything less is not acceptable.

Mr. President, I ask unanimous consent that the bill be printed in its entirety immediately following my remarks and that an outline of the measure appear in the RECORD as well.

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

S. 2305

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 "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.
Sec. 1228. Criminal sanctions for violation of software copyright.
Sec. 1229. Financial institutions fraud.
Sec. 1230. Wiretaps.
Sec. 1231. Thefts of major art works.
Sec. 1232. Military medals and decorations.
Sec. 1233. Motor Vehicle Theft Prevention Act.
Sec. 1234. Knowledge requirement for stolen or counterfeit property.
Sec. 1235. Mail fraud.
Sec. 1236. Fraud and related activity in connection with access devices.
Sec. 1237. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
Sec. 1238. Increased penalties for trafficking in counterfeit goods and services.
Sec. 1239. Computer Abuse Amendments Act of 1992.
Sec. 1239A. Notification of law enforcement officers of discoveries of controlled substances or large amounts of cash in weapons screening.

Subtitle D—Sentencing and Procedure

Sec. 1241. Imposition of sentence.
Sec. 1242. Technical amendment to mandatory conditions of probation.
Sec. 1243. Revocation of probation.
Sec. 1244. Supervised release after imprisonment.
Sec. 1245. Authorization of probation for petty offenses in certain cases.
Sec. 1246. Trial by a magistrate in petty offense cases.
Sec. 1247. Conforming authority for magistrates to revoke supervised release in addition to probation in misdemeanor cases in which the magistrate imposed sentence.
Sec. 1248. Availability of supervised release for juvenile offenders.
Sec. 1249. Immunity.
Sec. 1250. Extended service of members of the Sentencing Commission.

Subtitle E—Immigration-Related Offenses

Sec. 1251. Exploitation of aliens.
Sec. 1252. Criminal alien identification and removal fund.
Sec. 1253. Aliens convicted of felony drunk driving.

Subtitle F—United States Marshals

Sec. 1261. Short title.
Sec. 1262. Establishment and purpose of association.
Sec. 1263. Board of directors of the association.
Sec. 1264. Membership.
Sec. 1265. Rights and obligations of the association.
Sec. 1266. Administrative services and support.
Sec. 1267. Volunteer status.
Sec. 1268. Restrictions.
Sec. 1269. Audits, report requirements, and petition of Attorney General for equitable relief.
Sec. 1270. Liability of the United States.
Sec. 1271. Nondiscrimination.
Sec. 1272. Acquisition of assets and liabilities of existing association.
Sec. 1273. Amendment and repeal.

Subtitle G—Other Provisions

Sec. 1281. Optional venue for espionage and related offenses.
Sec. 1282. Definition of livestock.
Sec. 1283. Court to be held at Lancaster.
Sec. 1284. Authorization of funds for construction of a United States Attorney's Office in Philadelphia, Pennsylvania.
Sec. 1285. Award of attorney's fees for employees of Department of Justice.
Sec. 1286. Required reporting by criminal court clerks.
Sec. 1287. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds and report to Congress on administrative expenses.
Sec. 1288. DNA identification.
Sec. 1289. Safe schools.

TITLE XIII—TECHNICAL CORRECTIONS

Sec. 1301. Amendments relating to Federal financial assistance for law enforcement.
Sec. 1302. General title 18 corrections.
Sec. 1303. Corrections of erroneous cross references and misdesignations.
Sec. 1304. Obsolete provisions in title 18.
Sec. 1305. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 1306. Elimination of redundant penalty.

Sec. 1307. Corrections of misspellings and grammatical errors.

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 1401. Short title.
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 circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of 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:

59-059 O—96 Vol. 138 (Pt. 3) 42

"§ 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.".

DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA

SEC. 142. 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 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 fourth 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 quilt 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 outweighted 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 specifically 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 aggravating factor or factors specifically 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 victims, 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 with 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 ex-

ceeding 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 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) 'Kidnaping' 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 raises 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 pro-

mulgated 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 en-

hanced 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 foreign 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 of 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 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 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 KIDNAPPING.

(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 kidnapping

"(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 writ-

ten 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 subsection 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 BACKGROUND 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 currently 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 agree-

ment 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 assure 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 section 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 Attor-

ney 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".

59-059 O—96 Vol. 138 (Pt. 3) 43

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 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 nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period 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 Na-

tion'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 is 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 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 savings 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 vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such 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 engaged 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 injunc-

tive 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 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 appropriate, 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 ugust 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.

SIDE-BY-SIDE COMPARISON: MAJOR PROVISIONS IN THE CRIME BILLS

Issue	Crime Control Act of 1992	Conference report
Death penalty litigation	Senate passed version. Safeguards against delay and frivolous litigation in death penalty cases. Federal courts are required to defer to State court decisions which are full and fair. Also addresses Federal death row inmate litigation.	Expands the rights of death row inmates by overturning 15 Supreme Court decisions favorable to States on habeas corpus. Its loopholes broadly defeat its limitation of one appeal. It puts the power to regulate compliance with the proposed "reform" in the hands of groups opposed to the death penalty rather than with the courts. Does nothing to thwart, and actually increases, frivolous claims by Federal death row inmates.
Federal death penalty	House version. Comprehensive death penalty which is less onerous on prosecutors. Ensures that jury will impose the death penalty when warranted.	Weakened Senate version which gives juries a standardless discretion to refrain from imposing the death penalty. The entire death penalty is worthless since death sentences would rarely be carried out due to the liberal habeas proposals contained in the bill.
District of Columbia death penalty	Permits the imposition of the death penalty for aggravated murders in the District of Columbia.	No provision.
Exclusionary rule	Expands current law. Authorizes admission of evidence in both warrant and nonwarrant cases where the court determines that the evidence was obtained in objectively reasonable "good faith" compliance with the law.	Narrows the existing "good faith" exception for warrant cases. Eliminates the exception for warrantless searches which is the law in two Federal circuits.
Admissibility of confessions	Keeps current law	Overturns 2 Supreme Court decisions. Automatically reverses all convictions where a court erroneously admits a criminal confession obtained in technical violation of the law even in cases where the court finds that the evidence of guilt is overwhelming and the admission of the confession would not affect the outcome of the trial.
Racial safeguards	Requires administration of death penalty and other penalties without regard to race of defendant or victim. Prohibits racial quotas for imposing the death penalty. Prohibits all appeals to racial bias by prosecutor and defense attorney.	No provisions.
Federal prison construction	Authorizes $500,000,000 for construction of new Federal prisons.	Do.
State and local law enforcement grants.	$1,000,000,000 for grants to State and local police $150,000,000 for cops-on-the-beat.	Same provisions.
Federal law enforcement	$345,000,000 for Federal law enforcement plus an additional $75,000,000 targeted at terrorism.	Do.
Victims	Removes existing cap on the crime victims fund. Mandates and expands restitution to cover additional expenses, protects victims right to an impartial jury.	Contains only provisions related to the crime victims fund.
Firearms penalties	Provides tough mandatory minimum penalties for use of firearms in Federal crimes of violence and drug trafficking crimes.	Increases penalties for these offenses if using a semiautomatic firearm.

AUTHORIZATIONS

	Millions
Anti-gang grants	100
Juvenile alternative punishment	200
Federal counter terrorism:	
FBI	25
State Department	

AUTHORIZATIONS—Continued

	Millions
BATF	2.5
FAA	2.5
Grants to States	25
Federal law enforcement:	

AUTHORIZATIONS—Continued

	Millions
U.S. attorneys	45
Marhsals	10
BATF	15
Judiciary	20

AUTHORIZATIONS—Continued

	Millions
Public defenders	12
State and local law enforcement	1,000
Police corps	100
Law enforcement scholarships	30
Rural crime study	5
Rural drug training	1
Rural drug grants	50
Missing Alzheimer	1
Parental kidnapping	.25
National child protection	20
Domestic violence grants	25
Campus assault study	.25
Cop-on-beat grants	150
Boot camps grants	200
Law enforcement family support	5
Prison literacy	10
Trauma center grants	50
Rural drug treatment	25
Drug emergency areas	300
Community anti-drug grants	15
Prison drug treatment	100
Arrestee drug testing	100
U.S. Attorney's Office	35
DNA identification grants	10
FBI DNA Program	2
Safe schools	100
Federal prison construction	500
Total (billions)	3.555

CRIME CONTROL ACT OF 1992

Derivation of the Provisions of the Proposed Crime Control Act of 1992 from the Crime Bills Passed by the Senate (S. 1241) and the House of Representatives (H.R. 3371 as Originally Passed):

TITLE I—DEATH PENALTY

Sections 101–141 (federal death penalty procedures, authorizations, and related amendments): House bill title XXIII.

[Note: The death penalty title of the House bill was drafted after Senate passage of S. 1241 and incorporates all positive features of the federal death penalty provisions in titles II–IV and other titles of S. 1241.]

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General habeas corpus reform

Sections 201–06 (generally applicable habeas corpus reforms): Senate bill title XI, subtitle A.

Subtitle B—Death penalty litigation procedures

Sections 211–12 (special habeas corpus procedures for capital cases): Senate bill title XI, subtitle B.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Section 221 (states to receive funding for capital habeas litigation equal to federal funding of capital defense resource centers): Senate bill §4923 and House bill §1108.

TITLE III—EXCLUSIONARY RULE

Section 301 ("good faith" exception admitting evidence where conduct of officers was objectively reasonable): House bill §1720.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Section 401 (increased penalties for using firearm in federal crime of violence or drug trafficking crime): Similar to Senate bill §1213 as applied to gun use during federal crimes; Senate bill §1212 and House bill §2001 also provide certain penalty increases for gun use in federal crimes.

Section 402 (increased penalty for second offense of using explosive to commit felony): House bill §2002.

Section 403 (smuggling firearms in aid of drug trafficking): House bill §2003 and Senate §1223.

Section 404 (theft of firearms or explosives): House bill §2004 and Senate bill §1224.

Section 405 (increased penalty for false statement in firearms purchase): House bill §2005 and Senate bill §1226.

Section 406 (summary destruction of explosives subject to forfeiture): House bill §2006 and Senate bill §1229.

Section 407 (elimination of outmoded parole language): House bill §2007 and Senate bill §1232.

Section 408 (enhanced penalties for using firearm in connection with counterfeiting or forgery): House bill §2008 and Senate bill §1234.

Section 409 (mandatory penalties for firearms possession by violent felons and serious drug offenders): House bill §2009; encompasses Senate bill §1235.

Section 410 (receipt of firearm by non-resident): Senate bill §1237; House bill §2010 is similar.

Section 411 (firearms conspiracy): House bill §2011 and Senate bill §1238.

Section 412 (theft of firearms or explosives from licensee): House bill §2012 and Senate bill §1239.

Section 413 (prohibition of disposing of firearm to person disqualified from firearms possession): House bill §2013.

Section 414 (increased penalty for interstate fund trafficking): House bill §2014.

Section 415 (prohibition of possession or trafficking in stolen firearms that have moved interstate): House bill §2015; encompasses Senate bill §1233.

Section 416 (possession of explosives by felons and others): House bill §2017 and Senate bill §1228.

Section 417 (possession of explosive during commission of felony): Senate bill §1221.

Section 418 (disposition of forfeited firearms): Senate bill §1231).

Section 419 (definition of serious drug offense): Senate bill §4911.

Section 420 (definition of burglary for armed career criminal purposes): Senate bill §1241.

TITLE JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

Section 501 (enhanced penalties for using minors in drug trafficking near schools): Senate bill §1501.

Subtitle B—Antigang Provisions

Sections 511–12 (juvenile drug trafficking and gang prevention grants): Senate bill §§1511–12.

Section 513 (criminal street gangs offense): House bill §1703.

Subtitle C—Juvenile Penalties

Section 521 (broadened adult prosecution for serious juvenile offenders, including presumption in favor of adult treatment for juvenile gang leaders): Senate bill §§1521 and 4633.

Section 522 (treating certain highly serious drug crimes by juveniles as armed career criminal predicate offenses): Senate bill §1522.

Section 523 (intermediate sanctions grant program for young offenders): House bill §§601–04.

Subtitle D—Other Provisions

Section 531 (funding objective of establishing effective bindover systems for adult prosecution of most serious violent 16 and 17 year old offenders): House bill §1723.

Section 532 (Attorney General and Secretary of Treasury to develop national strategy to coordinate federal gang investigations): House bill §1715.

Section 533 (clarification of requirement of production of juvenile record prior to commencement of proceedings): House bill §1931.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

[Note: Section 119–20, 127–32 of the proposed Crime Control Act of 1992 (CCA), relating to certain terrorist offenses, are included in the death penalty title (title I) of the CCA, because they may result in a capital sentence in cases where death results. Their derivation is listed here along with the antiterrorism provisions in title VI of the CCA.]

Section 119 (death penalty for terrorist murders abroad of United States nationals): Senate bill §525 and House bill §2319.

Section 120 (conforming amendment to aircraft piracy provision): Senate bill §203(b) and House bill §2320.

Section 127 (implementing legislation for convention against terrorist acts at international airports): Senate bill §501 and House bill §2327.

Section 128 (amendment to Federal Aviation Act relating to aircraft piracy): Senate bill §502 and House bill §2328.

Section 129 (implementing legislation for conventions concerning terrorist acts directed against maritime navigation or maritime fixed platforms): Senate bill §§511–16 and House bill §2329.

Section 130 (implementing legislation for the convention against torture): Senate bill §521 and House bill §2330.

Section 131 (offense of using weapons of mass destruction): Senate bill §522 and House bill §2331.

Section 132 (homicides and attempted homicides in firearms attacks on federal facilities): Senate bill §523 and House bill §2332.

Section 601 (civil remedy for terrorism): House bill §§1734–35, as amended to ensure non-interference with criminal prosecutions of terrorists.

Section 602 (offense of providing material support to terrorists): Senate bill §531.

Section 603 (forfeiture of instrumentalities and proceeds of terrorist offenses): Senate bill §532, as amended to correct technical defects in drafting.

Section 604 (admission to U.S. of aliens cooperating in investigations): Senate bill §§541–43.

Section 605 (extended territorial sea included in special maritime and territorial jurisdiction of U.S.): Senate bill §517 and House bill §1716.

Section 606 (assimilated crimes in extended territorial sea): Senate bill §518 and House bill §1717.

Section 607 (jurisdiction over crimes against U.S. nationals on certain foreign ships): Senate bill §519.

Section 608 (increased penalties for manslaughter and aggravated assault committed abroad by terrorists against U.S. nationals): Senate bill §524.

Section 609 (funding authorizations for antiterrorism operations and programs): Senate bill §561.

Section 610 (increased penalties for certain offenses likely to be committed by terrorists): House bill §1951.

Section 611 (sentencing guidelines increase for terrorist crimes): House bill §1952.

Section 612 (extension of statute of limitations for certain terrorist offenses): House bill §1953.

Section 613 (international parental kidnapping): House bill §§1421–22; different formulation in Senate bill §§4101–03.

Section 614 (state court programs regarding international and interstate parental

child abduction): House bill §1423 and Senate bill §4104.

Section 615 (foreign murder of U.S. national): Senate bill §3202; more limited provision in House bill §1713.

Section 616 (extradition of persons committing crimes of violence against U.S. nationals in foreign countries): Senate bill §3202.

Section 617 (provisions concerning gambling devices on U.S. ships): Similar to §202 of H.R. 3866 as passed by both Houses of Congress; House bill §1722 also has provisions concerning gambling on ships.

Section 618 (FBI access to telephone subscriber information in counterintelligence investigations): House bill §1706.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Section 701 (broadened definition of sexual act for victims below 16): House bill §1431.

Section 702 (doubling maximum penalty for recidivist sex offenders): House bill §1724.

Section 703 (restitution for victims of sex offenses): House bill §521(c).

Section 704 (HIV testing and penalty enhancement in sex offense cases): House bill §1532.

Section 705 (payment of cost of HIV testing for rape victims): House bill §1532.

Subtitle B—Victim's Rights

Section 711 (expansion of scope of restitution and authorization of suspension of federal grants, contracts, loans, and licenses to enforce compliance with restitution orders): House bill §521(a)-(b).

Section 712 (victim's right of allocution in sentencing): House bill §1954.

Section 713 (protection of victim's right to an impartial jury by equalizing number of defense and prosecution peremptory challenges): House bill §1959.

Section 714 (mandatory restitution and other provisions strengthening enforcement of restitution): Senate bill §2003.

Subtitle C—Crime Victims Fund

Sections 721–31 (removal of cap on crime victims fund and other amendments affecting victims programs): House bill §§501–11.

Subtitle D—National Child Protection Act

Sections 741–46 (national background check system for determining whether applicants for child care positions have records as child abusers or molesters): S. 1966; both House bill §§ 1441–45 and Senate bill §§3601–06 contain provisions for establishment of national informational system on child abusers.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sections 751–53 (state programs to require convicted child molesters to keep authorities informed of their location for 10 years following release from custody): House bill §§1401–03.

Subtitle F—Domestic Violence

Section 761 (domestic violence grant program): House bill §§1821–22.

Section 762 (report on battered women's syndrome): Senate bill §4903.

Subtitle G—Other Provisions

Section 771 (offense of inducing minors to commit crimes, including mandatory penalties): Senate bill §3503.

Section 772 (authorizing disclosure of arrest records by campus police): House bill §1727.

Section 773 (national baseline study on campus sexual assault): House bill §1714.

Section 774 (sense of Congress that history of drunk driving should be considered in child custody and visitation decisions): Senate bill §1804.

TITLE VIII—EQUAL JUSTICE ACT

Section 801 (short title): House bill §1601.

Section 802 (requirement that death penalty and other penalties be administered without regard to the race of the offender or victim; prohibition of racial quotas for imposing the death penalty and other penalties): House bill §1602.

Section 803 (safeguards against racial bias against defendant or victim through inquiry on voir dire, change of venue, and prohibition of prejudicial statements): House bill §1603.

Section 804 (for federal capital cases, requiring instructions and juror certifications guarding against racial bias, and making racial motivation of murder aggravating factor permitting consideration of death penalty): House bill §1604.

Section 805 (extension of protection of 18 U.S.C. 241–42 to all persons in U.S., rather than just "inhabitants"): House bill §§1605 and 1707 and Senate bill §4646.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sections 901–04 (raising BJA funding to $1 billion, continuing 25% state matching funds level, and waiving four-year limitation on duration for grants supporting multijurisdictional task forces): Senate bill §§101–04.

Subtitle B—Retired Public Safety Officer Death Benefit

Section 911 (extending public safety officer death benefit program to officers in retirement status who are killed while responding to emergency): House bill §1211.

Subtitle C—Study on Police Officers' Rights

Section 921 (study of police disciplinary investigations, procedures, and sanctions): House bill §1221.

Subtitle D—Community Policing

Sections 931–52 ("Police Corps" program to pay for college educations for prospective police officers and program of scholarships for in-service officers): Senate bill §§801–31; similar programs in House bill §§1271, 1231–33.

Sections 961–62 (community policing—cop on the beat grant program): House bill §§101–03.

Subtitle E—Rural Crime Prevention Strategy

Sections 971–75 (national assessment, information dissemination, assistance, and pilot programs to combat crime in rural areas): Senate bill §§3901–05.

Subtitle F—National Commission To Support Law Enforcement

Sections 981–89A (national commission to support law enforcement): Senate bill §§2201–10.

Subtitle G—Other Provisions

Section 991 (grant program to protect and locate missing patients with Alzheimer's disease and related dementias): Senate bill §3001.

Section 992 (funding authorization for correctional options grant program): House bill §1802.

Section 993 (law enforcement family support grant program): House bill §§1241–42.

Section 994 (prisoner literacy and life skills grant programs): Senate bill §4301.

Section 995 (funding program for trauma centers in high crime areas): House bill §§1506–07.

Section 996 (study of alcohol and crime): House bill §311.

Section 997 (notification to law enforcement authorities of release of federal prisoners).

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Section 1001 (drug testing of federal offenders on post-conviction release): House bill §1504.

Section 1002 (drug testing in state criminal justice systems): House bill §711.

Subtitle B—Precursor Chemicals

Sections 1011–23 (provisions strengthening control of precursor chemicals): Senate bill §§3101–14.

Subtitle C—Interdiction

Sections 1031–39 (provisions strengthening interdiction efforts, including criminal penalties, civil penalties, and forfeiture for failure to land aircraft or bring-to vessel, broadened authority for FAA, Coast Guard, and Customs Service, and measures facilitating international cooperation in interdiction): Senate bill §§4402–14, with incorporation of elements of House bill §1719.

Subtitle D—Rural Drug Crime

Section 1051–54 (rural drug enforcement task forces, cross-designation of federal officers, rural drug enforcement training, and funding authorizations for rural law enforcement agencies): House bill §§1809–11, 1823; Senate bill §§1601–04 are similar.

Sections 1055–56 (rural drug treatment grant program and clearinghouse): Senate bill §§1621–22.

Subtitle E—Grant Programs

Section 1061 (drug emergency areas program): Senate bill §§1701–02 and House bill §§801–02.

Section 1062 (community substance prevention program): Senate bill §4921.

Section 1063 (prisoner substance abuse treatment grant program): House bill §§301–04.

Section 1064 (grant program for pre-trial drug testing): House bill §§702–02.

Subtitle F—Other Provisions

Section 1071 (increased penalties for trafficking in "ice"): Senate bill §1612.

Section 1072 (prohibition of advertisements proposing transactions involving schedule I controlled substances): House bill §1512; similar provision in Senate bill §4906.

Section 1073 (drug-free zone enhanced penalties for drug trafficking in or near truck stops and safety rest areas): House bill §1511; similar provision in Senate bill §1641.

Section 1074 (enhancement of penalties for drug trafficking in prisons): Senate bill §4652 and house bill §1503.

Section 1075 (strengthened provisions relating to forfeiture of vehicles used in smuggling): Senate bill §4653.

Section 1076 (closing loophole for illegal importation of small drug quantities): Senate bill §4654.

Section 1077 (extension of "churning" authority in undercover operations): Senate bill §4655.

Section 1078 (authority for civil penalties and injunctions against drug paraphernalia violations): Senate bill §4656.

Section 1079 (conforming amendments concerning marijuana): Senate bill §4658.

Section 1080 (conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles): Senate bill §4659.

Section 1081 (clarification of narcotic or other dangerous drug under RICO): Senate bill §4660.

Section 1082 (conforming amendments to recidivist penalty provisions in drug laws): Senate bill §4661.

Section 1083 (elimination of outmoded parole language): Senate bill §4662.

Section 1084 (increased mandatory penalty for drug distribution to youth by recidivist): Senate bill §4663.

Section 1085 (life imprisonment on third conviction for highly serious violent crime or drug crime): Senate bill §2508, with amendment concerning predicate violent offenses.

Section 1086 (longer mandatory prison terms for drug offenses involving exploitation or endangerment of minors): Senate bill §2509.

Section 1087 (strengthened definition of prohibited drug paraphernalia): Senate bill §4904.

Section 1088 (mandatory penalties for drug offenses in prisons): Senate bill §2402.

Section 1089 (enhanced penalties for drug distribution to pregnant women): House bill §1505.

Section 1090 (enhanced penalties for drugged or drunk driving that endangers, injures, or kills minors): Senate bill §§1082–03.

Section 1091 (drug-free zone enhanced penalties for trafficking in or near public housing projects): Senate bill §4902; House bill §1502 is similar.

Section 1092 (Attorney General may bring civil actions for penalties, injunctions, and evictions in relation to drug premises): Senate bill §2101.

Section 1093 (increased mandatory penalties for trafficking in drug-free zones): House bill §1705.

Section 1904 (offense for coaches, etc., to induce others to use steroids): House bill §1501.

Section 1095 (awareness program concerning highway fund reduction for states that fail to revoke driver's licenses of convicted drug abusers): House bill §1508.

Section 1096 (DARE grants amendment): House bill §1807.

Section 1097 (prohibition of misuse of initials "DEA"): House bill §1807.

TITLE XI—PUBLIC CORRUPTION

Section 1101–04 (provisions strengthening federal laws against public corruption, including increased penalties, more adequate basis of federal jurisdiction, protection of whistleblowers, and specific provisions relating to election fraud and drug-related corruption): Senate bill §§4801–05.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Section 1201 (addition of attempt liability for robbery, kidnaping, smuggling, and property damage offenses): House bill §1271.

Section 1202 (increase in maximum penalty for assault): Senate bill §2501.

Section 1203 (increase in maximum penalty for manslaughter): Senate bill §2502.

Section 1204 (mandatory penalties for violent crimes against elderly): Senate bill §4001.

Section 1205 (increased penalty for travel act violations): Senate bill §2504 and House bill §1708.

Section 1206 (increased penalty for conspiracy to commit murder for hire): Senate bill §2505.

Subtitle B—Civil Rights Offenses

Section 1211 (increased maximum penalties for serious violent acts in violation of criminal civil rights statutes): Senate bill §2503.

Subtitle C—White Collar and Property Crimes

Section 1221–22 (receipt of proceeds of postal robbery, extortion, or kidnapping): Senate bill §§4621–22 and House bill §§1702, 1701.

Section 1223 (conforming addition to obstruction of civil investigative demand statute): Senate bill §4623.

Section 1224 (conforming addition of predicate offenses to financial institutions reward statute): Senate bill §4624.

Section 1225 (definition of S.&L. in bank robbery statute): Senate bill §4625 and House bill §1710.

Section 1226 (conforming definition of one year period in 18 U.S.C. 1516): Senate bill §4626 and House bill §1711.

Section 1227 (sports lottery and gambling provisions): S. 474; similar provisions in House bill title XXI.

Section 1228 (criminal sanctions for violation of software copyrights): Senate bill §4905.

Section 1229 (financial institutions fraud): Senate bill title XXXVII.

Section 1230 (prohibition of disclosure of wiretap information with intent to obstruct, impede, or interfere with criminal investigation): Senate bill §4913(a).

Section 1231 (theft of major artworks): Senate bill §4914.

Section 1232 (strengthening provision prohibiting unauthorized trafficking in military medals and decorations): House bill §1725.

Section 1233 (motor vehicle theft prevention act): Senate bill title XXIX.

Section 1234 (knowledge requirement for stolen or counterfeit property): Senate bill §4651 and House bill §1704.

Section 1235 (extension of mail fraud statute to mail carried by private interstate carriers): House bill §1301.

Section 1236 (amendments to statute concerning credit card fraud): House bill §1302; Senate bill §4912 is similar.

Section 1237 (insurance-related crimes): House bill §1303; similar provisions in Senate bill title XXXVIII.

Section 1238 (increased penalties for trafficking in counterfeit goods and services): Senate bill §2507.

Section 1239 (computer abuse amendments): Senate bill §4909.

Section 1239A (notification concerning drugs and cash discovered in airport security screenings).

Subtitle D—Sentencing and Procedure

Sections 1241–44 (imposition of sentence; technical amendment to mandatory conditions of probation; revocation of probation; supervised release after imprisonment): House bill §§1901–04 and Senate bill title XXXIV.

Section 1245 (authorization of probation in certain petty offense cases): Senate bill §4612 and House bill §1941.

Section 1246 (trial by magistrate in petty offense cases): Senate bill §4613; encompasses House bill §1942.

Section 1247 (authority of magistrate to revoke supervised release imposed by the magistrate): Senate bill §4614 and House bill §1943).

Section 1248 (availability of supervised release for juvenile offenders): Senate bill §§4615.

Section 1249 (authority for designated Justice Department Criminal Division officer to grant immunity): House bill §1921.

Section 1250 (extended service of members of sentencing commission): S. 1963 as passed by Senate.

Subtitle E—Immigration-Related Offenses

Section 1251 (civil penalties for inducement of aliens to commit aggravated felonies): Senate bill §4702.

Section 1252 (criminal alien identification and removal fund): Senate bill §4703.

Section 1253 (adds as basis of deportation commission by alien of drugged or drunk driving offense resulting in death or serious injury to other): Senate bill §4919.

Subtitle F—United States Marshals

Sections 1261–73 (establishment of United States Marshals Association): Senate bill title XLII.

Subtitle G—Other Provisions

Section 1281 (optional venue for espionage and related offenses): House bill §1721 and Senate bill §4631.

Section 1282 (definition of livestock): Senate bill §4632 and House bill §1712.

Section 1283 (place of holding court at Lancaster): Senate bill §1004.

Section 1284 (authorization of funding for U.S. Attorney office construction in Philadelphia): Senate bill §1003.

Section 1285 (award of attorney's fees for Department of Justice employees): Senate bill §4918.

Section 1286 (requirement of reporting of large cash bail posting to IRS and prosecutors): Senate bill §2802.

Section 1287 (audit requirement for law enforcement agencies receiving asset forfeiture funds; reporting concerning administrative and contracting expenses paid from Department of Justice asset forfeiture fund): Combines Senate bill §4924 and House bill §1808.

Section 1288 (DNA identification program): House bill §§1001–06.

Section 1289 (safe schools grant program): House bill §§401–03, as amended to delete mandatory bilingualism feature.

TITLE XIII—TECHNICAL CORRECTIONS

Sections 1301–07 (technical corrections, including correction of erroneous and obsolete designations and cross-references, redundant provisions, and typographic, grammatical, and spelling errors): House bill title XXII.

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

Sections 1401–02 (authorizations of funding, primarily relating to drug enforcement, for DEA, FBI, INS, U.S. Attorneys, U.S. Marshals Service, BATF, federal courts, and federal defender services): Senate bill §§ 1001–02.

TITLE XV—FEDERAL PRISON CONSTRUCTION

Section 1501 (authorization of $500 million for federal prison construction): New provision.

Mr. SEYMOUR. Mr. President, I rise today to join my good friend and colleague from South Carolina, Senator THURMOND, as an original cosponsor of the Crime Control Act of 1992. When I look at this legislation being introduced today, and the history behind it, I am reminded of the words of W.E. Hickson, who penned the famous lines:

Tis a lesson you should heed,
Try, try again.
If at first you don't succeed,
Try, try again.

This simple axiom has many examples here in Congress, but it is most applicable to the crime legislation being introduced today. This bill is yet another round of what seems to be an endless fight over the reform of Federal habeas corpus.

As my colleagues know all too well, the Federal habeas corpus process is a statutory right given to convicted criminals to ensure that the judicial process that led to their conviction was fair. But for death row inmates, habeas corpus means endless delay, volumes of litigation, and the joy of seeing the legal system work against the wishes

of the juries or judges that sentenced them to death. And for the families and friends of slain crime victims, habeas corpus means no finality, endless pain, and the horror of a legal system that fails to impose society's ultimate sentence.

The bottom line is simple: There is no such thing as an enforceable death penalty without habeas reform that promotes finality and fairness, not frivolous litigation with no end in sight.

In the last 8 years, each Congress has enacted major anticrime and antidrug bills. And all are necessary elements in our battles against violent crime and drug trafficking. But each of these crime bills dodged the issue of habeas corpus reform, leaving it to the next Congress to make the tough choices on habeas corpus reform.

During the 101st Congress, a bipartisan majority in the Senate agreed to tough, meaningful reform of the habeas process, only to see their efforts scuttled at the 11th hour of the 101st Congress.

Last year, as we all know, another strong, bipartisan majority passed true habeas reform, only to see the majority party attempt to steamroll a conference report that stripped the Senate's habeas provisions and replaced them with the House-passed procedures that are reform in name only.

Just how bad is the conference report's so-called habeas reform package?

Bad enough to reverse 14 years of responsible Supreme Court decisions, including the landmark Teague ruling, that limit endless delays and frivolous appeals in death penalty cases.

Bad enough to allow condemned prisoners to delay a full year before applying for Federal habeas corpus.

Bad enough to reject the Senate's proposal that habeas petitions for condemned criminals be limited to new claims that have not been fully and fairly heard in State courts.

Bad enough to cause the attorney general of the State of California to announce that these provisions are a "fraud on the people of California and most particularly on the crime victims of the State of California."

In short, Mr. President, these provisions contain enough loopholes, legal trapdoors, and other broad definitions to promote new, unnecessary litigation, rather than finality and fairness.

Despite all of this, Democrats claim they've offered comprehensive reform of the habeas system.

Reform for who? Law enforcement? The leaders of law enforcement don't think so. Thirty-one of the Nation's attorneys-general—16 Republicans and 15 Democrats—concluded last November that the conference report's habeas provisions were a sham. Furthermore, every district attorney in my State were united in an unprecedented show of support for the Senate's habeas provisions.

Indeed, the need for true habeas reform is not a partisan issue in my State. I challenge anyone to try to justify to the citizens of California why no death row inmate in California has been put to death since capitol punishment was allowed in 1976. Try to explain to them why, nationally, only 3 percent of those sentenced to death since 1976 have been executed.

Californians have lost faith. They're fed up. Frankly, so am I. The people of California have even gone so far as to oust two State associate justices and the chief justice of the California Supreme Court because of their refusal to effectively enforce capitol punishment. And those who support the conference report rightly deserve the scorn of law-abiding Californians because that report denies my State the ability to truly enforce capitol punishment.

So let's be clear about the rhetoric that's being passed around here. The Democrats' conference report does not reform the habeas process. It deforms it. Indeed, the Democrats aren't kidding when they say their conference report is a tough crime bill. The problem is its tough on law enforcement.

That's why the conference report to the bill we passed last year is on a fast track to nowhere. And that's why my colleagues and I are here today. We're here to introduce a crime control bill that contains the true habeas reform provisions we passed last year. We're here today to say we do not intend to duck the issue of habeas reform. We're not here to say we'll just leave it to the 103d or 104th or 105th Congress to get the job done. We're here to say that we of the 102d Congress intend to get the job done on habeas reform. We're here to put an end to never-ending, often-frivolous appeals that have made the death penalty a nonexistent punishment.

Just as important, the legislation does not ignore those provisions in the conference report that are worthy of enactment. This bill does not lose sight of being a comprehensive crime reform bill. In fact, the Crime Control Act of 1992 includes the following: Enhanced maximum penalties for using minors in drug trafficking in drug-free zones; enhanced penalties for certain offenses likely to be committed by terrorists; increased sentencing guidelines for terrorist crimes; $1 billion for grants to State and local law enforcement, including $150 million for programs to put more cops on the beat; $345 million for our dedicated Federal law enforcement officers, as well as an additional $75 million for antiterrorist activities.

I can go on and on, but the point here should be clear: The Crime Control Act doesn't ignore worthy provisions that were adopted in the conference report. We don't intend to turn our back on innovative new programs to reduce gang-related crime and drug trafficking, new or enhanced penalties to punish violent offenders, or technical loopholes in the law that need to be closed.

Nor does the Crime Control Act ignore the worthwhile provisions that ended up not in the conference report but the conference roundfile for no justifiable reason.

Indeed, the Crime Control Act includes important Senate and House provisions that passed with bipartisan support, but were ignored in the conference committee. Those that support the conference report will tell you that this is the most comprehensive crime legislation ever considered by Congress; however, they have come up with a half-filled glass of reforms, asking the American people only to look at the part that's filled. I urge my colleagues to look at what was tossed out by the conference committee as well, and ask, "Why?" Indeed, if I had to grade the conference report, I'd give it an "I" for "incomplete."

Why did the conference committee leave out a provision I authored that makes a much needed technical change in the Armed Career Criminals Act? This change—which passed by voice vote—ensures that violent, repeat offenders serve the mandatory minimum sentence of 15 years under the Armed Career Criminals Act. This provision has the strong support of local, State, and Federal law enforcement, and the bipartisan support of the California congressional delegation.

Why did the conference committee fail to include important changes in penalties that involve the criminal exploitation of children? These provisions would increase penalties for distributing drugs to minors, trafficking in drug-free zones, and create a new offense that I authored that strikes at those who induce minors to commit crimes.

Why did the conference committee fail to include the House crime bill's provisions that double the maximum penalty for recidivist rapists and other sex offenders, and the House bill's provisions that allow for restitution for victims of sex offenders?

Why did the conference committee fail to include the House crime bill's provisions that require HIV testing of sex offenders, and penalty enhancements for HIV-infected sex offenders who risk infection of their victims?

Why did the conference committee fail to include another provision I authored that imposes fines on those who use aliens to commit aggravated felonies, with the fines used to identify and deport criminal aliens? This provision was passed by voice vote, and had real, bipartisan support.

Again, I can go on and on and question the acts of the conference committee, and the point is clear: In the Democrats' rush to steamroll a crime bill through the Congress, the need for

a tough, comprehensive crime bill took second place behind the desire to put forward a modest, watered-down proposal that addresses some issues, but not all, raises more questions than answers, and will handcuff—rather than help—law enforcement.

The American people don't deserve second-best when it comes to enacting measures to combat violent crime and drug trafficking in our schools, our parks, and our neighborhoods. That's why we're here to introduce a bill that, in my view, represents the best of the best. It represents the better options of both House and Senate crime bills, including many that were left out by the conference committee. It takes no consideration of which Senator or House Member authored which provision.

The standard for inclusion in this bill is simple: It represents tough measures that cut across the spectrum of crime. From white collar crime to drug-related crime, from terrorists to gangs, from naked violence on our streets to domestic violence in our homes, this is a truly comprehensive crime control bill.

So I ask my colleagues to finish what we started last year. Let's send the American people a crime control bill that all can be proud. And with respect to habeas corpus, let's finish what was started many years ago: to institute habeas reforms that make the death penalty enforceable, not unobtainable. I've said it once before and I'll say it until we finish: The No. 1 cause of death for a thug on death row must not be old age.

The writing's on the wall. Those who support the conference report must face one simple fact: The so-called violent crime control act contained in the conference report is dead. So let's not try to force the conference report through this Congress. Why waste time? The American people will not be fooled by such misguided legislation that has been labeled a crime bill compromise. Sure it's a compromise. Law enforcement, crime victims and their survivors, and law-abiding citizens—all are compromised by the conference report.

Instead, let's send the Crime Control Act of 1992 to the House of Representatives and then, send it to the President. After all, our job was to reach an agreement on comprehensive legislation that will help, not handcuff law enforcement in their fight against heinous criminals.

Let's get the job done.

Mr. HATCH. Mr. President, today I rise to support as a cosponsor the Crime Control Act of 1992, which was introduced today by the distinguished ranking minority member and former chairman of the Judiciary Committee, Senator STROM THURMOND. The Crime Control Act of 1992 stands in marked contrast to the 1991 conference committee crime bill, a bill rammed through conference by the other side at the end of the last session. A close comparison of the two bills demonstrates that the conference bill is a cynical attempt ostensibly to fight crime even as it ties the hands of law enforcement authorities and opens the prison cell doors. Indeed, the conference bill would let vicious, violent, convicted criminals out on the street that the Crime Control Act would keep behind bars.

Let me just briefly compare for you some of the more salient provisions of the Crime Control Act and the liberal conference bill.

DEATH PENALTY

Under this Republican Crime Control Act, the jury is directed to impose the death penalty for enumerated offenses if aggravating factors outweigh mitigating factors. In contrast, under the conference bill, the jury has standardless discretion to refrain from imposing the death penalty, regardless of the aggravating factors. Moreover, the Republican Crime Control Act contains several safeguards to prevent litigation abuse and delay in the implementation of the death penalty. The conference bill contains no such safeguards. Additionally, the conference bill enacts a unanimity requirement for the first time for the jury recommendation on the death penalty. Thus, when only one juror declines to impose the death sentence, regardless of the facts of the case, the sentence is prohibited. Underscoring this problem is the fact that the Supreme Court already prohibits the prosecutor from objecting to seating jurors who are opposed to the death penalty in the first place. Finally, although the conference bill adopts new death penalties, its procedures are so convoluted that the penalty will seldom be returned and virtually never carried out.

HABEAS CORPUS

The Crime Control Act does not change existing retroactivity standards previously established by the Supreme Court. In contrast, the conference bill makes almost all criminal law decisions of the Supreme Court retroactively applicable to overturn earlier convictions and sentences that had been imposed in conformity with then-existing law. No criminal conviction would ever be final under the conference bill. Convicted criminals—even those with life sentences—could invoke any subsequent change in the law that was favorable to them to have their convictions overturned. This is the ACLU criminal agenda.

While the Republican Crime Control Act provides for a 1 year time limit on habeas filings by State and Federal prisoners, the conference bill provides no time limits on habeas filings except for those by State prisoners in capital cases.

Further, the conference bill rejects the Republican Crime Control Act provision that habeas cases could only be brought for claims that have not been fully and fairly litigated already by the States; overturns at least 14 Supreme Court cases that limit frivolous appeals and endless litigation in death penalty cases; and allows death-row inmates who do not even dispute their guilt to file endless challenges to their sentence.

HARMLESS ERROR AND APPELLATE REVIEW

In contrast to the Republican Crime Control Act, which maintains the harmless error standards established by the Supreme Court, the conference bill provides for automatic reversal of conviction on appeal where a trial court erroneously admits a confession elicited in violation of the 5th or 14th amendments, even if independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the erroneous admission could not have affected outcome of the trial, overturning the Supreme Court's decisions in *Miltin* v. *Wainwright* (1972) and *Arizona* v. *Fulminante* (1991).

EXCLUSIONARY RULE

In contrast to the Republican Crime Control Act, the conference bill narrows the good-faith exception to the exclusionary rule; expands the criminals' rights to challenge the admissibility of incriminating evidence used against them; reverses the Leon presumption that police officers are entitled to rely on a magistrate's authorization to search; and reverses the Fifth Circuit good faith exception that applies in warrantless searches and is broader than the Leon exception. The conference bill will let out on the street vicious, violent, criminals who would be convicted under this Republican Crime Control Act.

GANG WARFARE

This is an issue that is of particular concern to me because of the rise of gang warfare in Salt Lake City. This Republican Crime Control Act increases the mandatory penalties for drug distribution to minors; for using minors in drug trafficking; and for drug distribution to minors by recidivists. The conference bill contains no such provisions. The Republican Crime Control Act establishes a new offense of inducing minors to commit crimes, creates a presumption in favor of adult prosecution for leaders of juvenile gangs and other criminal activities involving drug trafficking or firearms, treats certain highly serious drug crimes by juveniles as predicate offenses for armed career criminal purposes, creates a new offense covering the commission of serious violent crimes and drug crimes as part of the activities of a street gang, adds certain serious drug crimes to the list of offenses requiring fingerprinting and the retention of records for recidivist juvenile offenders, extends the range of sanctions authorized for juvenile of-

fenders to include postincarceration supervised release, directs the executive branch to develop a national strategy to coordinate Federal investigation of gangs, and requires inclusion of information on gang violence in uniform crime reports. Most of these provisions of the Republican crime control bill have no counterparts in the conference bill; the few provisions in the conference bill that are similar are weakened or watered down.

SEXUAL VIOLENCE

This Republican Crime Control Act doubles the maximum authorized penalties for repeat sex offenders and authorizes restitution for victims of sex offenses—sexual assault, child molestation, and child sexual exploitation—whether or not physical injury results. The liberal conference bill contains no such provisions.

VICTIMS' RIGHTS

This Republican Crime Control Act makes the award of restitution for crime victims mandatory, and adopts other reforms enhancing the scope of restitution and enforcement of restitution orders. In addition, the Crime Control Act protects the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and the prosecution in felony cases. The conference bill contains none of these victims' rights provisions.

In sum, the Republican Crime Control Act is a step in the direction of fighting crime and recognizing victims rights; and the conference crime bill is a step in the direction of criminal rights and thwarting law enforcement.

Mr. GRASSLEY. Mr. President, I strongly support the proposed Crime Control Act of 1992 and am pleased to be a cosponsor. Almost 1 year ago, President Bush challenged this body to produce a tough crime bill within 100 days. We have not met that challenge. On the streets of our Nation's cities and towns, the crime continues.

It is well past time to do something meaningful about the crime problem. This bill will accomplish a great deal. It will reduce abuse and delay in the imposition of the death penalty. By implementing the Powell Committee recommendations, defendants accused of capital crime will have experienced counsel represent them, while at the same time, time limits will be imposed to reduce the endless litigation involved.

The bill will permit the death penalty to be imposed for a number of serious crimes. To protect our citizens, and to express the community's moral consensus that certain crimes can only properly be punished by death, capital punishment is necessary. Drive by shootings, shootings in furtherance of drug trafficking, murder for hire, and terrorist violence against American nationals abroad, for example, all fully warrant the death penalty.

Additionally, the bill makes the death penalty a meaningful punishment through its reforms of habeas corpus. These days, about as many people on death row die from natural causes as are executed. Through the abuse of habeas corpus proceedings, convicted criminals convert their death sentences into life sentences. This needs to change. Time limits on filings will insure that justice, rather than delay, prevails. With delay tactics, the victim's family suffers the hurt. This bill will let them heal sooner and go on with their lives. And the bill makes necessary changes in habeas corpus for noncapital cases as well.

I also support the bill's provisions as they affect the exclusionary rule. The exclusionary rule is not mandated by the Constitution. Rather, it is a judgemade rule. And its effect is to let guilty people be freed because of the police officer's mistake. So long as the officer conducts the search and seizure in good faith, evidence obtained from the search should be admitted.

I am also pleased that the bill contains my civil remedy for victims of terrorism. This civil remedy will enable victims of terrorist acts to recover monetary damages from international thugs, and hopefully will make terrorists think again before committing violent acts against Americans.

The bill unfortunately contains a prohibition on sports lotteries. I believe that States should be free in this difficult economic climate to pursue revenue options of their own choosing. Nonetheless, this provision was introduced as a separate measure, and I am awaiting the opportunity to offer an amendment which would give the States the right to be exempt from the reach of this onerous prohibition.

Overall, however, this bill makes a substantial contribution to reducing crime. Meaningful reform of capital punishment, habeas corpus, and the exclusionary rule will help to make our Nation safer. It cannot happen too soon.

Mr. DOLE. Mr. President, for too long, Congress has treated crime as a political issue. But let us face it—crime knows no political boundaries. It is an issue of every day survival, in every State in America, and that includes the streets in the very neighborhood we work in.

This week, the House of Representatives' chief law enforcement officer was robbed at gunpoint and shot in the face. In January, a Senate staffer on his way to buy a cup of coffee was murdered in cold blood. Three months ago, a Senator's wife was abducted at gunpoint by a convicted rapist on parole.

Crime should not have to hit that close to home to get Congress moving on this urgent national priority. As lawmakers, we are not used to living in terror—but for millions of Americans, it is a fact of life.

Let us face it, Congress has spent far too much time waging a phony class warfare battle, all at the expense of a real war—the war in America's streets. It is time to get our priorities straight—it is time for Congress to demonstrate the same outrage over capital offenses as it shows over capital gains.

No matter how hard President Bush pressed for a tough anticrime bill, no matter how many law enforcement organizations asked for help, no matter how many law abiding men and women said "Please make our homes, streets, and schools safe,"—no matter how many millions of Americans voted for President Bush because they wanted his approach to the issue—Congress' attitude about the war on crime has been one of wake me when it's over.

Today, Mr. President, we are issuing a wake-up call. It is time to stop treating crime legislation like it is some esoteric tax issue, or partisan litmus test. That is why today we are introducing what I believe is the most comprehensive and toughest anticrime legislation ever introduced—legislation, which, if passed, would be signed by the President immediately, and on the books this year.

What Republicans have done, under the leadership of Senator THURMOND, is to take the toughest parts of the bill passed by the Senate last year, and the toughest parts of the bill passed by the House and joined them together.

The differences between this bill and the bill reported out of the conference committee are many and dramatic.

Polls continue to reflect that an overwhelming majority of Americans strongly support the death penalty. And our bill provides effective standards and procedures for imposing a Federal death penalty for the most heinous Federal crimes. The conference bill offers only flawed and ineffective provisions.

Americans are sick of a judicial system that allows murderers to escape punishment and waste millions in tax dollars by dreaming up new grounds for appeals, long after their guilt has been determined. Our bill includes effective habeas corpus reforms to stop this perversion of our judicial system. The conference bill, on the other hand, is actually weaker than existing law.

Through creation of a good faith exception to the exclusionary rule, our bill will also stop obviously guilty criminals from going free on technicalities or minor police errors. Again, the conference bill is weaker than existing law, and will punish law-abiding citizens for minor technical errors made by the police.

Our bill increases penalties for those who peddle drugs to minors, or who use minors in drug trafficking. The conference bill does not.

Our bill also comes out very strongly against those who perpetrate crimes of

violence against women—an epidemic which the conference bill ignores.

Mr. President, it is the intention of the Senate Republicans to do everything possible to see that this bill becomes law.

With the exception of allowing the use of capital punishment for convicted murderers in the District of Columbia, none of these provisions are new to this body. We have debated them before. We have passed many of them before. It is time to stand up and be counted—once and for all. The American people are demanding action—we owe them, and ourselves, nothing less.

Let us pass this bill, not in 100 days, not in 50 days. Look at the headlines around Capitol Hill, and ask yourself, why do we need to wait 1 more day? Let us pass it now.

Mr. McCAIN. Mr. President, it is imperative to the safety of the citizens of this Nation that Congress act quickly on passing this legislation, S. 2305, the Crime Control Act of 1992.

One year ago, President Bush presented Congress with the challenge of passing a crime bill within 100 days. Nearly 12 months later, Congress is still telling the American people that it is unable to do so. This is unacceptable, Mr. President. Congress must rise above petty politics and do its duty. Our streets are unsafe. Gang violence is quickly becoming the norm rather than the exception. Our children's lives are in jeopardy. Congress must respond.

This legislation introduced by my colleague, Senator THURMOND, offers the American people strong laws to protect them from the escalating crime they have come to fear. This comprehensive package contains several provisions which will go a long way toward ensuring our citizens the safety and relief they deserve.

First, the bill contains strong habeas corpus reform provisions which will curb the abuse of habeas corpus that obstructs the use of the death penalty and undermines the criminal justice process in every type of criminal case.

Next, it establishes a general good faith exception to the exception to the exclusionary rule which admits evidence where the court determines that the conduct of officers in carrying out a search and seizure was objectively reasonable.

The bill also contains a provision which subjects convicted felons to tougher, mandatory penalties for possession of firearms.

In addition, the bill has an expanded section addressing the issues involving juveniles and gangs. This section includes provisions which would increase mandatory penalties for using minors in drug trafficking, increase mandatory penalties for drug distribution to youths by repeat offenders, increased penalties for inducing minors to commit crimes, and broadened adult prosecution for juvenile gang leaders.

This bill also addresses several issues facing both women and children. Specifically, it increases penalties for repeat sex offenders, provides restitution for victims of sex crimes, requires testing of sex offenders for the human immunodeficiency virus [HIV] with disclosure of the test results to the victim, and enhanced penalties for HIV-infected sex offenders who risk infection of their victims.

Mr. President, this is only a partial list of the provisions in this bill. I am confident that this comprehensive package will put law-abiding citizens back in charge of their communities, and our Nation. I strongly encourage my colleagues to support this measure. The American people can wait no longer.

By Mr. BOND (for himself, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. McCAIN, and Mr. SIMPSON):

S. 2306. A bill to amend the Social Security Act to provide for the designation of certain health insurance plans as qualified plans, and for other purposes; to the Committee on Finance.

INSURANCE SIMPLIFICATION AND PORTABILITY ACT OF 1992

Mr. BOND. Mr. President, the crisis in health care which we face today demands reform. It is my hope that this Congress will make health care reform its top priority. The families, children, individuals, and businesses who suffer under the current system cannot afford to wait. I believe that broad changes are needed in our health-care system to guarantee that everyone has affordable access to health care. Americans must also have the right to choose freely their own doctor and hospital and we must have an effective, but fair, program to cut health costs. Finally, we must have malpractice reform that eliminates the $15 billion we spend annually on defensive medicine and we must reduce wasteful administrative costs.

Last year I coauthored the Health Equity and Access Improvement Act with Senator CHAFEE and others which among other things provides tax credits to individuals and families for the purchase of health insurance—up to $1,200 for families with incomes below $32,000—tax credits for small businesses for health insurance, 100 percent tax deductibility of health insurance premiums for the self-employed, expansion of community health centers, and assistance to small businesses to purchase insurance.

Today, I am here to introduce the Health Insurance Simplification and Portability Act. I am proud to say that this is one of the few bipartisan health bills to be introduced and that signals the importance of these reforms to the future of our health system. While I have worked hard on the broader issues of health care reform, today I am going to focus on one set of those problems.

One very large problem that we must address is the huge administrative costs of our health care system. There is a blizzard of paperwork that is a nightmare for patients, for hospitals, for doctors, and for businesses in this country. Everyone would agree that a solution must be found that reduces these costs and the burden they are placing on our health care system and the ability of people to afford it. A study published in the New England Journal of Medicine estimated that we spend between $96 and $120 billion each year in administrative costs. These costs are escalated by the unwieldy inefficient paperwork blizzard billing system that has evolved in this country.

There is a solution for the wasteful paperwork blizzard and it looks very much like the ATM card like one uses to access a bank account that we are all familiar with. It is a simple card that holds your health insurance information and makes a simple process for a computer to fill out those forms and send them electronically to the insurance company. It is simple and the technology to implement it is available today if we could only take the steps necessary to put the program in place. That is what my bill would do.

Some of the savings that would be achieved by reducing these horrendous administrative costs and hassles would be used to enact some very important consumer protections for health insurance.

Unfortunately, we now have a system that has allowed some unscrupulous insurance companies to try only to insure healthy people. To me, we do not have any need for insurance companies that run when someone gets sick, or cancel a policy, or jack up rates. It is time that the health-insurance industry gets the message that they are going to have to swallow some bitter pills of reform because unless they become part of the solution there are plenty of folks around who would prefer simply to eliminate them as part of the problem.

Last month, I held a series of roundtable meetings around my State to discuss this mess we have in health care. I heard from a family whose child was born with hydrocephalus which has resulted in serious health problems for their son. Their son is now 14 years old but 9 years ago their family went bankrupt because their son's costly medical expenses eliminated their ability to get any company to insure him.

Another couple in the St. Louis area has a son that was born with a defective heart valve. The birth of their son was not covered because the father was forced to find new employment 5 months into his wife's pregnancy and the new plan wouldn't pay because it was a pre-existing condition. Their sec-

ond insurance plan that they have been forced to purchase under their previous employer's plan under COBRA just ran out the first of February and their son still has a series of surgeries that he must undergo if he is to live.

We also heard from a man who had colon cancer 4½ years ago and cannot find an insurance company who will insure this condition now even though his cancer is in remission.

I can cite as an example a friend who had cancer 1½ years ago only to see, after the successful operation and treatment, his insurance premiums go from $172 a month to $930 a month.

But to fix these problems, we need a system to compel insurers to make some fundamental changes in the way they do business. To accomplish this, I am proposing legislation to establish minimum consumer-protection standards that health insurance plans must meet to become a qualified plan. These standards are very simple and straightforward.

Qualified plans would:

First, lower administrative costs, require less paperwork. Insurers would use a new paperless computerized billing and data exchange system that will cut wasteful costs from the excessive paperwork and hassle that results from the existing claims and paperwork nightmare that no one likes.

Second, guarantee acceptance. Insurers could not exclude individuals on the basis of their medical condition.

Third, guarantee renewability. Insurers would be prohibited from unilaterally canceling insurance.

Fourth, limit the variation in premiums. No longer could an insurer drastically hike premiums when a person develops a very expensive illness.

Fifth, eliminate the pre-existing condition waiting period. Insurer would not be able to exclude coverage for any medical condition if that individual had had continuous coverage under a previous insurance plan.

Sixth, limit out-of-pocket costs. In short, insurers would have to fully protect consumers from costs exceeding $3,000 or 10 percent of their income in a year.

My legislation would create an independent Health Insurance Standards Commission to oversee the implementation of the Qualified Plan Program and make recommendations to the Secretary for additional standards for qualified plans that would further reduce administrative costs, protect consumers, and seek ways to implement effective long-term management of health costs.

Under this proposal, insurers would be subject to a 25-percent excise tax on the gross premiums of any insurance plans which do not meet these consumer protection standards and participate in the program to reduce administrative costs.

Both goals—lowering administrative costs and extending the basic consumer-protection standards to qualified health insurance plans—are efforts which I believe are achievable this year and work whether you support a market-based formula for health reform or whether you prefer a pay or play approach. Both goals must be achieved because these are problems in the system that must be fixed. Creating an electronic billing system and the resulting administrative savings, plus savings we could get from the added ability to reduce billing fraud through such a standardized system, are estimated to be somewhere between $50 and $80 billion. The fact that the consumer-protection standards must be applied should be self-evident.

I want to thank Senator RIEGLE for cosponsoring this bill and for working with us to put these vital consumer-protection standards in place. I look forward to working with him in the days to come to further this effort. I also want to thank Senators CHAFEE, DURENBERGER, DANFORTH, MCCAIN, COHEN, DOMENICI, and SIMPSON for joining in support of this bill and for their important leadership on so many health issues.

Americans want health reform and it's time Congress got to work.

Mr. President, 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. 2306

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 "Insurance Simplification and Portability Act of 1992".

TITLE I—QUALIFIED HEALTH INSURANCE PLANS

SEC. 101. QUALIFIED HEALTH INSURANCE PLANS.

(a) REQUIREMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXI—HEALTH INSURANCE

"PART A—GENERAL PROVISIONS

"SEC. 2101. DEFINITIONS.

"As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2121(a)(2), the Secretary.

"(2) COMMISSION.—The term 'Commission' means the Health Insurance Standards Commission established under section 2111.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract or health maintenance organization group contract, multiple employer welfare arrangement, or any other health insurance arrangement, including an employment-related reinsurance plan. Such term does not include—

"any of the following that is offered by an insurer—

"(i) accident only, dental only, or disability income only insurance;

"(ii) coverage issued as a supplement to liability insurance;

"(iii) worker's compensation or similar insurance; or

"(iv) automobile medical-payment insurance.

"(5) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b) of this Act.

"(6) INSURER.—The term 'insurer' means any person that offers a health insurance plan.

"(7) QUALIFIED HEALTH INSURANCE PLAN.—The term 'qualified health insurance plan' means a health insurance benefit plan that—

"(A) meets the Federal standards and guidelines described in part C; and

"(B) is accredited by the appropriate State insurance commission for the State involved according to standards promulgated by the Secretary under part B.

"PART B—HEALTH INSURANCE STANDARDS COMMISSION

"SEC. 2111. ESTABLISHMENT OF HEALTH INSURANCE STANDARDS COMMISSION.

"(a) IN GENERAL.—The Secretary shall establish a commission, to be known as the 'Health Insurance Standards Commission', to carry out the activities described in section 2112.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Commission shall be composed of 15 members to be appointed by the Secretary not later than June 1, 1992 in accordance with this subsection. The members of the Commission shall annually elect a member to serve as the chairperson of the Commission.

"(2) MEMBERS.—Individuals appointed by the Secretary under paragraph (1) shall be appropriately qualified independent experts with respect to the provision and financing of health care, and shall include physicians, registered nurses, registered pharmacists, consumers of health care, employers, third party payors, a representative from the American Standards Committee (ASCX-12) of the American National Standards Institute, individuals skilled in the conduct and interpretation of health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care.

"(3) NOMINATIONS.—In determining those individuals to appoint to the Commission under paragraph (1), the Secretary shall seek nominations from a wide range of groups including—

"(A) national organizations representing physicians, including medical specialty organizations and registered professional nurses, registered pharmacists and other skilled health professionals;

"(B) national organizations representing hospitals, including teaching hospitals;

"(C) national organizations representing the manufacture of health care products;

"(D) national organizations representing the business community, health benefit programs, labor and the elderly;

"(E) national organizations for standards development; and

"(F) consumer organizations.

"(4) TERMS.—Individuals shall be appointed to the Commission for a term of three years, except that the Secretary shall, with respect to the initial members of the Commission, provide for the appointment of such initial members for shorter terms in a manner to insure that, on a continuing basis, the terms of not more than seven members expire in any one year.

"(5) COMPENSATION.—While serving on the business of the Commission (including travel time) a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for individuals under level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the home or regular place of business of the member, a member may be allowed travel expenses, as authorized by the Chairperson of the Commission.

"(c) ADMINISTRATIVE POWERS.—Subject to such review as the Secretary determines necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of such personnel (not to exceed 25 individuals) as may be necessary to enable the Commission to carry out its duties;

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies and from experts from the private sector;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as the Commission determines necessary with respect to the internal organization and operation of the Commission.

"SEC. 2112. DUTIES AND ACTIVITIES OF COMMISSION.

"(a) RECOMMENDATION FOR IMPLEMENTATION OF TITLE.—

"(1) IN GENERAL.—Not later than September 30, 1992, the Commission shall prepare and submit to the Secretary a report containing the recommendations of the Commission concerning regulations for the implementation of the requirements of this title, including the long-term plan and uniform standards described in subsection (b)(1).

"(2) PUBLICATION OF REVISIONS.—The Secretary shall, not later than 60 days before the promulgation of final regulations under this title, cause to have published for public comment in the Federal Register the recommendations of the Commission under paragraph (1).

"(b) UNIFORM COMPUTERIZED BILLING SYSTEM AND STANDARDS FOR ELECTRONIC DATA INTERCHANGE.—

"(1) IN GENERAL.—The Commission shall develop a long-term plan for the implementation of computerized billing, eligibility, and any other activity that the Commission determines to be appropriate and uniform standards for electronic data interchange, to be applied as provided for in paragraph (6). Such long-term plan and standards shall include—

"(A) online communications standards;

"(B) specific designs for a standardized electronic uniform claim form;

"(C) the standards and plan for electronic data interchange and other measure derived from the Secretary's Work Group on Electronic Data Interchange;

"(D) any other standards or requirements determined appropriate by the Secretary; and

"(E) a plan to incorporate all insurance plans into the computerized system and standards including self-insured plans.

"(2) ELECTRONIC DATA INTERCHANGE.—The Commission shall acquire from the American National Standards Institute reports concerning the progress of such Institute in developing electronic data interchange. Based on such reports, the Commission shall, on an annual basis, adopt additional electronic data interchange standards, if necessary, and incorporate such additional standards into the implementation plan referred to in paragraph (1).

"(3) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Commission shall make recommendations to the Secretary concerning components of the long-term implementation plan and uniform standards for electronic data interchange developed under paragraph (1), based on the feasibility of health insurance plans to be able to comply as a qualified health insurance plan under part C.

"(4) REVIEW.—Taking into consideration the recommendations of the Commission, the Secretary shall review the proposed requirements of the Commission under paragraph (3) and determine the appropriate requirements necessary for the implementation of efficient, cost effective computerization under paragraph (1) and for requiring that a health insurance plan meet such requirements in order to be a qualified health insurance plan under this part.

"(5) PUBLICATION OF REQUIREMENTS.—The Secretary shall cause to be published for public comment in the Federal Register, not later than—

"(A) three months after receiving recommendations from the Commission under paragraph (2), the proposed requirements of the Secretary with respect to the computerization and standards for electronic data interchange and the proposed requirements of a qualified health insurance plan; and

"(B) six months after receiving recommendations from the Commission under paragraph (2), and after such consideration of public comment on the proposals under subparagraph (A) as is feasible in the time available, the final determinations of the Secretary with respect to the requirements of the computerization and standards for electronic data interchange and the requirements of a qualified health insurance plan.

"(6) REQUIREMENTS.—A system established under this section should—

"(A) use online communication for health providers to access in determining a patient's eligibility for benefits under the patient's health insurance plan;

"(B) provide each member covered under a qualified health insurance plan with a plastic card or other similar form of identification that shall serve as the mechanism to supply health insurance identification numbers and other information as the Secretary may determine appropriate to the health provider; and

"(C) not be a mandatory requirement with respect to a health provider whose place of business is located in a whole-county nonmetropolitan Health Professional Shortage Area as defined in section 332 as a condition of such provider's participation in a qualified health insurance plan.

"(7) MEDICARE AND MEDICAID.—A system established under this section shall apply with respect to particpants under titles XVIII and XIX.

"(c) RECOMMENDATION FOR REVISIONS IN STANDARDS.—

"(1) IN GENERAL.—The Commission shall annually recommend to the Secretary revisions that should be made in the standards and requirements that a health insurance plan must meet, in addition to those described in part C, to be accredited as a qualified health insurance plan under this part, revisions that should be made in the long-term plan for implementation and uniform standards for electronic data interchange, and changes in the requirements for qualified health insurance plans with respect to additional components of the long-term plan for implementation and uniform standards for electronic data interchange that should be required of such plans based on the feasibility of such plans to comply. In making such recommendations, the Commission shall take into consideration the need to maintain broad coverage of quality medical services, the need to implement effective long-term management practices with respect to health care costs including the ability to manage the price, utilization and quality of health care services, the need to reduce administrative costs to insurers and health providers, and the need to reduce billing fraud. Such recommendations shall include any measures necessary to further reduce the administrative costs of health care, where feasible, by requiring—

"(A) additional efforts to reduce the costs of claims processing and billing through the standardization and automation, including the use of smart cards or other technology; and

"(B) simplified utilization review by processes that may include the implementation of the use of a uniform clinical data set.

"(2) ANNUAL REVIEW BY SECRETARY.—Taking into consideration the recommendations of the Commission under paragraph (1), the Secretary shall annually review the requirements with respect to qualified health insurance plans and determine appropriate revisions in such requirements necessary to maintain the efficient and effective delivery of medically appropriate and necessary care that is of high quality and the reductions in administrative costs. Such standards may not include the setting of minimum benefits.

"(3) PUBLICATION OF REVISIONS.—The Secretary shall cause to have published for public comment in the Federal Register, not later than—

"(A) May 15 of each fiscal year referred to in paragraph (1), the proposed revisions of the Secretary in the standards or requirements with respect to qualified health insurance plans for such fiscal year, including, the report of the Commission under paragraph (1); and

"(B) July 15 of each fiscal year referred to in paragraph (1), and after the consideration of the public comment under subparagraph (A) as is feasible in the time available, the final determinations of the Secretary with respect to such revisions.

"(d) COLLECTION AND REVIEW OF INFORMATION.—

"(1) APPROPRIATE USES OF HEALTH RESOURCES.—In order to identify patterns of medically appropriate uses of health resources, the Commission shall collect and review information concerning medical and surgical procedures and services, including regional variations, giving special attention to treatment patterns for conditions that ap-

pear to involve excessively costly or inappropriate services not adding to the quality of care provided.

"(2) EFFECTIVENESS OF COMPUTERIZED BILLING SYSTEM.—The Commission shall collect and review data concerning the effectiveness and efficiency of the current health insurance claims billing system and the proposed computerized billing under subsection (b).

"(3) COST-CONTAINMENT METHODS.—The Commission shall collect and review data concerning methods of health care cost-containment that maintain high quality care and the right of the patient to choose their doctor or hospital.

"(4) ADMINISTRATIVE REQUIREMENTS.—In collecting and assessing information under this subsection, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and reviewed either by its staff or under other arrangements made in accordance with this paragraph;

"(B) carry out, or award grants or contracts for, original research and experimentation and demonstration projects, including clinical research, where existing information is inadequate for the development and use and valid guidelines for the Commission; and

"(C) adopt procedures permitting any interested party to submit information with respect to unnecessary administrative burdens on business, hospitals, physicians or consumers arising from health care administration, medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities) and information on proposed methods of health care cost-containment that maintain high quality care and the right of the patient to choose their own doctor or hospital, which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(5) ACCESS TO INFORMATION.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies.

"(j) ADMINISTRATION.—

"(1) ANNUAL REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report concerning the functioning and progress of the Commission and the status of the Commission's work.

"(2) ACCESS.—The Secretary shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(3) EXPENSES.—In order to carry out its duties under this part, the Commission is authorized to expend reasonable and necessary funds as mutually agreed upon by the Secretary and the Commission. The Secretary shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission.

"(4) AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"SEC. 2113. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this part.

"PART C—STANDARDS FOR QUALIFIED HEALTH INSURANCE PLANS

"SEC. 2121. APPLICATION OF REQUIREMENTS

"(a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements for qualified plans under this part; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2122, the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of this part.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under part B to meet the requirements of this part shall apply to health insurance plans offered, issued, or renewed in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans to meet the standards under the program established under subsection (a), and

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in this part shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"SEC. 2122. PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.

"(a) IN GENERAL.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards established under this part. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2121(a)(2) with respect to plans in the State.

"(b) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"SEC. 2123. GENERAL REQUIREMENTS FOR QUALIFIED HEALTH INSURANCE PLANS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by an employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED ACCEPTANCE.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to employers located in a State must meet the standards adopted by the State described in paragraph (3).

"(2) GROUNDS FOR REFUSAL TO RENEW.—An insurer may refuse to renew, or may terminate, a qualified health insurance plan under this part only for—

"(A) nonpayment of premiums;

"(B) fraud or misrepresentation; or

"(C) failure to maintain minimum participation rates (consistent with subparagraph (B)).

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to an employer be renewed, at the option of the employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(2)(A).

"(2) TERMINATION OF EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to an employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to an employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to an employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition,

but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"SEC. 2124. REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES.

"(a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation;

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business; and

"(C) health insurance plans offered under the block of business are currently available for purchase by employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to employers with similar demographic characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to employers—

"(1) an insurer making adjustments with respect to age, sex, or geography must apply such adjustments consistently across employers; and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued; and

"(B) the same offer is made to all other employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to an employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to employers with similar demographic or other relevant characteristics (including age, sex, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer;

"(II) have been acquired from another insurer as a distinct group; or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(g) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to an employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the employer's health insurance plan contract.

"(h) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section; and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"SEC. 2125. ADDITIONAL REQUIREMENTS FOR QUALIFIED HEALTH INSURANCE PLANS.

"(a) IN GENERAL.—To be accredited as a qualified health insurance plan under this part and for purposes of the Internal Revenue Code of 1986, a health insurance plan shall meet the standards and requirements under section 2112 and this section.

"(b) LIMITS ON OUT OF POCKET COSTS.—

"(1) IN GENERAL.—Except as provided under paragraph (2), to be accredited as a qualified health insurance plan a health insurance plan may not require, with respect to benefits received in any plan year, the payment of a deductible amount that exceeds—

"(A) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the date of enactment of this part, $250; or

"(ii) a subsequent calendar year, the amount described in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(B) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the date of enactment of this part, $250 per family member and $500 per family; or

"(ii) a subsequent calendar year, the amount described in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation of deductions computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(2) WAGE-RELATED DEDUCTIBLE.—Notwithstanding paragraph (1), qualified health insurance plan may provide for any other deductible amount instead of the limitations described under—

"(A) paragraph (1)(A)(ii), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(B) paragraph (1)(B)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(c) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), to be accredited as a qualified health insurance plan a health insurance plan may not—

"(A) require the payment of any copayment or coinsurance for an item or service in an amount that exceeds 20 percent of the cost of the item or service; or

"(B) require the payment of any copayment or coinsurance for items and services after the employee has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit as defined in subsection (e).

"(2) EXCEPTION FOR MANAGED CARE PLANS.—If a qualified health insurance plan establishes reasonable classifications of participating and nonparticipating providers of items and services, the plan may require payments in excess of the amount permitted under paragraph (1) in the cases of items and services furnished by nonparticipating provider. Classifications of participating and nonparticipating providers of items and services shall be considered reasonable if the plan has been accredited by the appropriate State insurance commission.

"(3) EXCEPTION FOR IMPROPER UTILIZATION.—A qualified health benefit plan may provide for copayment or coinsurance in excess of the amount permitted under paragraph (1) for any item or service that an individual obtains without complying with any reasonable procedures established by the plan to ensure efficient and appropriate utilization of covered services. Such procedures shall be considered reasonable if the plan has been accredited by the appropriate State insurance commission.

"(d) LIMIT ON OUT-OF-POCKET COSTS.—

"(1) DEFINITION.—As used in this section, the term 'out-of-pocket costs' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance for items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(2) OUT-OF-POCKET LIMIT.—As used in this section, the term 'out-of-pocket limit' means—

"(A) with respect to a plan year beginning in the first calendar year that begins more than 1 year after the date of enactment of this part, $3000; or

"(B) with respect to a subsequent calendar year, the limit described in subparagraph (A) for the previous plan year increased by the percentage increase in the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the out-of-pocket limit computed under subparagraph (B) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(3) FLEXIBLE OUT-OF-POCKET LIMIT.—To be accredited as a qualified health insurance plan a health insurance plan may provide for an out-of-pocket limit other than that described in paragraph (2) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.".

TITLE II—TAX PENALTY ON NONCOMPLYING INSURERS

SEC. 201. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to health insurance plans which are not qualified plans under title XXI of the Social Security Act issued by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract or health maintenance organization group contract, multiple employer welfare arrangement, or any other health insurance arrangement, including an employment-related reinsurance plan. Such term does not include—

"(A) self insured plans other than multiple employer welfare arrangements; or

"(B) any of the following that is offered by an insurer—

"(i) accident only, dental only, or disability income only insurance;

"(ii) coverage issued as a supplement to liability insurance;

"(iii) worker's compensation or similar insurance; or

"(iv) automobile medical-payment insurance.

"(2) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(3) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of such Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to

taxable years beginning after December 31, 1991.

Mr. RIEGLE. Mr. President, I am pleased to cosponsor the Health Insurance Simplification and Portability Act with my colleague from Missouri, Senator BOND, and many others. This legislation is a necessary first step toward comprehensive reform of our health care system.

Skyrocketing health insurance costs for those who have coverage—and the growing number of Americans with no health insurance—are signs that our health care system must be reformed. That is the goal of HealthAmerica, comprehensive legislation to reform the health care system, that I have introduced with Senators MITCHELL, KENNEDY, and ROCKEFELLER.

The legislation introduced today focuses on two areas in particular: reducing administrative costs and reforming the private health insurance market. A strong consensus has emerged in these areas, with every major proposal, including HealthAmerica, addressing them. But I want to stress that this is only a small step and our work together will not be complete until we develop a system that provides all Americans with the security of having health care coverage and ensures that health care costs will not continue to soar.

Senator BOND recently testified before the Finance committee in February on his legislation and we agreed that we need to have universal access in this country. I want to continue working with my distinguished colleague on this goal and on developing a strong program to control costs. Efforts to comprehensively reform the health care system do not have to be partisan. I chaired a bipartisan working group of Senate Finance and Labor and Human Resources Committee members from July 1989 to January 1991.

The goals of this legislation are to simplify the health insurance system and protect consumers by reducing administrative costs and establishing national minimum standards for insurance. I have cosponsored S. 2306 because these goals are consistent with HealthAmerica, although I do not agree with every provision in the bill.

REDUCING ADMINISTRATIVE COSTS

This legislation takes a significant step toward reducing administrative costs. Public and private insurance and billing costs totaled almost $80 billion in 1991. Insurance administration accounts for $43.6 billion, while provider billing costs account for the remainder. We can greatly reduce this burden and cost on providers, insurers, and users of health care by simplifying administration through the development of a system for uniform reporting of billing and medical records. Right now there are over 1,200 insurers with many different billing forms that providers and users of health care must file and there is simply too much duplication of effort.

I have been working with the chairman of the Finance Committee, my distinguished colleague Senator BENTSEN, in strengthening provisions to reduce administrative costs in his legislation S. 1872, which was favorably reported out of the Finance Committee today as part of the economic growth package. I am very pleased he has agreed to go farther in this area and adopt many of my recommendations, which I know the Senator from Missouri agrees, goes a long way in reducing administrative costs.

In the revised version of S. 1872, as part of its first annual report, an independent Commission of health care experts would, in consultation with the Secretary of Health and Human Services who has been a leader in this area, recommend a national model uniform claims form and uniform standards for the collection of medical and billing records to be used by all insurers and providers. The Commission would develop a strategy and schedule for implementing national use of these forms and standards, taking into account the need for patient confidentiality and special implementation issues, including those of providers in rural areas. The Commission would consider the use of electronic cards or other technology that allows expedited access to medical records and insurance information.

NEED FOR INSURANCE REFORM

There is a strong precedent for federal action in the area of insurance market reform. Two years ago, the Congress enacted reforms in the Medigap supplementary health insurance market to protect seniors and disabled citizens. This Congress, I cosponsored legislation with Senators PRYOR and DASCHLE to enact similar reforms, S. 846, in the long-term care private insurance market.

We need insurance market reform because many insurers now exclude individuals from coverage who have certain conditions, like diabetes or cancer or cancel their policies. Risks need to be spread, and rates must be affordable, predictable, and stable. While S. 2306 takes significant steps in this area, it does not go far enough in limiting premium variation as we do in HealthAmerica and I want to continue working with Senator BOND in this area.

Michigan is a good example for the rest of the country in illustrating why insurance reforms are important and also why much more must be done to improve this country's health care system. Blue Cross/Blue Shield of Michigan, which covers close to 50 percent of Michigan citizens, is required by State law to sell a policy to all individuals who want the coverage. The plan also provides a single rate for everyone in the community, called community rating, regardless of age, sex, occupation. We would move to this system in HealthAmerica.

Under community rating, risks are spread over more people and rates are more affordable. In Michigan, the Blue Cross policies range from as low as about $2,000 in some regions to $4,100 for a family. But even though the rates are more affordable than most other States—for example, West Virginia's rates are between $7,000 and $10,000 for a family policy—many people simply cannot afford these prices. We need a comprehensive health care program that guarantees coverage for all Americans at affordable rates.

While insurance reform is important, without cost containment, all insurance reform does is more evenly distribute the cost of care which is currently too high. And it only provides additional access to care for those who can afford it. Millions can't afford care at any cost.

NEED FOR COMPREHENSIVE REFORM

Health care costs have recently been reported to exceed $800 billion and are now 14 percent of the GNP. At the same time, 1 million individuals and families lose health insurance coverage annually, totalling over 35 million. In Michigan, close to a million people have no health insurance—300,000 of them are children and millions more are afraid of losing their coverage if they lose their job. Those who do have health insurance are finding their rates rising sharply and their coverage reduced by rising deductibles, copayments, and diminished benefits.

I commend Senator BOND for his leadership in this area and want to continue working with him to comprehensively reform the health care system.

Mr. DANFORTH. Mr. President, I rise today in enthusiastic support of the legislation introduced by my friend and colleague, KIT BOND. Once again, as he has proven in so many other areas, he is making a valuable contribution to the debate over health care reform.

In Missouri, when you ask health care providers what they dread most about the practice of medicine in this country, they usually have two responses. The first is the need to remove the hassle factor from everyday practice, the forms, the different insurance schemes, the administrative cost. The second is the onslaught of malpractice litigation which burdens them psychologically and financially.

Senator BOND has taken an innovative and aggressive strategy to address the first concern. Providers and patients are drowning in a sea of paperwork, which unnecessarily adds to the cost of health care. Everyone has acknowledged this fact, and numerous efforts are being made to standardize forms and reduce billing costs. In fact, the Uniform Claim Form Task Force,

cochaired by the American Medical Association and the Health Care Financing Administration has developed HCFA-1500 claims forms which should lower the cost and the hassle of billing for physician and outpatient services. Blue Cross/Blue Shield of America and the Travelers Insurance Co. have agreed to cochair a group to increase the use of electronic claims as well.

Yet, all of these efforts are voluntary. The secret to administrative savings is universal use of the same form or the same billing methodology. Senator BOND would insure near universal compliance by requiring that computerized, electronic billing be developed and utilized. Providers that participate will be spared unnecessary hassle. In addition, the system will reap enormous administrative savings.

Administrative overhead for both the public and private sector totaled almost $80 billion in 1991. This is about 12.2 percent of total health spending. Much of this money is spent on claims processing and general administration. Senator BOND'S legislation would cut much of the fat that exists in this $80 billion. If we are ever to get our health costs under control, we must start first with the inefficient and unnecessary administrative costs that plague our mammoth health care system.

In addition, I share Senator BOND'S desire to curb the insurance industry's effort to avoid risk rather than insure it. His provision dealing with guaranteed acceptance, guaranteed renewability and limited premium variation are badly needed to protect those who have become ill in our society. Employees are being tied to their jobs if they or members of their family become sick. Others cannot even obtain insurance because of illness. This situation is unacceptable, and my colleague from Missouri has attempted to remedy it.

Again, I am proud to join my colleague from Missouri in introducing this badly needed piece of legislation.

By Mr. CONRAD:

S. 2307. A bill to amend the Internal Revenue Code of 1986 to provide a temporary special depreciation allowance, to make such allowance permanent for certain farm-processing equipment, and for other purposes; to the Committee on Finance.

TEMPORARY SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN FARM PROCESSING EQUIPMENT

Mr. CONRAD. Mr. President, today I am introducing legislation that will help American farmers and spur economic growth by encouraging farmers to invest in processing ventures that add value to their commodities.

Over the past several months, we have heard a lot about the national recession and the problems of our economy as a whole. There is no question that the problems facing our national economy are severe. For more than a decade, we have run up huge deficits while failing to invest in our future, and now we are suffering the consequences: The longest recession since the Great Depression; unemployment at 7.1 percent, underemployment even higher; consumer confidence at dismally low levels; stagnant and declining real wages.

No one knows better than the occupant of the chair the difficulty and the strain facing our national economy and the hurt that is being felt across the country. People's incomes are not growing fast enough to meet their families' needs.

Mr. President, rural America has suffered even more than the rest of the country. Yet in the last few months we have heard very little about the problems faced by rural Americans. The 1980's was the first decade in this century in which the rural/urban income gap widened instead of narrowed.

In 1991 the farm parity ratio, the ratio of prices received by farmers to prices paid by farmers, dropped to its lowest level ever. In North Dakota, rural employment dropped 5.1 percent from 1980 to 1990. Nationally, the rural poverty rate, at about 17 percent, is significantly higher than the urban rate. In North Dakota, my home State, almost 1 in 4 rural families is living in poverty.

A North Dakota State University study completed last year found that under current conditions, one-third of the grain farmers in my State will be forced out of business—1 in 3. More than half of all rural counties lost population between 1980 and 1990. In North Dakota, the population dropped 8.8 percent during the 1980's.

What could be more clear? The people are leaving. They are leaving because there is a lack of opportunity. They are leaving because there is economic hardship. Statistics like these are unacceptable. We cannot expect our country to grow and prosper and compete if the rural economy is left to decline.

Agriculture is the backbone of the rural economy, yet low incomes and prices are crippling American farmers. Meanwhile, processed products made from raw commodities command very high prices. For example, a 16-ounce box of cereal in a supermarket here in Washington can easily cost $4. Yet, there are just a couple of cents worth of the raw commodity in that cereal box. That means there is about a 6,000-percent markup between the price the farmers receive for their grain and the prices consumers pay for the finished product—a 6,000-percent markup.

Capturing just a small fraction of this value-added markup, Mr. President, would go a long way toward revitalizing the rural economy. But many farmers cannot risk the capital necessary to start up farmer-owned processing plants because these plants will not yield a profit for several years.

The legislation I am introducing today helps to solve this problem by making it a little easier for farmers to invest in these ventures. Specifically, it modifies the investment tax allowance passed by the House last week in two ways. First, it makes permanent the allowance for investments by majority farmer-owned processing ventures that add value to raw agricultural commodities. That will encourage the long-term development of value-added processing of agricultural commodities in rural areas, and provide long-term benefits to the rural economy.

Second, it allows majority farmer-owned partnerships, S corporations, and cooperatives to pass through to the farmer owners the value of any deduction for equipment integral to the processing of raw agricultural commodities into intermediate or final products.

This means that in the initial years of a startup venture, when the processing plant has little or no income, that the farmer-owned cooperative can pass the value of its unused deduction for plant and equipment investments directly to the farmer owners, making their investment a little cheaper in the shortrun.

Not only will this change provide direct benefits to farmers by encouraging them to reap the profits of value-added processing, but my bill will contribute to the economic recovery of rural America by generating new manufacturing ventures and employment in rural America and by diversifying the economic base of rural America.

When the economic growth package reaches the Senate floor, Mr. President, I urge my colleagues not to forget rural America, and I hope they will be supportive of my efforts to add this legislation as an amendment to the economic growth package.

I ask unanimous consent that a copy of the bill be printed in the RECORD immediately following my remarks.

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

S. 2307

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

SECTION 1. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount

otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(3) SPECIAL RULES FOR FARM-PROCESSING EQUIPMENT.—

"(A) IN GENERAL.—In the case of qualified farm equipment—

"(i) clauses (iii) and (iv) of paragraph (2)(A) shall not apply,

"(ii) subparagraph (C)(i) of paragraph (2) shall be applied without regard to the phrase ", and before January 1, 1993", and

"(iii) the allocation rules of subparagraph (D) shall apply.

"(B) QUALIFIED FARM EQUIPMENT.—For purposes of this paragraph, the term 'qualified farm equipment' means property—

"(i) which is qualified equipment (without regard to clauses (iii) and (iv) of paragraph (2)(A)),

"(ii) which is used as an integral part of the processing of raw agricultural commodities into intermediate and final products, and

"(iii) which is held by an individual or by an eligible entity.

"(C) ELIGIBLE ENTITY.—For purposes of this paragraph, the term 'eligible entity' means—

"(i) a cooperative organization described in section 1381(a),

"(ii) an S corporation more than 50 percent of the stock of which is held by individuals who produce raw agricultural commodities which are to be processed using the qualified farm equipment held by the entity, or

"(iii) a partnership or other pass-thru entity more than 50 percent of the capital or profits interests of which are held by individuals who produce raw agricultural commodities which are to be processed using the qualified farm equipment held by the entity.

"(D) SPECIAL ALLOCATION RULES FOR COOPERATIVES.—In the case of an eligible entity described in subparagraph (C)(i)—

"(i) the entity may, at its election, allocate all or a portion of the deduction allowable under paragraph (1) to its patrons, and

"(ii) any portion so allocated shall be treated as having been allowed to the entity for purposes of section 1245.

The Secretary shall prescribe such rules as may be necessary to carry out the purposes of this subparagraph."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR CERTAIN EQUIPMENT.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2308. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

IMPROVEMENT OF WATER QUALITY OF BOSTON HARBOR

• Mr. KERRY. Mr. President, I ask unanimous consent that S. 2308, which I am introducing today with my senior colleague from Massachusetts [Mr. KENNEDY] be printed in the RECORD at the appropriate point.

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

S. 2308

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

SECTION 1. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"BOSTON HARBOUR AND ADJACENT WATERS

"SEC. 519. (a) The Administrator shall make grants to the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction project described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment works.

"(c)(1) For the purposes of carrying out the grant program under this section, there is authorized to be appropriated, for the period beginning on the first day of fiscal year 1993, an amount equal to $1,000,000,000.

"(2) The amount described in paragraph (1) shall remain available until expended.

"(3) The amount described in paragraph (1) shall be authorized to be appropriated in addition to any other amounts authorized to be appropriated under title II or VI of this Act.".•

By Mr. PRESSLER:

S. 2309. A bill to require the Federal Communications Commission to use all available methods and procedures to free radio spectrum for new, emerging technologies and services; to the Committee on Commerce, Science and Transportation.

EFFICIENT SPECTRUM MANAGEMENT ACT OF 1992

Mr. PRESSLER. Mr. President, we are witnessing dramatic growth in newly emerging wireless technologies. Many of these spectrum-based technologies will revolutionize both wired and wireless communications. Over the next few years, I believe, we will see a wholesale switch in the way Americans communicate with one another.

By the end of this decade, data and voice communications which now predominantly travel over the traditional wire network will switch to the radio-spectrum. Phone calls will no longer move over wires to a location, but will travel over the spectrum directly to individuals.

New wireless technologies will allow personal communication networks [PCN's] to emerge. This will offer the possibility for consumers to have one phone with a single phone number that could be used anywhere in the world.

This technology is important to my State of South Dakota where ranchers and farmers spend their workday miles from a traditional phone. Personal communication devices, which could be as mobile as a watch, will allow them to be in contact whether they are in their tractor or on horseback.

Users of portable, palm-size computers will be able to access databases or

communicate with other computers without plugging into a wired network. In fact, new technology now being developed by McCaw Cellular will enable a spectrum-based computer system to download data from remote databases with the efficiency of a continuous fiber optic link.

With the promise these new technologies offer, there is a problem.

The spectrum they would use already is congested.

This is not a new development. From the time communications tools were first introduced, the radio spectrum has been crowded. Although there were comparably few services or users in the early days of wireless communications services, the spectrum was crowded in what was then the most usable range of frequencies. As technology has opened up new frequencies, new services have evolved to fill available bands.

In the last 2 years we have witnessed an explosion in the applications for use of new spectrum technologies, despite the fact that most usable radio frequencies below the 3 gigahertz range already have been allocated.

In fact, during recent hearings in the Communications Subcommittee, FCC Chairman Al Sikes testified that in the last 2 years alone the FCC has received 6 times the number of applications received during the preceding decade.

Applications for new and innovative technologies, such as PCN's or wireless point to point computer data communications, will compete with incumbent technologies for usable frequencies. Spectrum policymakers have the unenviable job of accommodating incumbent users while encouraging emerging technologies.

This job, however, is vital to the international competitiveness of the United States.

Japan, Britain, and France all have designated spectrum-based technologies as critical, and are moving quickly to make frequency available to support their development. We must also act quickly and decisively to free new spectrum for use by developing domestic mobile radio companies. Only in this way can we ensure foreign rivals do not gain an advantage in the development of wireless technology.

There are three different types of solutions to ease spectrum crowding: technological, economic, and legislative.

Advances in digital compression technology have reduced the number of channel bandwidths required for incumbent users, and have increased the channel capacity of individual channels. As this technology is adopted by existing users it will free up some spectrum.

An economic solution to crowded radio waves is the auctioning of spectrum. It is argued that the free market distribution of spectrum would force users to bid on only that spectrum they will most effectively use.

A visionary legislative proposal introduced by Senator INOUYE, would transfer 200 megahertz of federally controlled spectrum back to private uses. I believe this transfer of spectrum is a vital first step toward building the communications infrastructure this Nation will need to develop over the next decade. In addition to this farsighted legislation, I am introducing today another legislative solution to facilitate the growth of emerging technologies despite a crowded spectrum.

The purpose of this legislation is to ensure the Nation's spectrum will be available and open to unleash new technologies providing instant personal communications to all areas of the country. Whether it is AM radio waves longer than football fields or light waves smaller than the human hair, new technology is creating innovative uses of the spectrum of frequencies.

George Gilder points out a simple fact that will soon govern the use of spectrum. As technology allows us to use higher frequencies, more information can be transferred, smaller antennas are needed, and cheaper and more effective communications result. Gilder is correct. In fact, we will soon see new digital cellular technology resulting in a tenfold increase in the current capacity of the cellular infrastructure.

The challenge we as policymakers face will be to ensure that both our Nation's wired and wireless infrastructure will be built to encourage new technology and their deployment to all of America.

Under current FCC policy, spectrum allocations are generally made on a primary basis to a specific service or technology. Other services or technologies which might meet different consumer demands within the allocated spectrum band are either prohibited or are allowed to be offered or to operate only on a secondary basis. This means that these operators have no protection from interference from the primary operators. For this reason, many new and emerging technologies and consumer services which would be secondary operators are discouraged from entering the marketplace.

Section 1 of my legislation would bring about the adoption of a policy allowing compatible technologies to operate on a co-primary basis with other operators within given spectrum bands.

This policy change would encourage the earlier introduction of new services, allowing consumer demand to ultimately determine the highest and most efficient use of the spectrum, further encouraging technological upgrades and service improvement by the initially licensed users of the spectrum. Most significantly, such a policy would increase the supply of usable spectrum.

Section 2 of this legislation would allow license transfers for other compatible purposes, thereby further strengthening the benefits obtained through the co-primary usage policy.

Why is this change needed? Because, under current Commission policy, radio licenses may be transferred only via sale of the underlying transmission assets and only for the use contemplated in the original license. This is true even if the demand for services outlined in the original license has considerably diminished or changed in character.

Section 3 would direct the Commission to encourage the development and introduction of new technologies that would result in a more efficient use of valuable spectrum supply through the mechanism of reclassifying older technologies as secondary uses within given spectrum bands. Due consideration to equipment amortization requirements and minimal disruption of user operations can be accommodated through appropriate transition safeguards adopted by the Commission.

To further promote the most efficient use of the spectrum and to encourage the transition from older to newer technologies, the Commission should induce existing and prospective spectrum users to adopt techniques and technologies which are more spectrum efficient. Such action would effectively increase the supply of usable spectrum. Section 4 would accomplish this objective.

Section 5 says that the Commission's pioneer preference plan should be strengthened in a fashion which assures that true innovators gain an opportunity to obtain sufficient spectrum to capitalize on innovations. Provision should be made to award preferences beyond the local and regional level where the level of innovation and investment warrants broader deployment for fair economic returns.

To insure that adequate opportunity exists for broad access to precious spectrum resources by a range of economic interests, section 6 specifies that the Commission should specify a maximum amount of spectrum which could initially be licensed to any one legal entity, including affiliates within a given spectrum band.

Subsequent requests for additional spectrum by such an entity could be considered on the merits, taking into account the degree to which the initially licensed spectrum was being efficiently and effectively utilized. This would ensure that no single large service provider swallows up spectrum and limits competition from other entities.

Consistent with the intent of this act, section 7 would specify that the Commission should identify and adopt any other provisions or modifications to its procedures that will accelerate the allocation and assignment of spectrum for new technologies and services.

The challenge we as policymakers face is to ensure that the Nation's communications infrastructure will be able

to handle the flow of information these new technologies will produce. For this reason, we need to open up the spectrum to encourage developments in mobile communications.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2309

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 "Efficient Spectrum Management Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Commission has a responsibility under the Communications Act of 1934 to determine the appropriate use of the part of the electromagnetic spectrum that is not reserved for use by the Federal Government;

(2) the electromagnetic spectrum is a valuable national resource for communications of all kinds;

(3) to achieve the greatest possible public benefit, the Commission must have an efficient and effective spectrum allocation and licensing process;

(4) streamlined spectrum allocation and license assignments, including reallocation and reassignment, will—

(A) speed the development of new competitive telecommunications technologies and services;

(B) improve the capability of the United States telecommunications infrastructure;

(C) keep United States firms on the leading edge of the fast-developing world market for wireless products and services; and

(D) improve the productivity and competitiveness of the United States economy; and

(5) the Commission should be directed to take appropriate steps, consistent with the public interest, to streamline and improve its spectrum allocation and license assignment processes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "allocation" means an entry in the National Table of Frequency Allocations of a frequency band for the purpose of its use by one or more radio communication services;

(2) the term "assignment" means an authorization given to a station licensee to use specific frequencies or channels; and

(3) the term "Commission" means the Federal Communications Commission.

SEC. 4. SPECTRUM ALLOCATION AND ASSIGNMENT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Commission shall initiate a rulemaking process to—

(1) designate co-primary uses of the spectrum where it is technically and economically feasible;

(2) permit the transfer of assigned licenses among authorized co-primary uses;

(3) reclassify older technologies as secondary uses where new technologies are a higher and better use and the needs of the users of the older technology can be accommodated appropriately;

(4) create spectrum utilization standards to encourage the migration from older to newer technologies;

(5) strengthen a pioneer's preference to reward innovative technology development in the licensing process;

(6) designate a maximum amount of spectrum permissible to be initially licensed to any one legal entity within a given frequency band; and

(7) adopt any other provisions or modifications to its procedures that will streamline the allocation and assignment of spectrum for new technologies and services.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Congress whether additional legislative authority is needed to implement the procedures described in subsection (a) or other procedures that will make the spectrum allocation and licensing process more efficient and effective.

By Mr. SARBANES:

S.J. Res. 263. A joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on the Judiciary.

PUBLIC SERVICE RECOGNITION WEEK

• Mr. SARBANES. Mr. President, I rise today to introduce a resolution designating the week of May 4–10, 1992, as Public Service Recognition Week. I have introduced similar resolutions in previous Congresses to honor the public servants who so diligently and faithfully serve our Nation at the State, local, and Federal level.

Mr. President, these are not easy times to be in public service. Increasing fiscal pressures have forced government at every level to cut back or eliminate basic services. The current recession, the longest in the post-war era and Federal fiscal policy over the last decade, have had a particularly severe consequence on State and local governments. These economic pressures have forced our States and municipalities to lay off thousands of employees. Those who have not been laid off are being asked to provide the same services with fewer available resources. In fact, the severity of the fiscal crisis is such that I currently have legislation before the Senate to provide emergency grants and loans to State and local governments to assist them in meeting urgent public needs.

Nationwide, there are 9 million city and county workers, 4 million State employees, and 5 million Federal civilian and military employees. These public servants perform our Nation's most critical and important tasks. They protect our Nation, educate our children, and keep our food and drinking water safe. They come to the aid of victims of fire, flood, crime, and natural disasters, maintain our bridges and roadways, and ensure safe air travel. They explore our oceans and the frontiers of space and conduct vital research necessary for advances in science and medicine.

The collective mission of our public servants is integral to preserving our health, safety, and standard of living. Yet public servants are rarely recognized for their efforts unless there is a discontinuity or reduction in the government services to which the public is accustomed. Consequently, public servants do a thankless job—and in these times it is a job they are forced to do under increasingly adverse conditions. Despite these pressures, and efforts by some in government to minimize their value and attack them publicly, they continue to carry out their responsibilities in a professional, committed, and expert fashion.

For their dedication in the face of adversity and for their steadfast and uncompromising commitment, I salute the public servants throughout this country and commend them for the excellent work they do. By setting aside a week as Public Service Recognition Week, we recognize their important achievement and pay tribute to their invaluable contribution. While theirs is often a tireless and thankless job, their level of performance is a standard to which the rest of us may aspire. I am pleased to have the opportunity to introduce this resolution, and I urge my colleagues' support.•

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 153

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 153, a bill to authorize States to regulate certain solid waste.

S. 267

At the request of Mr. REID, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 792

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 792, a bill to reauthorize the Indoor Radon Abatement Act of 1988 and for other purposes.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 1032

At the request of Mr. DANFORTH, the names of the Senator from Indiana [Mr. COATS] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1032, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 1175

At the request of Mr. KERRY, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1198

At the request of Mr. LEVIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1198, a bill to provide that the compensation paid to certain corporate officers shall be treated as a proper subject for action by security holders, to require certain disclosures regarding such compensation, and for other purposes.

S. 1324

At the request of Mr. METZENBAUM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1324, a bill to amend the Public Health Service Act to generate accurate data necessary for continued maintenance of food safety and public health standards and to protect employees who report food safety violations, and for other purposes.

S. 1357

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1423

At the request of Mr. DODD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1648

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1648, a bill to amend title VII of the Public Health Service Act to reauthorize and expand provisions relating to area health education centers, in order to establish a Federal-State partnership, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1725

At the request of Mr. DIXON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 1851

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1872

At the request of Mr. DURENBERGER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1883

At the request of Mr. HOLLINGS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 1968

At the request of Mr. PACKWOOD, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1968, a bill to put an end to congressional perks and privileges.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2085

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2183

At the request of Mr. SHELBY, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. MACK], the Senator from Delaware [Mr. BIDEN], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2183, a bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative.

S. 2204

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2208

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2208, a bill to amend the Congressional Budget Act of 1974 to provide for truth in budgeting with respect to intragovernmental transaction involving trust funds.

S. 2250

At the request of Mr. SASSER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S.

2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2278

At the request of Mr. SHELBY, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 2278, a bill to amend section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a federal balanced budget.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 234

At the request of Mrs. KASSEBAUM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 234, a joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya.

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 241, Designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mr. DOLE], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Utah [Mr. HATCH], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. SIMON, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire.

SENATE CONCURRENT RESOLUTION 87

At the request of Mr. GORE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 87, a concurrent resolution expressing the sense of the Congress that the President of the United States should lead the United States delegation to the United Nations Conference on the Environment and Development.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 91

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Resolution 91, a resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India and Kashmir.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE CONCURRENT RESOLUTION NO. 97—RELATING TO THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE BATTLE OF MIDWAY

Mr. WARNER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 97

Whereas the Battle of Midway appeared to pit United States forces against overpowering odds, and the massive attack by superior enemy forces against a scarred and numerically inferior opponent was intended to secure a dominant position for the enemy across the Pacific;

Whereas Admirals Spruance and Fletcher had steamed their forces northwestward, away from Hawaii and then, against seemingly overwhelming odds, our naval aviators, soldiers, sailors, and marines hurled themselves into a maelstrom of fire, and it was only through the unrelenting tenacity of their attack and their indomitable courage that they could have achieved this triumph and started our Nation on the long and difficult road to victory;

Whereas with the Battle of Midway, the initiative in the Pacific passed to the United States; and

Whereas the Battle of Midway is considered by many historians to be the greatest naval battle ever fought: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commemorates the 50th anniversary of the Battle of Midway on June 4, 1992;

(2) salutes the vision and dedication of those Americans who planned and participated in this heroic battle;

(3) reveres the memory, bravery, and spirit of those who fought and perished in this heroic battle; and

(4) honors the sacrifices and devotion of those gallant men who fought in the Battle of Midway and who, in a single master stroke, reversed the tide of war in the Pacific.

• Mr. WARNER. Mr. President, I rise today to recall an event that shifted the tide of a war which changed the face of our world. Fifty years ago, an outnumbered American fleet fought back the advancing Japanese navy to win the Battle of Midway, a decisive

and defining battle of the war in the Pacific.

Six months after Pearl Harbor, Japanese forces were implementing a plan to capture several Aleutian Islands and Midway Atoll to use as early-warning outposts and a possible staging area for further raids on Pearl Harbor. To that end, the Japanese commander, Admiral Yamamoto had assembled a massive armada that greatly outnumbered available American forces.

That plan was to be thwarted by the careful strategic planning of Admiral Nimitz and the superb tactical execution of Admirals Spruance and Fletcher, who succeeded in repelling the advancing Japanese navy and decimating their forces, sinking four aircraft carriers.

American victory at Midway, in the face of daunting odds, not only kept the Japanese off Midway, but prevented them from proceeding with further success in the Pacific, and proved to be a turning point in World War II. The outcome of that war determined the complexion of the globe.

Mr. President, today, I am introducing legislation to commemorate the 50th anniversary of the Battle of Midway. I hope many of my colleagues will join me in honoring those who fought, and especially those who died in that historic and heroic battle.

SENATE RESOLUTION 262—RELATIVE TO THE DEATH OF FORMER SENATOR SAMUEL ICHIYE HAYAKAWA

Mr. SIMPSON (for Mr. SEYMOUR for himself and Mr. CRANSTON) submitted the following resolution; which was considered and agreed to:

S. RES. 262

Whereas, Senator Hayakawa had a long and distinguished career, coming to the United States in 1927, and earning a Ph.D. in English and American literature from the University of Wisconsin and joining the San Francisco State faculty in 1955; and

Whereas, he was promoted to permanent president of San Francisco State by Governor Ronald Reagan, and later served in the United States Senate from 1977-83; and

Whereas, he wrote nine textbooks on language and semantics including his acclaimed "Language in Thought and Action" in addition to numerous academic papers and articles on semantics, jazz history and mental retardation: Now, therefore, be it,

Resolved, That the Senate has heard with deep sorrow and profound regret of the death of Senator Hayakawa and extends its expression of sympathy to his wife, Margedant, and his two sons and daughter.

SENATE RESOLUTION 263—AUTHORIZING THE REPRINTING OF THE PUBLICATION "CIRCLE OF POISON"

Mr. INOUYE (for Mr. Leahy) submitted the following resolution; which was considered and agreed to:

S. RES. 263

Resolved, That the Committee on Agriculture, Nutrition, and Forestry be authorized to reprint the publication "Circle of Poison: Devastation to Third World Workers by U.S. Pesticides" (Hearing 102-17).

NOTICE OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on S. 21, to provide for the protection of the public lands in the California Desert, and H.R. 2929, the California Desert Protection Act of 1991.

The hearing will take place Saturday, April 4, 1992, beginning at 8:30 a.m. and concluding at approximately 6 p.m. The hearing will be held at the Palm Desert High School gymnasium, 43-570 Phyllis Jackson Lane, in Palm Desert, CA.

A number of witnesses representing a cross-section of views and organizations will be invited by the subcommittee to testify. Time will also be set aside to accommodate as many other individuals as possible who would like to make a brief statement of no more than 1 minute in support of or opposition to these measures. Those wishing to make such a statement should contact Karen Finney in Senator CRANSTON'S Los Angeles office at (310) 215-2186, or Mark Shaffer or Colleen Adamson in Senator SEYMOUR'S Sacramento office at (916) 557-2733, no later than 5 p.m. on March 20.

Although the subcommittee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, room 304 of the Dickson Senate Office Building, Washington, DC 20510.

For further information, please contact Erica Rosenberg or David Brooks of the subcommittee staff at (202) 224-7933.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Thursday, March 12, 1992, in SR-301, to hold a series of hearings. Beginning at 9:30 a.m., the committee will receive testimony on S. 523, to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution. At 10:30 a.m., the committee will hear testimony on Senate Joint Resolution 259, providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Smithsonian Institution, and on any other joint resolution(s) naming Smithsonian citizen regents that have been referred to the committee by the date of the hearing. At 11 a.m., the committee will receive testimony on the request from the Library of Congress to reauthorize the American Folklife Center for fiscal year 1993 through fiscal year 1997.

Individuals and organizations who wish to submit a prepared statement on any of these matters for insertion in the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278.

For further information regarding these hearings, please contact Ms. Blessington.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 3, 1992, at 10:30 a.m., to consider economic growth legislation.

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

COMMITTEE ON ARMED SERVICES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 3, 1992, at 2:30 p.m., in open session, to receive testimony on military strategy, roles and missions, and U.S. force levels for Europe.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., March 3, 1992, to receive testimony on S. 1775, a bill to reform the concessions policies of the National Park Service, and for other purposes.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, March 3, at 9:30 a.m., for a hearing on the subject of: contracting problems at RTC [Operation Western Storm].

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

ADDITIONAL STATEMENTS

DON'T LEAVE OUT THE SELF-EMPLOYED IN THE HEALTH REFORM DEBATE

• Mr. PRYOR. Mr. President, everyone is desperately searching for ways to re-

form our health care system. The President and many in Congress are prescribing elaborate proposals that are aimed at eliminating all or most of the ailments plaguing our system.

There may not be a simple way to solve every problem, but there are a few, workable steps that we can take right now.

Leading the list of these remedies is a proposal that tackles one of the greatest inequities confronting America's small businesses. And not surprisingly, it is another injustice in our Internal Revenue Code.

This inequity lies within the fact that some of our Nation's richest corporations are allowed to deduct 100 percent of their health care costs, while struggling self-employed business people cannot. That is right, while the Donald Trumps of this Nation can deduct 100 percent of their health care costs, self-employed businesses can deduct only a quarter of this amount.

This tax policy, by any definition, is not fair and must be changed.

Today, over 35 million are uninsured. In my State alone, nearly half a million men, women, and children have no health insurance and must live in constant fear and uncertainty. In fact, one out of five Arkansans has no insurance.

Millions of our uninsured are self-employed business owners. They are aspiring entrepreneurs—the type of people who have the boldness—and willingness—to undertake new business risks and opportunities.

These hard-working citizens lack health insurance coverage for one simple reason: they cannot afford it. They cannot afford the double-digit increases of their insurance premiums. They cannot afford the skyrocketing charges of health care providers and manufacturers. And they cannot afford to pay for health insurance because they are being discriminated against by the Tax Code.

The National Federation of Independent Business [NFIB] estimates that many of the estimated 4.8 million uninsured self-employed business owners would be able to purchase health insurance IF these business persons had access to the same 100 percent tax deduction that Lee Iacocca and his company receives. What is more, reforming the Tax Code in this way should also help the 4.6 million employees of the self-employed. In other words, a simple change in the Tax Code could decrease the number of uninsureds, not by the thousands, but potentially by the millions.

Mr. President, I have long supported increasing the 25 percent tax deduction for self-employed persons to 100 percent. For this reason, I was extremely pleased that the distinguished chairman of the Finance Committee, Senator BENTSEN, incorporated this change as a provision in S. 1872, the Better Access to Affordable Health Care Act of 1991.

Senator BENTSEN must be praised for his leadership in crafting a bill that will finally put the small business owner on equal footing with the largest corporations. His proposals will go a long way toward eliminating discriminatory tax and insurance underwriting practices.

I look forward to working with Chairman BENTSEN on building on this important foundation and on enacting health care cost containment measures and other insurance market reform protections that will further increase access to insurance for millions of Americans.

Financing this change to our discriminatory tax law will not be cheap. Few things worthwhile ever are. Having said this, we can and we must achieve this goal this year. Frankly, Mr. President, we should not be addressing this problem in grandiose floor statements, but trying to solve this problem now.

The self-employed tax reform provision will benefit even greater numbers of people if we combine it with a commitment to true cost containment. I believe that it is time to get the spiraling cost of prescription drugs under control and finally make the pharmaceutical industry to pay their fair share. We should not hesitate to target other major contributors to our health care inflation crisis.

Mr. President, there is something else we can do for our millions of self-employed citizens. There are millions of Americans who work in jobs that they would like to leave to start up new businesses on their own. However, they are afraid to leave their jobs that offer health insurance because they are petrified of not having access to any affordable insurance for themselves and their families. They know that, once they are out on their own, they will become victimized by insurers' underwriting practices.

No one has any idea how many opportunities and jobs were lost because of our warped insurance system. It seems that we can start to address this by building onto Chairman BENTSEN's antijob lock legislation a requirement that insurers cover these people as long as they previously have had insurance. In the upcoming days and weeks, I will be working with Senator BENTSEN and my other Senate colleagues to see if we can incorporate this provision into law as well.

Mr. President, it is long past time that we eliminate the many health care inequities that confront, on a daily basis, millions of self-employed persons. Let us not allow this year to pass without enacting a 100-percent deduction for our self-employed businesses, taking some significant strides toward true health care cost containment, and addressing the discriminatory insurance practices that victimize too many of our Nation's citizens and small businesses.●

RECOGNIZING INNOVATION AT TAMMANY SCHOOL LEWISTON, ID

● Mr. SYMMS. Mr. President, Tammany Elementary, like schools in rural and urban areas throughout our Nation, is facing significant challenges.

Today, I want to bring to the attention of our colleagues here in the Senate the extraordinary commitment to progress at Tammany, which has no smaller goal then to make their school one of the flagship schools in our Nation.

Tammany Elementary in Lewiston, ID has brought together parents, administrators and teachers from the school as well as teachers and specialists from Lewis and Clark State College, the University of Idaho and elsewhere in the Nation.

Mr. President, I ask that an article written recently by Elaine Williams of Lewiston, ID Tribune be printed in the RECORD for the convenience of our colleagues and their constituents.

President Bush has called for all Americans to be "Points of Light" in their communities whether they work in warehouse or the White House. The innovators at Tammany have tried to meet that challenge.

While the solutions planned by Tammany may not address each challenge faced by every elementary school, they have taken a bold step by objectively identifying the problems and directing their efforts to solving them in as efficient, albeit atypical, manner as possible.

The article follows:

TAMMANY SCHOOL SEEKS TIES TO INDUSTRY

(By Elaine Williams)

One reason graduates of American public schools have been falling far below industry's expectations for new employees is the two groups do not communicate well.

"I don't think the school cannot give them (businesses) what they want. It's just we don't know what they're looking for," said Vickie L. McGuire, a second-grade teacher at Tammany School.

The Tammany School District recently submitted a $9.24 million proposal to the New American Schools Development Co. in Virginia that would create a closer relationship between industries and the school and address other problems facing American education.

Tammany is competing with about 1,000 schools to win one of 20 spots in the research phase of the project for the 1992–1993 school year. A group of fewer than 10 schools will be selected to implement reforms starting in the 1993–1994 school year.

"What we're doing, we're doing as well as everyone else in Idaho and in the nation. We're being told the nation as a whole is not measuring up in competition with the rest of the world," said Superintendent Robert J. Farris.

One of the biggest limitations in the Tammany School District is space. Voters rejected a bond issue for expansion last year.

The New American Schools Development Co. proposal includes $4.75 million for a high school that may have rooms that students from all levels could use, including a gymnasium and a science room.

"That might give us more of a sense of identity that we don't currently have and that might translate into more support for the school," Farris said.

District patrons now pay a $300,000 tax to cover tuition for 120 students at Lewiston High School.

The secondary curriculum would focus on tech-prep classes that teach everyday applications of academic subjects. For example, English classes might teach resume and business letter writing while math classes might require students to solve a problem using a T-square and a computer.

In addition, students would have the opportunity to participate in internships with local businesses.

The school would also provide a strong curriculum for students who plan to go to a four-year college. Students in the tech-prep program would also be prepared for college, Farris said.

The plan includes seven major elements, many of which would dramatically expand the services of the district.

The faculty and staff at Tammany fully support the program, said Marye K. Barker, a second-grade teacher. "Transitions are always hard even if they're good, but that's a small thing."

The changes include:

Preschool. The school would teach children between ages 3 and 5. This program would help children by providing an effective learning environment and intensifying the family's involvement with the school.

Non-traditional calendar. School would begin in early August and end in late June. Students would attend school for 45 days followed by 10 days of vacation. The plan does not lengthen the school year. The two-week breaks could be used for enrichment activities such as field trips and extra studying time for students having academic problems.

"The calendar would help because they (students) wouldn't be away from school as long so they wouldn't have to be retaught," McGuire said.

However, it might be harder for teachers to complete university courses because they wouldn't have 2½ months in the summer without school, Barker said. That problem could be resolved if the University of Idaho or Lewis-Clark State College offered classes at alternative times, Barker added.

On-site health center. The goal of the center would be to provide better health care for students.

Sometimes families of children in Lewiston who have health problems such as impaired vision or hearing are not able to afford glasses or hearing aids, said Susie L. Church, a public health nurse at the Idaho North Central District Health Department.

"One of the things we're finding is children are coming to school with health problems that are preventing them from learning," Church said.

Child care. The service would address the needs of single-parent and two-income households. Children left alone are vulnerable to loneliness, fear and isolation, the proposal said.

"I don't know how many parents need to drop off a student, but have no place to take them," McGuire said.

Parent involvement. Volunteer parents would go to the homes of families and give suggestions for approaches to discipline and in-home educational activities. The program would also include meetings for parents to share experiences.

"I think right now school is an unknown to a lot of parents. They don't know what happens at school," McGuire said.●

"SMALL BUSINESS' BEST FRIEND? SMALL BANKS"

● Mr. SIMON. Mr. President, some weeks ago, the Chicago Tribune carried an editorial page piece by Joseph D. Mathewson, president of Mid-America National Bank in Chicago. He is also the former Republican county commissioner in Cook County and a person who is highly regarded by people of both political parties. Mr. Mathewson writes about the special contribution that small banks make.

What he says makes so much sense that I believe it is worth putting it into the RECORD, and I urge my colleagues in both Houses to read his statement.

The simple reality is that while the large banks do perform a very vital function in our society, the same is true of small banks, particularly in encouraging small businesses. The huge banks simply do not have the financial incentive to help small business as do the small banks.

I ask to put the Joseph Mathewson statement into the RECORD at this point.

The statement follows:

[From the Chicago Tribune, Nov. 1, 1991]

SMALL BUSINESS' BEST FRIEND? SMALL BANKS

(By Joseph D. Mathewson)

Why would anyone want to undermine small business?

Small business leavens the economy and indeed the life of these United States.

Small businesses, continually fermenting, create most of the new jobs, in sharp contrast to the endless restructuring of big businesses that inevitably reduce employment.

Small business is almost as sacrosanct as the flag, motherhood and apple pie. When did you last hear a politician malign or even question small business?

The typical small business gets started with a modest investment by an entrepreneur or his uncle. Once small businesses are up and running, their principal financial support is—not surprisingly—small banks.

Even in the current recession, credit has been readily available to small businesses. As the nation settled into the downturn, the National Federation of Independent Business reported in the fourth quarter of 1990 and again in the first quarter of this year that owners of small businesses (except in New England and those that deal in real estate) had "little difficulty in obtaining loans."

Even loan rates remained constant. "The concern over credit availability seems without much basis," said the federation's chief economist, William Dunkelberg. That continues to be true.

One reason for this, of course, is the fact that small banks are healthier than large banks, whose woes are well known. Again in 1990 small banks reported a higher return on assets than large banks, smaller loan charge-offs and higher ratios of capital to assets. These same long-term trends hold true this year.

Small banks are willing to make smaller commercial loans than large banks, often as small as $500 or $1,000. The operators of small banks (who are often also their owners) strive to give their best service to small businesses because these small enterprises are the lifeblood of the small banks. Officers of small banks spend countless hours listening to the hopes, ideas and dreams of small business owners, striving to shape their aspirations into bankable propositions. Sometimes it can't be done, but quite often—with patience—it can.

"Small banks are necessary," says Stuart Meyer, an associate professor of entrepreneurship in the J.L. Kellogg Graduate School of Management at Northwestern University. "Small banks provide a recycling function for savings."

So why does the Bush administration strenuously push new banking legislation that would encourage consolidation of banks? The stated objective is to create more large banks, which would be accomplished in part by absorbing small banks, especially the healthier ones, into large interstate behemoths. If unlimited interstate branching becomes the law, and the costly "too big to fail" doctrine is preserved, a study by the U.S. Treasury suggests that only about 3,000 of today's 12,500 banks would survive.

In fact, the number of survivors would probably be even fewer if the administration's plan to eviscerate federal deposit insurance coverage is also adopted. The combination of these blows would clear the banking field of all but the largest players.

As even the strongest community banks are absorbed in this scenario, their stable cadre of career officers would in time be replaced by an endless procession of eager, ambitious young officers who are merely passing through, gaining experience as they climb the large holding company's corporate ladder. Small companies' supportive links to their bankers would be seriously diminished.

Large banks and large bank holding companies cannot take the time or trouble to nurture small business. Their principal target will always be the large account, the large customer. Also, their local lending officers have limited authority and discretion, bound by rules issued from some remote headquarters. Borrowers feel the difference, and pay the price.

As community banks vanish, who would listen to the dreams and hopes of small business owners and provide financing to make them come true?

Who would create the jobs that small businesses used to?●

PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

● Mr. COHEN. Mr. President, last November I joined my colleague, Senator PRYOR, the distinguished chairman of the Senate Special Committee on Aging, in introducing S. 2000, the Prescription Drug Cost Containment Act of 1991, to address the rising costs of prescription drugs.

As the cost of prescription drugs has risen, so have the profits of the drug industry. In fact, drug company profits for 1990 were three times that of other industries. These inflationary practices continued as the general rate of inflation remained at 3.1 percent for 1991 and prescription drug inflation climbed to 9.4 percent.

The high cost of prescription drugs now represents the highest out-of-pocket medical expenditure for three out of four elderly Americans. A few weeks ago renowned commentator,

Andy Rooney, focused his "Sixty Minutes" segment on the many perks and gifts that are offered by many pharmaceutical companies to doctors, as incentives to prescribe their brands of medicine. Mr. Rooney's attention to this matter shows the growing concern and anger over some of the drug companies' activities that are helping to push drug prices beyond the reach of too many Americans. I would like to submit a copy of Mr. Rooney's remarks for the RECORD on behalf of my colleague, Senator PRYOR, and myself.

The remarks follow:

A FEW MINUTES WITH ANDY ROONEY: "DRUG COMPANIES"

Every day is Christmas in a doctor's office and the Drug Companies are Santa Claus bringing presents. This is a collection of stuff that was sent to just two doctors by drug companies trying to get them to prescribe their brands of medicine.

We got all sorts of samples, pills, and nostrums of various kinds. Doctors get a lot of nice leather notebooks, calendars. They get pens, pencils. This is a pen the doctor is supposed to hang around his neck. Would you go to a doctor that had something hanging around his neck that said "Real Orange Taste"?

Or would a doctor keep something like this on his desk all day that said "Zantax 300"? This is for looking at slides. This is a coffee warmer pushing "Seldane."

This looks like a tube of something called "Lotrisome" * * * but look at it. It's a flashlight. Lots of flashlights. This is a little light that you put on your bed or something.

These are audio tapes on financial planning for doctors. I did a tape for doctors offices. I argued about something with Bill Buckley and got paid for it.

In Washington, Senator David Pryor claims that drug companies spend ten billion dollars a year to sell their drugs and only nine billion on research.

We don't know if that's true but we do know that you shouldn't invite Senator Pryor and the president of any drug company to the same dinner party.

I know a doctor who works in an office with five other doctors and a staff of about 14 people. He told me that a different drug company comes in twice a week to those offices and caters a complete sitdown lunch for everyone in the office.

Drug companies sometimes offer doctors money for every patient they can switch to their brand of pills. The drug companies, of course, claim it's research, not bribery.

These pharmaceutical companies, trying to get doctors to prescribe their medicine, will fly a group of them to a fancy resort for the weekend, give them a lecture for an hour or so, and the rest of the time the doctors can go out and play. They call it "Continuing Education."

Drug companies are making big bucks in this country and the price of medicine is going up so fast that a lot of people who need it can't pay for it. Maybe they ought to stop spending a fortune on junk like this and reduce their prices.

President Bush gave his health speech the other day and he talked about the kind of health care people want. Well, I can tell him what we want. We all want the kind of health care he gets. If the President faints, there are two doctors taking his pulse before he hits the floor. That's the kind of health care we all want.•

TO RUSSIA, WITH FOOD

• Mr. SIMON. Mr. President, Kim Tilley, of my staff, gave me an article from Washington Jewish Week about Washington attorney, David Shapiro, and what he is doing in Russia.

It is American enterprise and compassion at its best.

As a nation, frankly we are not providing the leadership we should be in the situation that the Eastern European nations face. Our national leadership is being timid, when we should not be.

I ask to insert this article into the RECORD, which I hope will be of inspiration to all of us.

The article follows:

TO RUSSIA, WITH FOOD

(By Ellen Bernstein)

An unlikely scene took place days before Christmas in an icy warehouse in St. Petersburg, Russia. David Shapiro, a hard-nosed, burly Washington lawyer who made his name in civil-liberties and anti-trust cases, came face to face with 80 directors of charitable organizations in St. Petersburg.

Shapiro, the influential court-appointed examiner in the Eastern Airlines bankruptcy case, came to St. Petersburg to start a law firm to help bring American-Russian joint ventures into the city. But along the way, he got sidetracked by Mayor Anatoly Sobchak, who many consider a political reformer and rising star in Russian politics. Desperate to stave off hunger this winter, Sobchak urged Shapiro to organize a massive relief operation.

If all goes well, Shapiro's food bank—Russia's first—will aid thousands of children and the sick and elderly in St. Petersburg.

"We've got a law office in the city, and the city asks us to help the people who are hungry. It's the least we can do," Shapiro said bluntly, speaking by phone from a limousine stalled in heavy District traffic.

Later, from a speaker phone in his law office at Dickstein, Shapiro & Morin, Shapiro gave details of his plans for a Russian food bank. His firm was built on a $200 million antitrust decision won by Shapiro in the 1960s. The class action suit, then the largest consumer case in history, broke up a pharmaceutical price-fixing cartel.

Through a characteristic bulldog persistence, not to mention some powerful Washington connections, Shapiro has managed to shake loose a few Department of Defense plans to ship tons of powered milk obtained from the Department of Agriculture. The milk is destined for school-children and is expected to arrive in St. Petersburg this week.

COPING WITH SHORTAGES

But Shapiro's long range relief plans for the city have entailed several trips to St. Petersburg, then shuttles between Paris and Brussels, trying to convince a skeptical European Community to funnel food surpluses through a Russian food bank. The Commonwealth of Independent States (the former Soviet Union) has been plagued with food shortages and skyrocketing prices since price supports were lifted in early January.

"The Russians have been standing on food lines for years, and the products are poor," said Bill Bowling, a recognized expert in nonprofit food banks who was recruited early on by Shapiro. Bowling is the director of the Atlanta Community Food Bank and a national board member of Mazon, a Jewish group aiding the hungry. "What's different now is the shifting to a market economy. Everyone is very nervous about the future," he said.

The European Community is understandably nervous too. They want assurances that St. Petersburg officials are prepared to distribute the food and protect keep it off Russia's infamous black market. "If the food got into the black market, it would be curtains for the food bank," Shapiro said.

"There has to be strict accountability. You can screw up once, but you can't screw up twice," said Shapiro, a formidable man of 63, who can be heard pacing briskly around his office during phone conversations.

Shapiro's fast work and determination have been lauded by charitable organizations in the United States, which are also confronting formidable obstacles in arranging for transport planes from the U.S. Department of Defense. The President has been politically hamstrung by an anti-foreign aid climate. But this week he is expected to authorize $100 million in Federal transportation assistance, despite a New Hampshire poll indicating that only 17 percent of voters favor giving aid to the former Soviet Union.

"What is unique is that he's gotten food in Western Europe, working through an E.C. humanitarian organization [the European Federation of Food Banks]. They don't have the same transportation problems as we do," said Anne Heyninger, the senior program officer with Citizens Democracy Corps, a quasi-governmental agency in Washington that encourages private sector organizations and individuals to assist countries in Eastern Europe and the Soviet Union.

"Personally, I think we need more entrepreneurial thinkers like David who take the initiative and personal responsibility for doing what they can do. He's good at breaking through the bureaucracy," said Bowling.

At a mass meeting of organizers at 6 a.m. in an 18,000 square meter warehouse near the port of St. Petersburg, Shapiro delegated mind-boggling tasks. "You do warehouses. You do the ships. You do the KGB [recruited to run security])," he told agency directors, church leaders and city officials in a no-nonsense business style unheard of in the Soviet Union.

But a few days later, Shapiro had to start all over again. Nothing had been done because no one believed it would ever happen, said Bill Haddad, chairman of a pharmaceutical association supplying medical relief to Russia. He is working closely with Shapiro on the food bank.

IN THE WEE HOURS

"He doesn't take no for an answer. He'll call you up at 6 a.m. with ways to solve problems," said Haddad, also vice chairman of Schein Pharmaceuticals. Haddad, Bowling and Shapiro had finished a meeting at 2 a.m. in a St. Petersburg hotel room. They had called it a night, but Haddad and Bowling were awakened by a knock on their door at 3:30 a.m. "We knew it was David with some idea to solve a roadblock. But he walked away, probably ashamed he came by. He called us again at six."

The head of the new Russian food bank, a former political dissident stood up at dinner one evening and toasted Shapiro. He praised him for cutting through the bureaucracy and skepticism in the city. "We have been conditioned not to trust anybody, and we don't believe anything until we see it in operation. I toast you," he said turning to Shapiro, "because through you we learned to trust."•

A CRUCIAL VOTE

• Mr. DECONCINI. Mr. President, last week, President Frederick W. de Klerk of South Africa, set the date of March 17 for a crucial referendum. In light of his political party's surprising defeat in a parliamentary bielection, de Klerk determined that he needed a renewed mandate from the minority white electorate to continue his talks with the black South African majority about the transformation of the new South Africa.

This is a high stakes gamble. De Klerk has stated that if he does not receive the mandate he desires, he will resign from the presidency and new, national elections will have to be held. This could result in a Conservative Party government coming to power and could usher in a period of political uncertainty or even civil war. Clearly the black majority, having had a small taste of what their lives could be with the removal of the horrendous policy of apartheid, will vigorously reject turning back the clock. However, that is apparently what the racist, small-minded conservatives see in their vision of South Africa.

I have not been a strong supporter of President de Klerk. While I admire the courage he has demonstrated in removing the legal underpinnings of apartheid and releasing political prisoners such as Nelson Mandela, I find it difficult to congratulate someone for doing something that should have been done years ago.

At the same time, the question he has posed—albeit only to the white electorate—is a simple, straight-forward one: "Do you support continuation of the reform process which the state President began on February 2, 1990, and which is aimed at a new constitution through negotiation?"

That is the crucial question. If the conservatives boycott the referendum, as they are threatening, then de Klerk should proceed in his negotiations with the African National Congress and other parties to the CODESA talks.

All South Africans deserve a better, nonracial future. The black majority deserves the right to be political and legal equals with their fellow South Africans. And the white minority deserves to know what the vision of a new South Africa under a majority government holds in store for them. That is the crucial issue and one which I hope the people of South Africa will rationally address in the March 17 crucial vote.•

DON'T RAISE TAXES, COLLECT THEM

• Mr. SIMON. Mr. President, one of the most creative people in the United States today is Dr. Harvey F. Wachsman, who is both a neurosurgeon and a trial lawyer.

In the New York Times recently, he had an article suggesting a means of more accurately collecting revenue in the Nation.

One way of collecting additional revenue would be a value-added tax that our colleague, Senator FRITZ HOLLINGS, has been talking about for some time. That would make tax cheating less possible. But we have to acknowledge that we are a long way from passing a value-added tax.

The Wachsman proposal is intriguing enough that I have asked the head of the Internal Revenue Service to give me an evaluation of it. It could be implemented rather quickly, and it does seem to me it has the potential for raising a sizable additional amount of revenue.

I ask to insert the Wachsman article into the RECORD at this point.

The article follows:

[From the New York Times, Feb. 22, 1992]

DON'T RAISE TAXES, COLLECT THEM

(By Harvey F. Wachsman)

GREAT NECK, NY.—The story is all too familiar: budget-makers in New York and around the country struggle to balance their budgets, often cutting services for those in need.

What our leaders have been slow to realize, however, is that we could balance every government budget in America without new taxes—probably with money to spare—if we put into place a system to collect all the taxes already owed.

According to the Federal Reserve, the Government loses $100 billion each year to the underground economy: businesses and individuals who don't report transactions and fail to pay sales or income taxes. New York State estimates that it loses more than $3.5 billion a year.

While no tax collection effort will ever be perfect, a system could be implemented on a local, state or national basis, with readily available technology, that would result in the collection of the underground dollars.

We should require every retail business, from grocery stores and coffee shops to specialty and department stores, to install a new type of computerized meter—small, portable, inexpensive and battery-operated. The cost of these machines would be reimbursed through a special tax credit.

The computers, which are secure against tampering, would register every transaction and the amount of sales tax collected. A record in the form of a small receipt could be printed for transmittal to state finance departments and the Internal Revenue Service daily, quarterly, annually or at any other interval. Eventually, the information could be sent by modem.

Officials at the New York City Department of Taxation and Finance, the State Treasurer's Office in New Jersey, the Nassau County Executive and the Revenue Commissioner of Connecticut have all reviewed this system, reacted enthusiastically and are considering using it.

Of course, the problem with enforcing tax collection has always been compliance. To prevent businesses from avoiding a sales tax by accepting cash payments without entering them on this new system, customers would receive coded receipts every time they bought anything. Every $50 worth of these receipts could be redeemed for tickets in a new lottery. Customers would insist on having their purchases registered so they could enter the lottery, with a chance at winning cash prizes.

In addition, customers could be offered a $1,000 reward for turning in any business that broke the law. They could do this confidentially, as is common practice in law enforcement. Thus, attempts by merchants to conspire with customers to evade taxes would be risky. Penalties for violators could be made severe enough to deter evasion.

While no system is foolproof, the combination of the lottery and the bounty would go a long way toward halting unpaid taxes.

The system would also improve income tax collections. A business owner who had to report sales accurately would have difficulty misrepresenting his income. Since he would have to detail expenses more carefully, he would begin to report the full salaries of employees being paid off the books. These employees, in turn, would be obliged to pay their income taxes.

The design of the meter is flexible enough that this system could be used by every type of business, from service firms to major corporations. It could also be replicated to record wholesale transactions. For example, when a diner bought a supply of lettuce, the transaction would be electronically recorded. When the lettuce supplier bought its shipment from the farm, that transaction would also be recorded. I.R.S. audits would become unnecessary because it would become virtually impossible for taxpayers to overstate their expenses.

Businesses that don't pay their taxes are stealing from the rest of us. And we all pay for it. In this economic and political environment, we should not overlook a system based on fairness, whose entire premise is to ensure that everyone pays what they owe.•

AMERICAN-RUSSIAN CULTURAL EXCHANGE FOUNDATION

• Mr. BAUCUS. Mr. President, as we all know, one of the pressing questions we must soon answer is how we are going to aid the countries of the former Soviet Union. I want to bring to the attention of my colleagues an example of how a group of Montanans recently approached that issue.

Last week, an Aeroflot cargo plane took off from Billings, MT, loaded with medical supplies, food, clothing, and books bound for Siberia. The flight capped months of effort by Montanans who joined together as the American-Russian Cultural Exchange Foundation.

Directors of the foundation put in endless hours cutting through redtape to make this exchange possible. A few who deserve special recognition are Tom Asay, Jerry Dernbach, Jim Preston, and Sheryle Shandy. And a big thank you goes to the people in the Billings area who donated whatever they could spare to help families in the Tom River Basin of western Siberia.

When the Russian plane left Montana on Thursday, it carried more than half a million dollars of material that is badly needed by a country that is fighting escalating rates of disease caused by poor water systems and lack of basic health care. It also carried the best wishes of Montanans and the promise of future exchanges.

When we here in Congress get bogged down in the politics of foreign policy,

and find it impossible to agree, we should take a moment to look at the way Montanans practice the commonsense approach. They see folks who need help, reach deeply into their hearts and pocketbooks, and then act. These are America's true good will ambassadors. They deserve our thanks and congratulations.•

FLORIDA SHERIFF'S ASSOCIATION REJECTS SPORTS GAMBLING BILL

• Mr. MACK. Mr. President, before the last session ended, the Senate Judiciary Committee reported favorably S. 474, the professional and amateur sports protection bill. This legislation will prevent the spread of sports gambling and will promote the integrity of athletic competition. The bill is widely supported, with a total of 62 cosponsors, including myself.

This legislation has attracted broad and positive interest from across the country, particularly in Florida. Currently, legislation is pending before the State legislature to authorize sports gambling. This legislation has provoked opposition from a number of groups including, religious, educational, and law enforcement organizations. The Governor of Florida has promised to veto the measure if passed by the legislature.

One sports gambling opponent is the Florida Sheriff's Association, which has passed a resolution urging the State legislature to reject any sports gambling bill. Mr. President, I ask that the text of the Sheriff's Resolution be printed in the RECORD following my remarks. In addition, I urge the Senate to take up S. 474 at the earliest possible date.

The resolution follows:

FLORIDA SHERIFF'S ASSOCIATION—RESOLUTION 92-1

Whereas, our Sheriffs are sworn to protect our citizens and uphold the laws of the State of Florida; and

Whereas, illegal sports gambling and related criminal activity have a negative impact on our society; and

Whereas, the Sheriffs of Florida historically have opposed the legislation of gambling; and

Whereas, legalization of sports gambling sends the wrong message to young people about athletic competition; and

Whereas, sports gambling threatens the character and integrity of team sports; and

Whereas, sports gambling threatens public confidence in team sports; and

Whereas, the Sheriffs are calling upon all Floridians to oppose the legalization of sports gambling; Now, therefore, be it

Resolved, That the Sheriffs of the State of Florida hereby unanimously oppose the legalization of sports gambling.

Adopted this 14th day of January 1992.•

IN RECOGNITION OF FLORENCE CRITTENTON SERVICES

• Mr. SEYMOUR. Mr. President, I rise today in recognition of 25 years of service to children provided by the Florence Crittenton Services of Orange County, Inc. and in honor of the dedication of their new residence for abused children.

The Valley View children's residence in Fullerton will be formally dedicated on February 28, 1992. This residence marks yet another landmark in the Crittenton story, which began back in 1897 with the formation of the Florence Crittenton Mission.

The Florence Crittenton Services as we know the organization today was incorporated on June 8, 1966. The sixbed home for pregnant teens in Santa Ana was joined by the Fullerton facility in 1974. Currently, a total of 50 teens and 35 infants are cared for in the organization's various residential settings. In addition, the Diagnostic Shelter Care Program and the Independent Living Program provide services for abused and neglected infants and children.

The Valley View residence will add five units to accommodate up to 88 adolescent girls and up to 35 infants at a new site on Harbor Boulevard in Fullerton. In the near future, a school will be built on the same campus to help these young people learn to be productive, independent adults.

I would also ask my colleagues to join me today in recognizing the work of the executive director of Crittenton, Dr. Agnes Trinchero. Her leadership in the area of children's services is well known not only in Orange County and California but throughout the United States.

In celebrating their silver anniversary, Crittenton Services has its eye on the future. I would like to state for the RECORD this statement from "The Crittenton Story":

We have a dream for our 50th Anniversary. Instead of opening new doors, we hope that all of us will have learned to cherish our children so much that no child will suffer abuse and no child will be without a home. If that were to happen, then there would be no need for another Crittenton! It is our dream!

Mr. President, I have worked closely with the Florence Crittenton Services of Orange County for many years, and I ask my colleagues to join me in extending the gratitude and respect of the U.S. Senate to this superb organization for a job well done.•

COMMISSION ON BROADCASTING TO CHINA

• Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Concurrent Resolution 91 calling for the expeditious assembly of the Commission on Broadcasting to the People's Republic of China. There is ample reason to heed this call.

The success of Radio Free Europe in liberating Eastern Europe should be noted as an outstanding precedent. RFE played an integral role in replacing the cold war with the new world order and unprecedented global cooperation. This cause can be enhanced if there is a swift and concerted effort to dismantle the aggressive and repressive policies pursued not only by the PRC, but also by Laos, North Korea, and Vietnam. Consider the volatility of current leadership in these nations:

In the People's Republic of China the Beijing government began holding trials in February 1991, for a number of prominent students and intellectuals who participated in the Tiananmen protests. The sentences that were handed down ranged from 2 years to life imprisonment.

Also, throughout the 1980's China delivered Silkworm missiles to Iran and Iraq, fueling their conflict and adding to the instability of the Persian Gulf region. Reports allege that the PRC continues to export short- and intermediate-range missiles as well as nuclear technology to the area.

Reports, such as those in the spring of 1991, continue to allege that the PRC was delivering M-11 missiles to Pakistan and M-9 missiles to Syria.

In February 1992, CIA Director Gates testified that despite its recent signing of an accord banning the production of nuclear bombs on the Korean Peninsula, North Korea has continued development and is "a few months to a couple of years" away from possessing nuclear weapons.

Given the Tiananmen crisis in China and the collapse of communism in Eastern Europe and the Soviet Union, the leadership in Vietnam has retreated into hard-line Communist Party politics. There are suggestions that social repression will reemerge. The position of the Vietnamese boat people has also been a problem.

The reaction of Lao Communists to the dissolution of the Soviet Union has been nearly identical to that of Vietnam. The Pathet Lao have reaffirmed their commitment to the Socialist path, remaining steadfast in their antidemocratic attitudes.

The evidence then, is compelling. These regimes will not unilaterally relinquish their grip on power. The world cannot afford to interrupt the current transition toward global cooperation and interdependence. Broadcasting to the People's Republic of China will hasten the onset of democracy and human rights. I strongly urge the removal of any remaining obstacles to the assembly of this commission and, hence, the liberation of all Asia.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for

the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 3, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through February 28, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 25, 1992, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF FEB. 28, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues:			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,734.3	−247.9
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 28, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments [1]	(1,041)	1,105	
Offseting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 28, 1992—Continued

	Budget authority	Outlays	Revenues
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(2)
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the budget (H. Con. Res. 121).
[2] Less than $500,000.•

ANTI-SEMITISM MONITOR

• Mr. SIMON. Mr. President, even as unprecedented numbers of people throughout the world take their first strides toward freedom and democracy, the uncertainty of the ever-shifting grounds on which they stand threatens to undermine the cause of liberty for all.

I am speaking of the escalating number of hate crimes, directed against minorities throughout the world, borne from fear and political unrest.

We hail the democratization of the former Soviet Union and its Eastern European counterparts, but we must beware of the omnipresent threat to the rights of minorities. The staggering problems facing the citizens of the Commonwealth of Independent States, as well as those Eastern European countries formerly aligned behind the Iron Curtain, cannot be dismissed lightly. Rampant inflation, food shortages, and political instability add to the chaotic nature of the evolving political scene in these countries.

In this kind of fear-filled situation, people look for someone to blame for their troubles. They need a scapegoat. And who serves this role better than a minority?

Whether it be Jews in St. Petersburg, foreigners in Dresden, or Asian-Americans in Detroit, minorities everywhere often face a double-edged sword. Like their countrymen, they are confronted with the troubling times. But, unlike their fellow citizens, they are the focus of accusations and abuse.

I believe what we are seeing is the backlash of democracy. As individual liberties and freedoms are extended to those who had previously lived under the yoke of tyranny and oppression, the people are quick to assert their new-found rights. This assertion of democracy and equality, however, often comes at the expense of those less able to speak for themselves, those shrouded among the masses: The minorities.

In a previous statement a few weeks ago before the Senate, I quoted Thomas Jefferson, who said, "Eternal vigilance is the price of liberty." In these times of turmoil and strife, as people everywhere struggle toward the democracy we hold so dear, our vigilance is put to the test. While we continue to encourage the democratization of formerly Communist nations, we must ensure that the rights of the majority do not come at the expense of the minority. Democracy for some or most just will not work; we must demand democracy for all and nothing less.

We must be especially attentive to the nationalistic fervor brewing in many of the East European and central Asian republics. Self-determination and independence are values we applaud. Nevertheless, too often history tells the story of nationalism subverted for more vile causes, such as racial and ethnic purity.

To best ensure that the rights of minorities are protected from encroachment by the majority, I propose to keep the topic close at hand. Over the course of this 102d Congress, I will regularly report on the status of anti-Semitism and other hate movements throughout the world. Because of the present political and economic situation in Eastern Europe and the former Soviet Union, I will focus my attention on their successes and failures in protecting their citizens from hate. This is not an attempt to implicate or single out any one group as more responsible for the intolerant climate we live in today. Rather, what I strive for is a better understanding of the history and nature of these movements so that we can eliminate them and ensure true democracy and freedom for all. Developing a true democracy takes time, patience, and courage. We are still working on our own Government even 200 years after gaining independence. As leaders of the world's foremost democratic nation, it is our responsibility to provide leadership to these countries as they move toward democracy.

In looking toward the former Soviet Union and Eastern Europe, we cannot forget that we too are part of the problem. Anti-Asian sentiments, racial movements, and anti-Semitism are definitely problems that must be addressed in our own backyard.

And so, though we cannot help but feel excited by the prospects of former foes beating swords into plowshares, we must not be premature in our declarations of democracy. For it will not be until we can claim freedom for everyone, whether they be in the minority or the majority, that we can truly declare liberty and justice for all.•

WISCONSIN RUSSIAN WINTER CAMPAIGN

• Mr. KOHL. Mr. President, I rise today to commend and urge support for the Hands Across the Heartlands Wisconsin Russian Winter Campaign, a very worthy and important project currently

going on in my home State of Wisconsin. This project will send food, medicine, milk, soap, and other items necessary for daily living to the economically desperate people of Russia. Coordination for the project is provided by the Wisconsin Association of CIS Sister Cities, the Physicians for Social Responsibility, the Methodist Church of the United States, and the National Russian Winter Campaign, which was organized by James Garrison and former Foreign Minister for the Soviet Union Eduard Shevardnadze.

The Wisconsin Russian Winter Campaign has been encouraging Wisconsinites to donate food, medical supplies, and labor in order to help out their campaign. It is my understanding that the public response to their appeal has been outstanding and their goals have been greatly exceeded. I believe that this shows how generous and caring the people of Wisconsin are toward others.

I would now like to share with you part of a letter given to me by Mayor Jim Brundahl of Wauwatosa, WI, that was written by Joanie Hayes, also of Wauwatosa, on the subject. She writes:

> It's been pointed out to me by more than one person that we have tons of people right here that need help, so I've spent an entire weekend thinking about this. I've sat at my kitchen table, looking at my stocked shelves and full refrigerator, wondering how I would cope with no food. I've watched my daughter, Jenny, go off to work at McDonald's, thinking how fortunate we are to be able to drive up to a window and get a bag of food. I know that there are food pantries, church food kitchens and welfare offices here to help people who really need it, but nothing like this exists in Russia. I can't imagine waiting in line 3 hours for anything, let alone for one or two items of food. I turned on my T.V. and discovered that approximately ⅓ of all Russian hospitals have no electricity or running water. Then I heard that this is National Snack Food month in the United States. That's when I decided that maybe we who have so much could share with another country who has so little, just this once.

Joanie's concern for the severity of conditions in Russia is borne out by the statistics. Over 4,000 people in Russia die each day because of the lack of basic medical supplies and equipment. The tragedy is that while the doctors can diagnose almost any health problem, lack of supply handcuffs their ability to do anything about it. Doctors have resorted to using razor blades to perform simple operations such as appendectomies. In fact, one of the leading causes of AIDS in Russia is doctors having to reuse needles on patients. The needle supply is so low that doctors and hospitals must scrape the rust out of needles and resharpen them for later use.

Mr. President, as we all know, Russia is currently undergoing shock therapy to reform their economy from a centrally controlled economy to one that is driven by free markets and democracy. Unfortunately, this transition is causing a great deal of pain and suffering amongst the peoples of Russia and threatens the very life of this delicate and precarious fledgling democracy. Projects such as this are important in helping the Russian people through this difficult time. It is also a good way to show the people of Russia that the cold war is now truly over and that the United States is prepared to help them jump start their economy and help preserve democracy in Russia. Even more importantly, this project has brought the people of Wisconsin and the people of Russia together, forming bonds of friendship and trust which can go a long way in healing the wounds of the cold war.

Finally, I would like to give special notice to the individuals who are responsible for organizing this entire effort. They are Dr. Monk Elmer of Appleton, WI, Tom Hennessy, also of Appleton, and Willow Harth of Madison, WI.•

THE 150TH ANNIVERSARY OF THE INCORPORATION OF THE CITY OF SOMERVILLE

• Mr. KERRY. Mr. President, today, March 3, 1992, marks the 150th anniversary of the incorporation of the city of Somerville, MA. Since 1630, when John Woolrich came across Charlestown Neck to settle in what would become Somerville, this "City of Hills" has occupied a proud part in the history of our country.

In 1639, Squa Sachem, a wise woman who ruled the rich and powerful tribe of Pawtucket Indians, deeded the land which would become Somerville to the town of Charlestown., John Winthrop, Massachusetts' most famous early Governor, had his residence there, at Ten Hills Farm. One of the earliest hostile acts of the American Revolution took place in Somerville, when British soldiers seized the powder and munitions stored in the old powder house on Quarry Hill on September 1, 1974, and one of the first acts of union occurred when the first truly national flag, the Great Union Flag, bearing 13 stripes, was unfurled over Prospect Hill. Paul Revere rode through Somerville on his famous ride and the men and boys of Somerville took an active part in the Revolution.

Although most of the residents of Somerville were farmers, brickmaking and stone quarrying were important early industries. In 1793, Middlesex Canal, the first canal of any considerable length in the country, was built through the northern part of Somerville and barges carried cotton for the mills, merchandise, and lumber from Concord, NH to Boston.

Following the lead of their Revolutionary forebears who resented paying taxes to the King of England, in 1841 the citizens of what was then part of Charlestown decided they were not getting their money's worth from the taxes they were paying, most of the money going to the more heavily settled area of Charlestown across Charlestown Neck. So they petitioned the legislature and on March 3, 1842, the Governor approved the incorporation of the town of Somerville. A grand party was held, with 300 ladies and gentlemen dancing till "some hours after the witching time of night."

When President Lincoln issued his first call for troops on April 15, 1861, Somerville again responded to her country's call and on April 19, the Somerville Light Artillery left to join the Grand Army of the Republic. The monument to that company in the Old Cemetery is said to be the first public monument to the memory of those who died in that terrible war.

After the war, Somerville grew and prospered. It became a city on January 1, 1872, on its 100th anniversary, there 126 industries in the city, and over 102,000 citizens lived in its 4.2 square miles, at that time the greatest population density of any city in the country. Somerville was named an All-American City in 1972, and today, under the capable leadership of Mayor Michael E. Capuano and the board of aldermen, it continues to prosper.

I ask my colleagues to join me in saluting the city of Somerville today on its 150th anniversary.•

ORDERS FOR TOMORROW

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Wednesday, March 4; that following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with the following Senators to be recognized for the times specified.

The time from 10 to 10:45 a.m. under the control of the majority leader, or his designee: Senators DOMENICI and GRAMM for up to 15 minutes each, and Senator SIMPSON or his designee for up to 5 minutes.

I further ask unanimous consent that at 12 noon there be 2 hours remaining under cloture on the motion to proceed to S. 1504, with the time controlled as follows: 10 minutes under the control of Senator INOUYE, and 110 minutes under the control of the Republican leader or his designee; further, that when all time is used or yielded back the Senate without any intervening action or debate proceed to vote on the motion.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. INOUYE. 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 until 10 a.m. as a further mark of respect to our late colleague, S.I. Hayakawa.

There being no objection, the Senate, at 7:10 p.m., recessed until 10 a.m., Wednesday, March 4, 1992.

NOMINATIONS

Executive nominations received by the Senate March 3, 1992:

DEPARTMENT OF JUSTICE

WAYNE A. BUDD, OF MASSACHUSETTS, TO BE ASSOCIATE ATTORNEY GENERAL, VICE ANTHONY KEATING II, RESIGNED.

THE JUDICIARY

ALVIN A. SCHALL, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT VICE EDWARD S. SMITH, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES C. MCDONALD, XXX-XX-XX... U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. GEORGE L. BUTLER, XXX-XX-XX... U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. JOHN M. LOH, XXX-XX-XX... U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. RONALD W. YATES, XXX-XX-XX... U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DONALD SNYDER, XXX-XX-XX... U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN B. CROKER, XXX-XX-XXXX U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES J. SEAROCK, JR., XXX-XX-XXXX U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. WILLIAM E. JONES, XXX-XX-XXXX REGULAR AIR FORCE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT 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

VICE ADM. MICHAEL C. COLLEY, XXX-XX-X... U.S. 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) WILLIAM J. FLANAGAN, JR., XXX-XX-XXXX U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

HANSEN, PHYLLIS J. XXX-XX-...

To be lieutenant colonel

HUGHES, DENNIS C. XXX-XX-...
KRAUSSMAN, JAMES P. XXX-XX-...

To be major

MEEKS, JOHN E. XXX-XX-...
PEGUES, JIMMIE N. XXX-XX-...

JUDGE ADVOCATE

To be lieutenant colonel

SECHREST, DARRELL L. XXX-XX-...

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

BUTLER, ROBERT K. JR. XXX-XX-...
DENNIGHOFF, GEORGE W. XXX-XX-...
HEINEN, WILLIAM J. XXX-XX-...
LEESON, MARK W. XXX-XX-...
SODERBERG, ROLF C. XXX-XX-...
STEEN, BRAD H. XXX-XX-...
SWALLOW, SCOTT C. XXX-XX-...

To be major

*CORDERO, HILARIO XXX-XX-...
DENNINGHOFF, GEORGE W. XXX-XX-...
FLANAGAN, DAVID J. XXX-XX-...
*GREENE, BENNIE E. XXX-XX-...
PFEIFER, LAWRENCE E. XXX-XX-...
SHERRILL, WILLIAM L. JR. XXX-XX-...

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

MEDICAL CORPS

To be major

*CAREY, STEPHEN C. XXX-XX-...
*DELORENZO, RICHARD J. JR. XXX-XX-...
*FLYNN, WILLIAM J. XXX-XX-...
LOCKER, BRIAN K. XXX-XX-...
*MCCUE, JOHN F. XXX-XX-...
*THOMAS, CRAIG R. XXX-XX-...
*WILLIAMS, RONALD D. XXX-XX-...
*WONG, RONALD D. XXX-XX-...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

ROBERT G. ALBRECHT, JR. XXX-XX-XX...

MEDICAL SERVICE CORPS

To be lieutenant colonel

GREGORY B. BOZEMAN, XXX-XX-X...

ARMY NURSE CORPS

To be lieutenant colonel

*DELORES J. SHACK XXX-XX-X...

MEDICAL SERVICE CORPS

To be major

DONALD L. BERRY, XXX-XX-X...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

INA J. CLAWSON, XXX-XX-X...

MEDICAL CORPS

To be lieutenant colonel

*NICHOLAS E. CAVITT, XXX-XX-X...
*DONALD L. TRIPPELL, XXX-XX-X...

To be major

*ELLIOTT I. CLEMENCE, XXX-XX-X...
*PATRICIA A. VINOCUR, XXX-XX-X...

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

BROWN JOHNNY D., XXX-XX-X...
FORTNER, CARL R. JR., XXX-XX-XX...
HERRERA, JUAN F. XXX-XX-X...
LANDRY, STAFFORD J. JR. XXX-XX-XX...
LEWIS, CHESTER, XXX-XX-X...
MORGAN, ROBERT M., XXX-XX-X...
SMITH, JACKIE W., XXX-XX-X...
WINCHELL, RONALD E., XXX-XX-X...

CHAPLAIN CORPS

To be colonel

MIZZELL, JOE B., XXX-XX-X...

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

HARAN, MICHAEL M., XXX-XX-X...

MEDICAL CORPS

To be colonel

MURRAY, JOHN J., XXX-XX-X...

ARMY NURSE CORPS

To be colonel

ROBERTS, LINDA S., XXX-XX-X...

ARMY PROMOTION LIST

To be lieutenant colonel

ARFLACK, NORMAN E., XXX-XX-X...
BERRIOS, JOSE, XXX-XX-X...
BRAND, EDWIN J., XXX-XX-X...
GORMAN, MICHAEL A., XXX-XX-X...
HALL, ROBERT M., XXX-XX-X...
IRVINE, JOHN C., XXX-XX-X...
MILLS, THOMAS D., XXX-XX-X...
SMITH, JERRY W., XXX-XX-X...
SNODGRASS, DANNY C., XXX-XX-X...
TALBERT, JOHN H. JR., XXX-XX-XX...

MEDICAL CORPS

To be lieutenant colonel

ANGSTMAN, GREGORY L., XXX-XX-X...

IN THE ARMY

THE FOLLOWING NAMED CADETS, GRADUATING CLASS OF 1992, UNITED STATES MILITARY ACADEMY, FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533 AND 4353:

DAVID A. ABKE, XXX-XX-X...
EARL E. ABONADI, XXX-XX-X...
ROBERT C. ACKERMAN, XXX-XX-X...
PETER C. ADAMOYURKA, XXX-XX-X...
ALEX J. ADELMAN, XXX-XX-X...
JEFFREY A. AGEE, XXX-XX-XX...
FREDERIC AHN, XXX-XX-X...
JOHN S. AITA, XXX-XX-X...
TERRENCE F. ALGER, II XXX-XX-XX...
CRAIG J. ALIA, XXX-XX-X...

PETER M. ALLEN, xxx-xx-x...
DANIEL P. ALOISI, xxx-xx-x...
MARK R. AMATO, xxx-xx-x...
MARK M. AMBROSE, xxx-xx-x...
VICTOR A. AMES, xxx-xx-x...
NEAL A. AMODIO, xxx-xx-x...
JAMES F. ANDERSON, JR, xxx-xx-x...
JOHN G. ANDERSON, xxx-xx-x...
THOMAS L. ANDERSON, II, xxx-xx-x...
STACY R. ANSELMI, xxx-xx-x...
JOEL K. AOKI, xxx-xx-x...
GLENN E. ARNOLD, xxx-xx-x...
MICHAEL J. ARNTSON, xxx-xx-x...
PAUL M. ARRAMBIDE, xxx-xx-x...
WILLIAM M. ARTIGLIERE, xxx-xx-x...
HAROLD W. ASKINS, III, xxx-xx-x...
ANDREW G. AULL, xxx-xx-x...
STEVEN E. BACH, xxx-xx-x...
CORBIN K. BACKMAN, xxx-xx-x...
BRETT E. BAGWELL, xxx-xx-x...
LANCE M. BAILEY, xxx-xx-x...
JOHN T. BAIR, xxx-xx-x...
CRAIG R. BAKER, xxx-xx-x...
DAVID A. BALAN, xxx-xx-x...
JAMES S. BALL, xxx-xx-x...
BETHANY L. BALLARD, xxx-xx-x...
YOUNG H. BANG, xxx-xx-x...
JAMES J. BANKEY, JR, xxx-xx-x...
NATHAN H. BANKS, xxx-xx-x...
KENNETH C. BARAN, xxx-xx-x...
GUY R. BARATTIERI, JR, xxx-xx-x...
DANIEL D. BARBER, xxx-xx-x...
BALLARD C. BARKER, xxx-xx-x...
LEROY R. BARKER, JR, xxx-xx-x...
KELLY S. BARNES, xxx-xx-x...
MARY J. BARNES, xxx-xx-x...
TROY D. BARNES, xxx-xx-x...
SKIP D. BARNETT, xxx-xx-x...
SHANNON S. BARRY, xxx-xx-x...
MATTHEW P. BARTLETT, xxx-xx-x...
NATHAN E. BARTO, xxx-xx-x...
ALEXANDE J. BASSE, xxx-xx-x...
KEVIN L. BATES, xxx-xx-x...
RYAN D. BATES, xxx-xx-x...
DANIEL H. BATH, xxx-xx-x...
MICHAEL J. BATTLES, xxx-xx-x...
MICHAEL A. BAUMEISTER, xxx-xx-x...
JENNIFER R. BEAN, xxx-xx-x...
JOHN C. BEATTY, xxx-xx-x...
WILLIAM E. BEATY, xxx-xx-x...
DEANNA L. BEAUVAIS, xxx-xx-x...
WILLIAM V. BECK, xxx-xx-x...
GREGORY S. BECKMAN, xxx-xx-x...
ALEC C. BEEKLEY, xxx-xx-x...
JEFFREY F. BELLINGER, xxx-xx-x...
SCOTT P. BELVEAL, xxx-xx-x...
JEFFREY W. BENCIK, xxx-xx-x...
SHARON S. BENNETT, xxx-xx-x...
JAMES J. BENTS, xxx-xx-x...
JOSEPH B. BERGER, III, xxx-xx-x...
JEFFERY J. BERKMEYER, xxx-xx-x...
SEAN C. BERNABE, xxx-xx-x...
PAUL T. BERQUIST, xxx-xx-x...
DAVID L. BESHEARS, JR, xxx-xx-x...
ERIC S. BETTS, xxx-xx-x...
JASON N. BEYER, xxx-xx-x...
DON M. BICE, II, xxx-xx-x...
DAVID P. BIRON, xxx-xx-x...
ANDREW D. BLAKE, xxx-xx-x...
MATTHEW B. BLITCH, xxx-xx-x...
MICHAEL D. BLOMQUIST, xxx-xx-x...
MARC E. BOBERG, xxx-xx-x...
JENNIFER C. BOGGS, xxx-xx-x...
JOHN A. BOJESCUL, xxx-xx-x...
THOMAS R. BOLEN, xxx-xx-x...
STEPHEN A. BOLTJA, xxx-xx-x...
GREGORY S. BONDS, xxx-xx-x...
ROBERT G. BOOZE, xxx-xx-x...
DAVID W. BORGOGNONI, xxx-xx-x...
DAVID T. BOROWICZ, xxx-xx-x...
PAULA K. BOSTWICK, xxx-xx-x...
KIMBERLY A. BOWERS, xxx-xx-x...
MATTHEW M. BOWMAN, xxx-xx-x...
JOHN M. BOYER, xxx-xx-x...
JOSE R. BRACERO, JR, xxx-xx-x...
JENNIFER A. BRADAC, xxx-xx-x...
TRACEY L. BRAME, xxx-xx-x...
MATTHEW F. BRANTLEY, xxx-xx-x...
AMY L. BRATTON, xxx-xx-x...
JEFFREY P. BRAY, xxx-xx-x...
TREVOR J. BREDENKAMP, xxx-xx-x...
DAVID S. BREWSTER, xxx-xx-x...
WILLIAM L. BRICE, JR, xxx-xx-x...
DAVID A. BRILES, xxx-xx-x...
LANCE E. BROEKING, xxx-xx-x...
DAVID A. BROWN, xxx-xx-x...
DOUGLAS C. BROWN, xxx-xx-x...
IVAN E. BROWN, xxx-xx-x...
JEFFREY V. BROWN, xxx-xx-x...
KILE D. BROWN, xxx-xx-x...
KIMBERLY J. BROWN, xxx-xx-x...
KYLE M. BRUNER, xxx-xx-x...
MARC A. BRUNNER, xxx-xx-x...
SEAN P. BUCHHOLTZ, xxx-xx-x...
MATTHEW P. BUKOVAC, xxx-xx-x...
EMILY C. BURGESS, xxx-xx-x...
HEIDI K. BURGHART, xxx-xx-x...
FRED J. BURPO, xxx-xx-x...
WILLIAM M. BURRIS, xxx-xx-x...
GUY M. BURROW, xxx-xx-x...
CURTIS A. BUZZARD, xxx-xx-x...
BENJAMIN B. CABLE, xxx-xx-x...
ENRICO J. CACCIATORE, xxx-xx-x...
JENNIFER L. CAHILL, xxx-xx-x...
GIORGIO F. CALDARONE, xxx-xx-x...
GERALD V. CAMMACK, II, xxx-xx-x...
SCOTT A. CAMPBELL, xxx-xx-x...
WILLIAM J. CAMPBELL, III, xxx-xx-x...
JEROME M. CAP, xxx-xx-x...
DAVID R. CAPPS, xxx-xx-x...
PETER G. CAREY, JR, xxx-xx-x...
BRIAN D. CARLOCK, xxx-xx-x...
CHARLES A. CARLTON, xxx-xx-x...
JOSEPH R. CARMEN, xxx-xx-x...
CHRISTOP F. CARR, xxx-xx-x...
RICHARD Q. CARROLL, xxx-xx-x...
KEVIN W. CARRUTH, xxx-xx-x...
KEDRAN J. CARTER, xxx-xx-x...
JASON F. CARTWRIGHT, xxx-xx-x...
CHRIS A. CASTILLON, xxx-xx-x...
STEPHEN J. CAVOLI, xxx-xx-x...
STEVEN J. CHALOULT, xxx-xx-x...
LANCE F. CHAMBERS, xxx-xx-x...
MICHAEL D. CHANDLER, xxx-xx-x...
EDWARD Y. CHING, xxx-xx-x...
HANG J. CHO, xxx-xx-x...
JOO E. CHO, xxx-xx-x...
YONG U. CHOI, xxx-xx-x...
DANA J. CHRISTIAN, xxx-xx-x...
ERIK L. CHRISTIANSEN, xxx-xx-x...
DANIEL Y. CHUN, xxx-xx-x...
GREGG T. CLARK, xxx-xx-x...
JASON R. CLARK, xxx-xx-x...
KEVIN B. CLARK, xxx-xx-x...
MATTHEW P. CLARK, xxx-xx-x...
ANDREW D. CLARKE, xxx-xx-x...
GREGORY J. CLEVELAND, xxx-xx-x...
SEAN D. CLEVELAND, xxx-xx-x...
SEAN T. CODE, xxx-xx-x...
CHRISTOP M. COGLIANESE, xxx-xx-x...
BARAK COHEN, xxx-xx-x...
GAIL C. COLBERT, xxx-xx-x...
MARK A. COLBROOK, xxx-xx-x...
LARRY L. COLEMAN, JR, xxx-xx-x...
CRAIG W. COLLAR, xxx-xx-x...
LIAM S. COLLINS, xxx-xx-x...
ANDREW A. COLLUM, xxx-xx-x...
RICHARD M. COLUCCIELLO, xxx-xx-x...
SEAN M. CONDRON, xxx-xx-x...
CHRISTOP L. CONNOLLY, xxx-xx-x...
PATRICK R. COOK, xxx-xx-x...
MARK L. COOMES, xxx-xx-x...
DANIEL W. COOPER, xxx-xx-x...
JIMMY L. COOPER, xxx-xx-x...
ADRIAN A. CORDOVI, xxx-xx-x...
DANIEL P. CORE, xxx-xx-x...
CLARK M. CORNELIUS, xxx-xx-x...
JAMES T. CORRIGAN, xxx-xx-x...
CORY N. COSTELLO, xxx-xx-x...
MARC E. COTTLE, xxx-xx-x...
MATTHEW H. COULTER, xxx-xx-x...
MARK E. COURTENAY, xxx-xx-x...
JAMES W. CRICHTON, III, xxx-xx-x...
GERALD F. CROOK, xxx-xx-x...
CHRISTOP J. CROSBY, xxx-xx-x...
MICHAEL J. CROSSETT, xxx-xx-x...
DAVID D. CROSSLEY, xxx-xx-x...
TOBIN M. CROWDER, xxx-xx-x...
ANN G. CUNNINGS, xxx-xx-x...
MATTHEW W. CURRIE, xxx-xx-x...
DAVID M. CURRY, xxx-xx-x...
CRAIG A. CUTLIP, xxx-xx-x...
DOUGLAS W. CUTRIGHT, xxx-xx-x...
CHRISTOP W. DAILEY, xxx-xx-x...
JOHN C. DAMM, xxx-xx-x...
BENJAMIN C. DANIELSON, xxx-xx-x...
LAURIN J. DARNELL, xxx-xx-x...
MICHAEL L. DAUER, xxx-xx-x...
PAUL G. DAVIDSON, xxx-xx-x...
ANTONIO C. DAVIS, xxx-xx-x...
EDWARD D. DAVIS, xxx-xx-x...
JASON D. DAVIS, xxx-xx-x...
JEFFREY S. DAVIS, xxx-xx-x...
TOYA J. DAVIS, xxx-xx-x...
MARK A. DAWKINS, xxx-xx-x...
CURTIS L. DECKER, xxx-xx-x...
ROLLAN J. DEGEARE, xxx-xx-x...
FRANK A. DEGEORGE, xxx-xx-x...
GUILLERM J. DELOSSANTOS, xxx-xx-...
HAROLD C. DEMBY, xxx-xx-x...
JOHN M. DENNING, JR, xxx-xx-x...
MARK J. DERBER, xxx-xx-x...
MICHAEL C. DEROSIER, xxx-xx-x...
ROSE N. DEVEREUX, xxx-xx-x...
DAVID R. DICKISON, xxx-xx-x...
REBECCA L. DIECK, xxx-xx-x...
JOSEPH F. DILLON, xxx-xx-x...
MATTHEW A. DIMMICK, xxx-xx-x...
BRIAN K. DIVEN, xxx-xx-x...
MICHAEL S. DOHENY, xxx-xx-x...
CHRISTOP T. DONAHUE, xxx-xx-x...
MICHAEL C. DONAHUE, xxx-xx-x...
BRIAN C. DONOVAN, xxx-xx-x...
DANIEL L. DORCHINSKY, xxx-xx-x...
ERIK H. DOWGOS, xxx-xx-x...
CHRISTOP T. DREW, xxx-xx-x...
KEVIN P. DRISCOLL, xxx-xx-x...
GERALD R. DULL, xxx-xx-x...
PERCY E. DUNAGIN, III, xxx-xx-x...
PETER M. DUNAWAY, xxx-xx-x...
JOHN L. DUNCAN, xxx-xx-x...
KRISTEN M. DUNCAN, xxx-xx-x...
SCOTT M. DUNDERDALE, xxx-xx-x...
CHARLES T. DURAY, xxx-xx-x...
ROBERT L. EASON, xxx-xx-x...
ANTHONY J. EBERT, xxx-xx-x...
RANDALL D. ECCLESTON, xxx-xx-x...
EZRA A. ECKHARDT, xxx-xx-x...
MARSHALL V. ECKLUND, xxx-xx-x...
RAYMOND G. EDGAR, JR, xxx-xx-x...
ROBERT T. EDMONDSON, xxx-xx-x...
WILLIAM B. EGER, xxx-xx-x...
STEPHEN K. EHRENBERG, xxx-xx-x...
KARL P. EIMERS, xxx-xx-x...
MATTHEW L. ELAM, xxx-xx-x...
DANIEL P. ELLIOTT, xxx-xx-x...
DEBORAH M. ELLIS, xxx-xx-x...
MARC C. EMERY, xxx-xx-x...
MELISSA J. EMMONS, xxx-xx-x...
MICHAEL A. EMONS, xxx-xx-x...
JOHN B. ENDE, xxx-xx-x...
CHAD E. ENDERS, xxx-xx-x...
ARTHUR B. ENDRES, xxx-xx-x...
MICHAEL T. ENGLE, xxx-xx-x...
JOSEPH F. ENGLISH, xxx-xx-x...
ANTHONY E. ENRIETTO, JR, xxx-xx-x...
ROSS A. ERZAR, xxx-xx-x...
CHRISTOP B. EWING, xxx-xx-x...
DAVID L. EWING, xxx-xx-x...
ANDREW F. FARNSLER, xxx-xx-x...
MATTHEW H. FATH, xxx-xx-x...
NATHAN R. FAWKES, xxx-xx-x...
GRANT D. FAY, xxx-xx-x...
TODD R. FEEMSTER, xxx-xx-x...
KYLE E. FEGER, xxx-xx-x...
MELISSA D. FEIT, xxx-xx-x...
DANIELA C. FERCHMIN, xxx-xx-x...
THOMAS A. FEUERBORN, xxx-xx-x...
DARREN E. FEY, xxx-xx-x...
TROY C. FIGGINS, xxx-xx-x...
KURT A. FILOSA, xxx-xx-x...
RODNEY J. FISCHER, xxx-xx-x...
DARREN P. FITZGERALD, xxx-xx-x...
SEAN S. FITZGERALD, xxx-xx-x...
JAMES R. FITZGIBBON, III, xxx-xx-x...
JAMES D. FLANDREAU, xxx-xx-x...
DAVID E. FLIEG, xxx-xx-x...
BRIAN K. FLOOD, xxx-xx-x...
CRAIG R. FLUHARTY, xxx-xx-x...
ROBERT J. FOLTYNOWICZ, xxx-xx-x...
JAMES S. FORBES, xxx-xx-x...
KENNETH A. FORET, JR, xxx-xx-x...
STUART F. FOWLER, xxx-xx-x...
KEVIN M. FRANK, xxx-xx-x...
TIMOTHY M. FREDERICK, xxx-xx-x...
JOSEPH J. FRESCURA, xxx-xx-x...
JOSEPH L. FREY, xxx-xx-x...
JAMES A. FRICK, xxx-xx-x...
LAKEISHA R. FRIESON, xxx-xx-x...
JOHN S. FROST, JR, xxx-xx-x...
ERIC C. FRUTCHEY, xxx-xx-x...
JAMES L. FRY, JR, xxx-xx-x...
MATHEW J. FRY, xxx-xx-x...
PETER L. GABRIEL, xxx-xx-x...
JEIN K. GADSON, xxx-xx-x...
KEITH A. GALLEW, xxx-xx-x...
JACOB L. GARCIA, xxx-xx-x...
PAUL N. GARCIA, xxx-xx-x...
STACE W. GARRETT, xxx-xx-x...
JAMES E. GAYLORD, JR, xxx-xx-x...
MARCIA J. GEIGER, xxx-xx-x...
JAMES C. GEISER, xxx-xx-x...
CHARLES A. GIBBS, xxx-xx-x...
BRENDON S. GIBSON, xxx-xx-x...
JASON C. GILES, xxx-xx-x...
NORMAN W. GILL, III, xxx-xx-x...
JAIME L. GILLIAMSWARTZ, II, xxx-xx-x...
EXTER G. GILMORE, III, xxx-xx-x...
JEFFREY S. GLOEDE, xxx-xx-x...
JOHN K. GOERTEMILLER, xxx-xx-x...
ROMEO GONZALES, xxx-xx-x...
JAMES T. GORMAN, xxx-xx-x...
WILLIAM D. GOSS, xxx-xx-x...
GREGORY P. GOSSELIN, xxx-xx-x...
ANGELA E. GOWDY, xxx-xx-x...
KATHERIN E. GRAM, xxx-xx-x...
JOEL W. GRAY, xxx-xx-x...
SHARETTE K. GRAY, xxx-xx-x...
PETER N. GREANY, xxx-xx-x...
ALEX N. GREEN, xxx-xx-x...
HERBERT L. GREEN, xxx-xx-x...
QUINCY J. GREENE, xxx-xx-x...
STEPHEN C. GREENE, xxx-xx-x...
SCOT W. GREIG, xxx-xx-x...
IRIS M. GRIFFITH, xxx-xx-x...
RHETT B. GRINER, xxx-xx-x...
CINDY M. GRODACK, xxx-xx-x...
FRED J. GROSPIN, xxx-xx-x...
JAMES D. GUENTHER, xxx-xx-x...
BARTHOLO A. GUTIERREZ, xxx-xx-x...
DOUGLAS B. GUTTORMSEN, xxx-xx-x...
JENNIFER J. GWINN, xxx-xx-x...
GREGORY W. HAAS, xxx-xx-x...
ANDREW S. HAGER, xxx-xx-x...
GERALD W. HAHN, xxx-xx-x...
YOUNG P. HAHN, xxx-xx-x...
ALLEN D. HAIGHT, xxx-xx-x...
MICHAEL P. HAIGHT, xxx-xx-x...
JEFFREY T. HAJEK, xxx-xx-x...
ERIC R. HALL, xxx-xx-x...
JOHN D. HALL, xxx-xx-x...
LEE F. HALL, xxx-xx-x...
MARIE L. HALL, xxx-xx-x...
CHARLES A. HALLMAN, xxx-xx-x...
CHRISTOP D. HAMEL, xxx-xx-x...
ROBERT G. HAMILL, xxx-xx-x...

RODERICK J. HAMMOND, xxx-xx-x...
PHILIP L. HANCOCK, xxx-xx-x...
DAVID C. HANEY, xxx-xx-x...
THOMAS D. HANSBARGER, xxx-xx-x...
EARL C. HANSON, xxx-xx-x...
MICHAEL P. HANSON, xxx-xx-x...
THOMAS J. HARDIN, xxx-xx-x...
GARRICK M. HARMON, xxx-xx-x...
SCOTT A. HARMON, xxx-xx-x...
DAVID L. HARRIS, xxx-xx-x...
RICHARD E. HARRIS, II, xxx-xx-x...
KY B. HARROD, xxx-xx-x...
ANITA B. HARVEY, xxx-xx-x...
STUART A. HATFIELD, xxx-xx-x...
JOHN R. HAUBERT, IV, xxx-xx-x...
SHAUNA M. HAUSER, xxx-xx-x...
CORINA HAUSHERR, xxx-xx-x...
WILLIAM F. HAUSMAN, xxx-xx-x...
ALBERT L. HAWKINS, III, xxx-xx-x...
BRADLEY B. HAWKINS, xxx-xx-x...
SHAWN L. HAWKINS, xxx-xx-x...
KWASI L. HAWKS, xxx-xx-x...
BRANDON C. HAYES, xxx-xx-x...
JAMES E. HAYES, III, xxx-xx-x...
JASON R. HAYES, xxx-xx-x...
JOHN D. HAYES, xxx-xx-x...
JOHN T. HEAD, III, xxx-xx-x...
ROBERT R. HEBERT, II, xxx-xx-x...
GALEN W. HEDLUND, xxx-xx-x...
NEIL R. HEDTKE, xxx-xx-x...
THOMAS D. HEINOLD, JR, xxx-xx-x...
DAVID J. HEJL, xxx-xx-x...
RONALD B. HILDNER, xxx-xx-x...
TERESA L. HILL, xxx-xx-x...
TERRANCE E. HILL, xxx-xx-x...
WILLIAM M. HILTON, xxx-xx-x...
TIMOTHY P. HIMES, xxx-xx-x...
BURL S. HINKLE, xxx-xx-x...
MARK J. HOEPNER, xxx-xx-x...
JASON T. HOFFMAN, xxx-xx-x...
MARC F. HOFFMEISTER, xxx-xx-x...
DIERK C. HOHMAN, xxx-xx-x...
THOMAS P. HOLLIDAY, JR, xxx-xx-x...
CARL J. HOLLISTER, xxx-xx-x...
GLENN C. HOLLISTER, xxx-xx-x...
STACEY R. HOLLYER, xxx-xx-x...
LANCE G. HOMAN, xxx-xx-x...
EDWARD E. HORNE, xxx-xx-x...
MICHAEL P. HOSIE, xxx-xx-x...
DERK S. HOSKIN, xxx-xx-x...
NELSON S. HOWARD, xxx-xx-x...
WILLIAM R. HOWARD, xxx-xx-x...
PATRICK V. HOWELL, xxx-xx-x...
CHRISTOP P. HSU, xxx-xx-x...
HELMUT W. HUBER, xxx-xx-x...
DANA L. HUCKBODY, xxx-xx-x...
HARRY B. HUDICK, xxx-xx-x...
PETER P. HUDSON, xxx-xx-x...
CAROLYN M. HUGHES, xxx-xx-x...
JAY S. HULETT, xxx-xx-x...
WAYNE A. HUNT, xxx-xx-x...
PATRICK L. HURLEY, xxx-xx-x...
HARLAN L. HUTCHESON, xxx-xx-x...
PATRICK F. HYMEL, xxx-xx-x...
JOONGBI IM, xxx-xx-x...
JAMES P. ISENHOWER, III, xxx-xx-x...
BRIAN T. JACKSON, xxx-xx-x...
LATONYA C. JACKSON, xxx-xx-x...
THOMAS J. JACOBS, xxx-xx-x...
GREGORY K. JACOBSEN, xxx-xx-x...
JEFFREY P. JAGIELSKI, xxx-xx-x...
JACK A. JAMES, xxx-xx-x...
MICHAEL E. JAMES, xxx-xx-x...
FRANK E. JENIO, xxx-xx-x...
JASON M. JENKINS, xxx-xx-x...
MELVIN C. JENKS, xxx-xx-x...
JAMES JENNINGS, xxx-xx-x...
MICHAEL S. JENSEN, xxx-xx-x...
MICHELE L. JENSEN, xxx-xx-x...
SCOTT R. JERALD, xxx-xx-x...
GEOFFREY J. JERAM, xxx-xx-x...
JEFFREY H. JOHNSON, xxx-xx-x...
KARIN A. JOHNSON, xxx-xx-x...
LINDA M. JOHNSON, xxx-xx-x...
PAUL L. JOHNSON, xxx-xx-x...
TODD C. JOHNSTON, xxx-xx-x...
DAVID E. JONES, xxx-xx-x...
OMAR J. JONES, IV, xxx-xx-x...
JAMES J. JORDANO, xxx-xx-x...
JEFFREY H. JULKOWSKI, xxx-xx-x...
WILLIAM H. KACZYNSKI, xxx-xx-x...
DARRELL J. KAIN, xxx-xx-x...
SCOTT C. KAINE, xxx-xx-x...
PETER J. KALAMARAS, xxx-xx-x...
JOHN W. KARAGOSIAN, xxx-xx-x...
THOMAS A. KARINSHAK, xxx-xx-x...
KIM T. KAWAMOTO, xxx-xx-x...
JEFFREY A. KAZAGLIS, xxx-xx-x...
EDWARD C. KELLY, xxx-xx-x...
NELSON G. KERLEY, JR, xxx-xx-x...
DAVID R. KERSHAW, xxx-xx-x...
DONALD S. KETTERING, xxx-xx-x...
JOSIAH L. KIBE, xxx-xx-x...
CHRISTOP J. KIDD, xxx-xx-x...
JOEL E. KIEFER, xxx-xx-x...
CHARLIE H. KIM, xxx-xx-x...
JIN W. KIM, xxx-xx-x...
SALLY J. KIM, xxx-xx-x...
SANFORD J. KIM, xxx-xx-x...
SANG H. KIM, xxx-xx-x...
SUK K. KIM, xxx-xx-x...
TODD G. KING, xxx-xx-x...

HOWARD C. KIRK, IV, xxx-xx-x...
JAMES M. KISIEL, xxx-xx-x...
STEPHEN R. KIZIUK, xxx-xx-x...
JEREMY S. KLAGES, xxx-xx-x...
KEVIN M. KLOPCIC, xxx-xx-x...
STEPHEN G. KNEELAND, xxx-xx-x...
RICHARD W. KNIGHT, xxx-xx-x...
AARON K. KNUDSEN, xxx-xx-x...
GRETCHEN H. KOBELT, xxx-xx-x...
ANDREW W. KOLOSKI, xxx-xx-x...
BRIAN J. KOUBA, xxx-xx-x...
JOHN C. KOWALEWSKI, xxx-xx-x...
DAVID R. KRAMER, xxx-xx-x...
EDITH E. KRAUSE, xxx-xx-x...
JEANINE E. KRUGER, xxx-xx-x...
ROBERT M. KULIS, xxx-xx-x...
MICHELLE L. KURBIEL, xxx-xx-x...
STEVEN E. LACASSE, xxx-xx-x...
DAVID M. LACY, xxx-xx-x...
STEPHEN W. LADD, xxx-xx-x...
CHRISTOP S. LAGULLO, xxx-xx-x...
DUNCAN LAMB, xxx-xx-x...
SUSAN M. LAMBRECHT, xxx-xx-x...
JOHN C. LAMPHERE, JR, xxx-xx-x...
PAUL A. LANDT, xxx-xx-x...
JOSEPH E. LANGENDERFER, xxx-xx-x...
MARY K. LANGENDORF, xxx-xx-x...
MICHAEL W. LANIER, xxx-xx-x...
ERIC D. LARKIN, xxx-xx-x...
THOMAS L. LARSON, xxx-xx-x...
MELANIE A. LAUBEN, xxx-xx-x...
DAWNE E. LAUGHLIN, xxx-xx-x...
GREGORY M. LAW, xxx-xx-x...
JOSEPH P. LAZZARI, xxx-xx-x...
BARTON C. LEATHERWOOD, xxx-xx-x...
KANG M. LEE, xxx-xx-x...
RANDALL G. LEE, xxx-xx-x...
YONG J. LEE, xxx-xx-x...
KERRY A. LEFRANCIS, xxx-xx-x...
CHRISTOP D. LEPP, xxx-xx-x...
JASON LERNER, xxx-xx-x...
BOBBY V. LEWALLEN, JR, xxx-xx-x...
NICHOLAS G. LEWIS, xxx-xx-x...
WILLIAM I. LEWIS, JR, xxx-xx-x...
CORRENA A. LIEDING, xxx-xx-x...
DOUGLAS C. LIGOR, xxx-xx-x...
DAVID G. LIMBERG, xxx-xx-x...
CHRISTOP J. LIMERICK, xxx-xx-x...
WILLIAM P. LINDER, xxx-xx-x...
WILLIAM C. LINDNER, xxx-xx-x...
CARL T. LINNINGTON, xxx-xx-x...
RICHARD T. LITTLE, xxx-xx-x...
DENEIL LOGIUDICE, xxx-xx-x...
DAVID T. LONDON, xxx-xx-x...
DEBORAH L. LONG, xxx-xx-x...
MICHAEL J. LOOS, xxx-xx-x...
CLAYTON L. LOWE, xxx-xx-x...
SIDNEY J. LOYD, xxx-xx-x...
BRIAN J. LUNDAY, xxx-xx-x...
JOHN S. LYERLY, xxx-xx-x...
THOMAS J. LYNCH, xxx-xx-x...
JOHN I. LYONS, xxx-xx-x...
BRIAN J. LYTTLE, xxx-xx-x...
MARY F. MACE, xxx-xx-x...
MATTHEW J. MACHON, xxx-xx-x...
ANDREW W. MACK, xxx-xx-x...
KENNETH L. MACK, xxx-xx-x...
DAVID E. MACKEY, xxx-xx-x...
ROBERT M. MACLEOD, xxx-xx-x...
CHARLES W. MACUNE, xxx-xx-x...
CRAIG M. MAGERKURTH, xxx-xx-x...
GEORGE E. MALCOM, III, xxx-xx-x...
SALEEM A. MALIK, xxx-xx-x...
MARSHALL J. MALINOWSKI, xxx-xx-x...
DAVID S. MALLORY, JR, xxx-xx-x...
DENNIS M. MALONE, xxx-xx-x...
JOSEPH P. MALONEY, VII, xxx-xx-x...
PETER C. MANZA, xxx-xx-x...
MONICA L. MANZO, xxx-xx-x...
PATRICK S. MARCOUX, xxx-xx-x...
KYLE J. MARSH, xxx-xx-x...
JAMES P. MARSHALL, xxx-xx-x...
CURTIS L. MARTIN, JR, xxx-xx-x...
ROBERT A. MARTINEZ, xxx-xx-x...
ROBERTO L. MARTINEZ, xxx-xx-x...
SILAS G. MARTINEZ, xxx-xx-x...
RONALD F. MASSEY, JR, xxx-xx-x...
JEFFREY A. MATHIS, xxx-xx-x...
PHILIP R. MATTHEWSON, xxx-xx-x...
CAROLINE P. MAURO, xxx-xx-x...
PAUL E. MAXWELL, xxx-xx-x...
MATTHEW J. MAY, xxx-xx-x...
TIMOTHY J. MAYNARD, xxx-xx-x...
THOMAS G. MCCANN, II, xxx-xx-x...
PAUL J. MCCARTHY, xxx-xx-x...
RICHARD E. MCCARTHY, xxx-xx-x...
BRIAN D. MCCARVER, xxx-xx-x...
RICHARD K. MCCLUNG, xxx-xx-x...
MATTHEW A. MCCONNELL, xxx-xx-x...
DARYL S. MCCORMICK, xxx-xx-x...
WILLIAM L. MCCOSKEY, xxx-xx-x...
STEPHEN J. MCCULLOUGH, xxx-xx-x...
MICHAEL T. MCDONNELL, xxx-xx-x...
MICHAEL E. MCDUFFIE, xxx-xx-x...
KIMBERLY D. MCGAVERN, xxx-xx-x...
DARRICK L. MCGILL, xxx-xx-x...
KENNY W. MCGUFFEE, xxx-xx-x...
EDWARD J. MCGUIRE, JR, xxx-xx-x...
JAMES C. MCGUIRE, xxx-xx-x...
MARSHALL A. MCKAY, xxx-xx-x...
MICHAEL D. MCKAY, xxx-xx-x...
KEVIN A. MCKENNA, xxx-xx-x...

BENJAMIN D. MCKENZIE, xxx-xx-x...
MICHAEL A. MCLARNEY, xxx-xx-x...
HEATHER A. MCLAY, xxx-xx-x...
EDWARD J. MCMANUS, xxx-xx-x...
WILLIAM H. MCMILLIAN, xxx-xx-x...
VANCE C. MCMURRY, xxx-xx-x...
FRITZGER F. MCNAIR, xxx-xx-x...
CHRISTOP W. MEAD, xxx-xx-x...
AARON P. MEBUST, xxx-xx-x...
ROBERT K. MEEK, xxx-xx-x...
MITCHELL L. MEIER, xxx-xx-x...
EDWARD G. MELTON, xxx-xx-x...
JOHN J. MELTON, xxx-xx-x...
MARK A. MEMBRINO, xxx-xx-x...
CHRISTOP M. MENDES, xxx-xx-x...
CHRIS A. MENDEZ, xxx-xx-x...
DANIEL R. MENENDEZ, xxx-xx-x...
GERARDO V. MENESES, xxx-xx-x...
KARL T. MESSMER, xxx-xx-x...
GARRET K. MESSNER, xxx-xx-x...
JOHN L. MILES, III, xxx-xx-x...
BERNARD P. MILLER, II, xxx-xx-x...
CHARLES N. MILLER, xxx-xx-x...
JASON J. MILLER, xxx-xx-x...
JOHN M. MILLER, xxx-xx-x...
JEFFREY M. MILLS, xxx-xx-x...
KEVIN R. MILLS, xxx-xx-x...
DANIEL D. MINER, JR, xxx-xx-x...
RONALD J. MINTY, JR, xxx-xx-x...
BILLY M. MIRANDA, xxx-xx-x...
MARK S. MISTAL, xxx-xx-x...
DARREN S. MITCHELL, xxx-xx-x...
KOREY O. MITCHELL, xxx-xx-x...
RUSSEL T. MIZELLE, xxx-xx-x...
JOHN A. MOBERLY, xxx-xx-x...
BRADLEY F. MOCK, xxx-xx-x...
ROBERT J. MOLINARI, xxx-xx-x...
MARK E. MOLONEY, xxx-xx-x...
CHRISTOP A. MONACO, xxx-xx-x...
JOHN B. MONROE, xxx-xx-x...
JON L. MONROE, xxx-xx-x...
ALEX S. MONTOYA, xxx-xx-x...
KING S. MOON, xxx-xx-x...
LANCE D. MOORE, xxx-xx-x...
MATTHEW R. MOORE, xxx-xx-x...
VINCENT P. MOORE, xxx-xx-x...
MARK J. MORAN, xxx-xx-x...
EDMUND J. MORGAN, III, xxx-xx-x...
SEAN M. MORGAN, xxx-xx-x...
JASON R. MORRIS, xxx-xx-x...
ROBERT B. MOSELEY, III, xxx-xx-...
DEWEY A. MOSLEY, xxx-xx-x...
DAVID B. MOULDER, xxx-xx-x...
JOHN W. MULLENS, III, xxx-xx-x...
JOSEPH T. MUNKO, xxx-xx-x...
JENNIFER L. MURTAGH, xxx-xx-x...
JOHN H. MYERS, xxx-xx-x...
VINCENT MYSLIWIECI, xxx-xx-x...
JOHN E. MYUNG, xxx-xx-x...
CHRISTOP P. NAVOA, xxx-xx-x...
BRONSON NEAL, xxx-xx-x...
DAVID R. NEHRING, JR, xxx-xx-x...
LANDY T. NELSON, JR, xxx-xx-x...
MICHAEL J. NERI, JR, xxx-xx-x...
MELISSA C. NEWCOME, xxx-xx-x...
DAVID M. NEWMAN, xxx-xx-x...
JOHN P. NEWMAN, xxx-xx-x...
HAN T. NGUYEN, xxx-xx-x...
JENNIFER A. NIBLICK, xxx-xx-...
DEMETRIO J. NICHOLSON, xxx-xx-...
HEATH J. NIEMI, xxx-xx-x...
T. B. NINNESS, xxx-xx-x...
SCOTT E. NOBLE, xxx-xx-x...
MICHAEL E. NOEL, xxx-xx-x...
MATTHEW H. NUHSE, xxx-xx-x...
ALVARO V. OBREGON, xxx-xx-x...
ROBERT A. OBRIEN, IV, xxx-xx-x...
CHARLES F. ODONNELL, IV, xxx-xx-x...
GERALD J. ODONNELL, xxx-xx-x...
CHARLES H. OGDEN, IV, xxx-xx-x...
THOMAS OGDEN, xxx-xx-x...
STEVEN J. OH, xxx-xx-x...
GREGORY S. OLINGER, xxx-xx-x...
EDRIAN OLIVER, xxx-xx-x...
THOMAS W. OLSEN, xxx-xx-x...
CRAIG T. OLSON, xxx-xx-x...
JOEL C. OLSON, xxx-xx-x...
PATRICK K. OLSON, xxx-xx-x...
GEORGE A. ONEAL, xxx-xx-x...
WILLIAM P. ONEILL, xxx-xx-x...
STANNUS P. ORR, xxx-xx-x...
JENNIFER A. OSGOOD, xxx-xx-x...
GARY L. OSTENDORF, xxx-xx-x...
SHON R. OWENS, xxx-xx-x...
MICHAEL T. OZERANIC, xxx-xx-x...
WESLEY P. PADILLA, xxx-xx-x...
JOHN M. PAGANINI, xxx-xx-x...
STEPHEN E. PAGANUCCI, xxx-xx-x...
SANGWOO PAK, xxx-xx-x...
JAMES R. PAPENBERG, xxx-xx-x...
MARK F. PARCELLS, xxx-xx-x...
JOHN J. PARENTE, xxx-xx-x...
DANIEL D. PARK, xxx-xx-x...
STEVEN K. PARK, xxx-xx-x...
ALANNA M. PARRINELLO, xxx-xx-x...
DAVID A. PARSONS, xxx-xx-x...
CHERYL A. PASSARELLI, xxx-xx-x...
ANDREW J. PASTERCHICK, xxx-xx-x...
MATTHEW P. PASULKA, xxx-xx-x...
JACQUELI L. PATTEN, xxx-xx-x...
JOHN S. PAYNE, II, xxx-xx-x...
THOMAS W. PAYNE, xxx-xx-x...

AMANDA M. PEARSON, xxx-xx-x...
WILLIAM E. PEARSON, JR xxx-xx-xx...
ISAAC B. PEAY, III xxx-xx-x...
LAWRENCE E. PENN, III xxx-xx-x...
CELESTIN J. PEREZ xxx-xx-xx...
MARC A. PEREZVENERO xxx-xx-x...
THOMAS W. PERKINS xxx-xx-x...
ANDREW J. PERO xxx-xx-x...
JAMES S. PETERSON xxx-xx-xx...
MICHAEL C. PETERSON xxx-xx-x...
JAY J. PETTY xxx-xx-xx...
DENNIS L. PHILLIPS, II xxx-xx-xx...
JO D. PHILLIPS xxx-xx-xx...
ROBERT T. PHILLIPS xxx-xx-xx...
KENNETH D. PICKETT xxx-xx-x...
JUSTIN E. PIERCE xxx-xx-xx...
DANIEL V. PILLITIERE xxx-xx-xx...
CLINTON J. PINCOCK xxx-xx-x...
JOHN R. PIPPY xxx-xx-xx...
AARON C. PITNEY xxx-xx-x...
WILLIAM R. PITTMAN, IV xxx-xx-x...
CHRISTIA L. PLOCH xxx-xx-x...
JOHN A. POLHAMUS xxx-xx-x...
FRANK A. POMETTI xxx-xx-x...
ANGELA P. POWELL xxx-xx-x...
JAMES S. POWELL xxx-xx-x...
CHRISTOP S. PRENTICE xxx-xx-xx...
ARTHUR F. PRESSEL, II xxx-xx-xx...
BERNARD A. RADCLIFFE xxx-xx-x...
ERIC C. RANNOW xxx-xx-x...
JOHN E. RANSFORD xxx-xx-x...
SCOTT M. RANSOM, xxx-xx-x...
TIMOTHY J. RAUSCH xxx-xx-x...
STEPHEN P. RAWLES xxx-xx-xx...
JOEL D. RAYBURN xxx-xx-x...
MARK R. READ xxx-xx-x...
ALTON T. REAL xxx-xx-x...
JOHN H. REESE xxx-xx-x...
JASON M. REHERMAN xxx-xx-x...
CHAD A. REIMAN xxx-xx-x...
RICHARD F. RICHKOWSKI, JR. xxx-xx-x...
DARIN T. RICHTER xxx-xx-x...
WILLIAM S. RIELLY xxx-xx-x...
MARK R. RIGBY xxx-xx-x...
MICHAEL E. RITTER xxx-xx-x...
AARON D. ROBERSON xxx-xx-x...
JULIE A. ROBERT xxx-xx-x...
DANIEL M. ROBERTS xxx-xx-x...
MICHAEL A. ROBERTS xxx-xx-x...
DALE A. ROBISON xxx-xx-x...
PAUL W. ROBYN xxx-xx-x...
BRADLEY W. ROCKOW xxx-xx-x...
ARMANDO RODRIGUEZ xxx-xx-x...
CAROLINA RODRIGUEZREY xxx-xx-x...
KAREN J. ROE xxx-xx-x...
JASPER L. ROGERS, JR xxx-xx-xx...
STEPHEN C. ROGERS, JR xxx-xx-xx...
THEODORE J. ROGERS xxx-xx-x...
JOHN L. ROPER xxx-xx-x...
CRAIG P. ROSE xxx-xx-x...
CRAIG S. ROSEBERRY xxx-xx-x...
DOUGLAS G. ROSS xxx-xx-x...
LESLIE D. ROTENBERRY xxx-xx-xx...
BLAINE E. ROTH xxx-xx-x...
JAMES D. ROUSE xxx-xx-x...
WILLIAM L. RUDDOCK xxx-xx-x...
AVERILL RUIZ xxx-xx-x...
ERIC G. RUSELINK xxx-xx-x...
AMY M. RUSILOSKI xxx-xx-x...
NOEL L. RUSSELL xxx-xx-xx...
CHRISTOP A. RUSSO xxx-xx-x...
CARLETON A. RUST xxx-xx-x...
PHILIP J. RYAN xxx-xx-xx...
BRUCE A. RYBA xxx-xx-x...
JOHN A. SABATINI xxx-xx-x...
JOHN R. SADLER, JR xxx-xx-xx...
JUAN M. SALDIVAR, JR xxx-xx-xx...
GENE A. SALKOVSKY xxx-xx-x...
ROBERT M. SALLEY xxx-xx-x...
GAIL E. SANDERS xxx-xx-x...
THOMAS W. SANDERS, JR xxx-xx-xx...
CHRISTOP N. SANTOS xxx-xx-x...
GREGORY P. SARAKATSANNIS xxx-xx-x...
KERRY L. SARVER xxx-xx-x...
WILLIAM G. SAVAGE, JR xxx-xx-x...
REID L. SAWYER xxx-xx-x...
MICHELLE A. SCHMIDT xxx-xx-x...
CHRISTOP F. SCHMITT xxx-xx-xx...
DAVID L. SCHMITT xxx-xx-x...
KURT A. SCHOSEK xxx-xx-x...
ERIC D. SCHOUREK xxx-xx-x...
LEE W. SCHREITER xxx-xx-x...
BRIAN D. SCHULER xxx-xx-x...
MORGAN M. SCHULZ xxx-xx-x...
BRUCE E. SCHUMAN xxx-xx-x...
CHRISTIN M. SCHWEISS xxx-xx-x...
JASON D. SCHWERS xxx-xx-x...
AARON D. SCOTT xxx-xx-x...
LINDA S. SCOTT xxx-xx-x...
RICHARD A. SEAMAN xxx-xx-x...
JAMES S. SEAMON xxx-xx-x...
AMY C. SEBASTIAN xxx-xx-x...
LARA A. SELIGMAN xxx-xx-x...
DANIEL L. SEVALL xxx-xx-x...
JENNIFER J. SHAFER xxx-xx-xxxx
DEBORAH M. SHAHID xxx-xx-x...
CHRISTOP S. SHANNON xxx-xx-x...
MICHAEL D. SHAPIRO xxx-xx-x...
DEWAYNE D. SHARP xxx-xx-x...
THOMAS E. SHEA xxx-xx-x...
PHILLIP J. SHEARER xxx-xx-xx...
ROBERT E. SHEETS xxx-xx-xx...
BRETT H. SHELLEY xxx-xx-xx...
TIMOTHY O. SHERIDAN xxx-xx-x...
SCOTT M. SHERMAN xxx-xx-x...
EDWARD W. SHIM xxx-xx-x...
YONG M. SHIN xxx-xx-x...
ANDREW V. SHIPE xxx-xx-x...
ALAN B. SHOREY xxx-xx-x...
ROBERT L. SHULTS, JR xxx-xx-xx...
JEREMY T. SIEGRIST xxx-xx-xx...
ROBERT A. SIERENS xxx-xx-x...
JEFFERY B. SILER xxx-xx-x...
JAMES A. SINKUS xxx-xx-x...
DEIDRE M. SISSON xxx-xx-x...
ROSALYNN G. SLEASE xxx-xx-x...
STEPHEN E. SMALL xxx-xx-xx...
JASON L. SMALLFIELD xxx-xx-xx...
ANDREW F. SMITH xxx-xx-x...
ARLEN L. SMITH xxx-xx-x...
CATHERIN A. SMITH xxx-xx-x...
CORNICUL B. SMITH xxx-xx-x...
EDWARD S. SMITH xxx-xx-x...
FRANK H. SMITH, JR xxx-xx-xx...
GREGORY K. SMITH xxx-xx-x...
JASON M. SMITH xxx-xx-x...
JOHN A. SMITH xxx-xx-x...
KEVIN J. SMITH xxx-xx-x...
MICHAEL A. SMITH xxx-xx-x...
RAYMOND P. SMITH xxx-xx-x...
RODNEY B. SMITH xxx-xx-x...
SEAN M. SMITH xxx-xx-x...
STEVEN C. SMITH xxx-xx-x...
TORRENCE J. SMITH xxx-xx-x...
TODD M. SNELL xxx-xx-x...
FRANK K. SOBCHAK xxx-xx-x...
ROBERT SOBESKI xxx-xx-x...
THEODORE E. SOKOLOWSKI xxx-xx-x...
OMAR SOTOJIMENEZ xxx-xx-x...
CHRISTOP P. SOUCIE xxx-xx-x...
MATTHEW V. SOUSA xxx-xx-x...
EVERETT S. SPAIN xxx-xx-xx...
MICHAEL R. SPEARS xxx-xx-x...
WILLIAM T. SPEEGLE xxx-xx-xx...
JAMELLE C. STANLEY xxx-xx-xx...
SCOTT D. STANLEY xxx-xx-x...
MARION A. STEELE xxx-xx-x...
JOEL R. STEPHENSON xxx-xx-xx...
MARGARET D. STEWART xxx-xx-x...
TIMOTHY R. STIANSEN xxx-xx-x...
GEOFFREY M. STOKER xxx-xx-x...
MICHAEL E. STOKES xxx-xx-x...
JOHN H. STONE, JR xxx-xx-xx...
JOHN J. STRANGE, JR xxx-xx-xx...
CHRISTOP M. STRUVE, JR xxx-xx-xx...
MARC D. SUAREZ xxx-xx-x...
CRAIG E. SUYDAN xxx-xx-x...
PHILIP A. SWABSIN xxx-xx-x...
DAVID A. SWALVE xxx-xx-x...
CHRISTOP W. SWIECKI xxx-xx-x...
BRADLEY J. SWIM xxx-xx-x...
JOEL T. TANAKA xxx-xx-x...
RAMON A. TANCINGCO xxx-xx-x...
HUBERT P. TANKERSLEY xxx-xx-x...
JOSEPH J. TARANTO xxx-xx-xx...
SCOTT B. TARDIF xxx-xx-x...
ERIC P. TAUCH xxx-xx-x...
DARRYL L. TAYLOR xxx-xx-x...
DAVID J. TAYLOR xxx-xx-x...
GRADY S. TAYLOR xxx-xx-x...
RODNEY A. TEASLEY xxx-xx-x...
JASON J. THACKER xxx-xx-x...
DEAN D. THIMJON xxx-xx-x...
CALLIAN M. THOMAS xxx-xx-x...
WALTER G. THOMAS xxx-xx-x...
HENRIK H. THOMSEN xxx-xx-x...
JOHN L. THROCKMORTON xxx-xx-x...
MELINDA K. TILTON xxx-xx-x...
AARON P. TIPTON xxx-xx-x...
MATTHEW A. TOLLE xxx-xx-x...
MONTE A. TOMASINO xxx-xx-x...
WILLIAM M. TORPEY xxx-xx-x...
LAURA L. TORRES xxx-xx-x...
CORY H. TOUARD xxx-xx-x...
PETER W. TRAVIS xxx-xx-x...
BRIAN TRIBUS xxx-xx-x...
THOMAS T. TRINTER xxx-xx-x...
RYAN M. TRITSCHLER xxx-xx-x...
MICHAEL N. TROTTER xxx-xx-x...
DOUGLAS L. TRUAX xxx-xx-x...
JOHN C. TUCKER xxx-xx-x...
ROBERT S. TUCKER xxx-xx-x...
MICHAEL T. TUNNELL xxx-xx-x...
YOLANDA R. TURNER xxx-xx-x...
BRIAN F. TUSON xxx-xx-x...
JON M. TUSSING xxx-xx-x...
CHARLES H. UCHILL xxx-xx-x...
JEFFREY M. VAJDA xxx-xx-xx...
JOHN T. VALLELY xxx-xx-x...
REID E. VANDERSCHAAF xxx-xx-x...
DONALD L. VANFOSSEN xxx-xx-x...
DEBORAH M. VANN xxx-xx-x...
BRET P. VANPOPPEL xxx-xx-xx...
JACK E. VANTRESS xxx-xx-xx...
MICHAEL S. VELASCO xxx-xx-x...
KENNETH J. VERHULST xxx-xx-xx...
JONATHAN W. VERNAU xxx-xx-x...
NIAVE F. VERNON xxx-xx-x...
ERIC D. VERZOLA xxx-xx-x...
STEVEN D. VESTAL xxx-xx-x...
PETER J. VLAKANCIC xxx-xx-x...
SON P. VO xxx-xx-x...
GLENN J. VOELTZ xxx-xx-x...
DONALD A. VOLLMAR xxx-xx-x...
RONALD A. VOVES xxx-xx-x...
EDWARD J. VOZZO xxx-xx-x...
DAMON M. VRABEL xxx-xx-x...
CHAKA L. WADE xxx-xx-x...
MICHAEL D. WAGNER xxx-xx-x...
KEVIN A. WALKER xxx-xx-x...
NATHANIE F. WALLACE xxx-xx-x...
STEVEN M. WALTER xxx-xx-x...
CHRISTIA J. WALTERS xxx-xx-xx...
EDWARD W. WALTERS, III xxx-xx-x...
JAMES E. WARD xxx-xx-x...
KERMIT D. WARD xxx-xx-x...
SAMUEL J. WARF xxx-xx-x...
PAUL A. WARMUSKERKEN xxx-xx-x...
CHRISTOP W. WATERS xxx-xx-x...
TIMOTHY T. WATERS xxx-xx-x...
MICHAEL J. WEATHERWAX xxx-xx-x...
JEFFERY A. WEAVER xxx-xx-xx...
KRISTINA E. WEBER xxx-xx-x...
JOHN B. WEISNER xxx-xx-x...
JAMES D. WELLS, JR xxx-xx-xx...
THERESA R. WELSH xxx-xx-x...
BRIAN J. WEST xxx-xx-x...
MARK A. WHITE xxx-xx-x...
RICHARD L. WHITE xxx-xx-x...
LARRY L. WHITLEY, JR xxx-xx-xx...
WILBERT E. WHITTEN xxx-xx-x...
JOHN K. WICKISER xxx-xx-x...
THOMAS A. WIERS xxx-xx-x...
JODI L. WIESE xxx-xx-x...
STEPHEN M. WILBUR xxx-xx-x...
DAVID A. WILKINS xxx-xx-x...
PATRICK B. WILKISON xxx-xx-x...
JAMES R. WILLCOX xxx-xx-x...
ELIZABET L. WILLIAMS xxx-xx-x...
MICHAEL P. WILLIAMS xxx-xx-x...
MYREON WILLIAMS xxx-xx-x...
SCOTT M. WILLIAMS xxx-xx-x...
TRISTAN R. WILLIAMS xxx-xx-x...
JACK W. WILLIAMSON xxx-xx-x...
NEIL J. WILLIS xxx-xx-xx...
KEVIN M. WILSON xxx-xx-x...
MICHAEL J. WILSON xxx-xx-x...
INGRID L. WINSLOW xxx-xx-x...
LARRY N. WITTWER xxx-xx-x...
ERIC J. WOLF xxx-xx-x...
DESI L. WYATT xxx-xx-x...
DONALD S. YAMAGAMI xxx-xx-x...
WILLIAM M. YANEK, II xxx-xx-x...
GARTH G. YARNALL xxx-xx-x...
ROBERT A. YEAGER xxx-xx-x...
PETER C. YOON xxx-xx-x...
BRIAN E. YOUNG xxx-xx-x...
ERICKA A. YOUNG xxx-xx-x...
PETER J. YOUNG, JR xxx-xx-xx...
AARON B. YOUNT xxx-xx-x...
RICHARD L. ZELLMANN xxx-xx-x...
ROY F. ZINSER, III xxx-xx-xx...
NEAL J. ZUCKERMAN xxx-xx-x...
JOSEPH J. ZWIRECKI xxx-xx-xx...

CONFIRMATIONS

Executive nominations confirmed by the Senate March 3, 1992:

AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. RUDOLF F. PEKSENS xxx-xx-xxxx REGULAR AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. GLEN W. VAN DYKE xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS S. MOORMAN, xxx-xx-xxxx U.S. AIR FORCE.

ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. RICHARD A. CHILCOAT, xxx-xx-x... U.S. ARMY.
COL. EDWARD L. ANDREWS, xxx-xx-x... U.S. ARMY.
COL. THOMAS E. SWAIN, xxx-xx-x... U.S. ARMY.
COL. JOHN A. VAN ALSTYNE, xxx-xx-x... U.S. ARMY.
COL. ARTHUR T. DEAN, xxx-xx-x... U.S. ARMY.
COL. ROBERT L. HERNDON, xxx-xx-x... U.S. ARMY.

COL. ROBERT S. COFFEY, xxx-xx-x... U.S. ARMY.
COL. RALPH V. LOCURCIO, xxx-xx-x... U.S. ARMY.
COL. DANIEL M. KELLEHER, xxx-xx-x... U.S. ARMY.
COL. DAVID K. HEEBNER, xxx-xx-x... U.S. ARMY.
COL. HOWARD J. VON KAENEL, xxx-xx-x... U.S. ARMY.
COL. MORRIS J. BOYD, xxx-xx-x... U.S. ARMY.
COL. ROBERT R. HICKS, JR., xxx-xx-xx... U.S. ARMY.
COL. JOHN P. ROSE, xxx-xx-xx... U.S. ARMY.
COL. LARRY R. ELLIS, xxx-xx-xx... U.S. ARMY.
COL. DONALD B. SMITH, xxx-xx-x... U.S. ARMY.
COL. LAWSON W. MAGRUDER, III, xxx-xx-x... U.S. ARMY.
COL. STEWART W. WALLACE, xxx-xx-x... U.S. ARMY.
COL. RUSSELL L. FUHRMAN, xxx-xx-xx... U.S. ARMY.
COL. DAVID H. HICKS, xxx-xx-x... U.S. ARMY.
COL. MONTGOMERY C. MEIGS, xxx-xx-x... U.S. ARMY.
COL. CHARLES G. SUTTEN, JR., xxx-xx-xx... U.S. ARMY.
COL. JAMES W. BODDIE, JR., xxx-xx-xx... U.S. ARMY.
COL. JAMES M. WRIGHT, xxx-xx-x... U.S. ARMY.
COL. BILLY K. SOLOMON, xxx-xx-x... U.S. ARMY.
COL. PAUL J. KERN, xxx-xx-xx... U.S. ARMY.
COL. GERARD P. BROHM, xxx-xx-x... U.S. ARMY.
COL. CHARLES C. CANNON, JR., xxx-xx-x... U.S. ARMY.
COL. HENRY S. MILLER, JR., xxx-xx-xx... U.S. ARMY.
COL. ROGER G. THOMPSON, JR., xxx-xx-xx... U.S. ARMY.
COL. JAMES M. LINK, xxx-xx-x... U.S. ARMY.
COL. RANDOLPH W. HOUSE, xxx-xx-x... U.S. ARMY.
COL. JOHN COSTELLO, xxx-xx-x... U.S. ARMY.
COL. CHARLES W. THOMAS, xxx-xx-x... U.S. ARMY.
COL. JOHNNY M. RIGGS, xxx-xx-x... U.S. ARMY.
COL. PETER J. SCHOOMAKER, xxx-xx-x... U.S. ARMY.
COL. JACK P. NIX, JR., xxx-xx-xx... U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1360:

To be lieutenant general

LT. GEN. WILLIAM H. RENO, xxx-xx-x... U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS P. CARNEY, xxx-xx-x... U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ALFRED J. MALLETTE, xxx-xx-xxxx U.S. ARMY.

THE UNITED STATES ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. ALLEN E. CHANDLER, xxx-xx-x...
BRIG. GEN. DANIEL J. HERNANDEZ, xxx-xx-xx...
BRIG. GEN. CHARLES H. PERENICK, xxx-xx-xx...
BRIG. GEN. JAMES F. RUEGER, xxx-xx-xx...
BRIG. GEN. NATHANIEL JAMES, xxx-xx-xx...
BRIG. GEN. LARRY E. LEE, xxx-xx-xx...

to be brigadier general

COL. ROBERT J. BRANDT, xxx-xx-x...
COL. JAMES D. DAVIS, xxx-xx-x...
COL. EDWARD H. GERHARDT, xxx-xx-x...
COL. TONY G. IDOL, xxx-xx-x...
COL. JOHN F. KANE, xxx-xx-x...
COL. ALLEN F. MCGILBRA, xxx-xx-x...
COL. FELIX E. OCASIO-BELEN, xxx-xx-x...
COL. BRUCE W. VANDER KOLK, xxx-xx-x...
COL. JAMES E. WALKER, xxx-xx-x...
COL. BERNARD M. WATSON, xxx-xx-x...
COL. JERRY R. WYATT, xxx-xx-x...
COL. EUGENE S. IMAI, xxx-xx-x...
COL. NOAH D. DANIEL, xxx-xx-x...
COL. ERNEST T. EDWARDS, xxx-xx-x...
COL. JERRY W. FIELDS, xxx-xx-xx...
COL. EDWARD L. GOETT, xxx-xx-x...
COL. HAROLD M. GOLDSTEIN, xxx-xx-x...
COL. ROGER H. GREENWOOD, xxx-xx-x...
COL. GARY R. TRUEX, xxx-xx-x...
COL. RONALD P. WOODSON, xxx-xx-x...

MARINE CORPS

THE FOLLOWING NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

BRIG. GEN. JEFFERSON D. HOWELL, JR. xxx-xx-xxxx U.S. MARINE CORPS.
BRIG. GEN. JAMES A. BRABHAM, JR., xxx-xx-xxxx U.S. MARINE CORPS.
BRIG. GEN. MICHAEL J. BYRON, xxx-xx-xxxx U.S. MARINE CORPS.
BRIG. GEN. CHARLES E. WILHELM, xxx-xx-xxxx U.S. MARINE CORPS.
BRIG. GEN. CHARLES C. KRULAK, xxx-xx-xx... U.S. MARINE CORPS.
BRIG. GEN. ARTHUR C. BLADES, xxx-xx-xxxx U.S. MARINE CORPS.
BRIG. GEN. PETER D. WILLIAMS, xxx-xx-xxxx U.S. MARINE CORPS.

THE FOLLOWING NAMED COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

COL. LARRY T. GARRETT, xxx-xx-xx... U.S. MARINE CORPS.
COL. FRANK LIBUTTI, xxx-xx-xx... U.S. MARINE CORPS.
COL. TERRENCE R. DAKE, xxx-xx-xx... U.S. MARINE CORPS.
COL. LESLIE M. PALM, xxx-xx-xx... U.S. MARINE CORPS.
COL. JAMES L. JONES, JR. xxx-xx-xxxx U.S. MARINE CORPS.
COL. JOHN E. RHODES, xxx-xx-xx... U.S. MARINE CORPS.
COL. MICHAEL J. WILLIAMS, xxx-xx-xxxx U.S. MARINE CORPS.
COL. THOMAS L. WILKERSON, xxx-xx-xxxx U.S. MARINE CORPS.
COL. PETER PACE, xxx-xx-xx... U.S. MARINE CORPS.
COL. RAY L. SMITH, xxx-xx-xx... U.S. MARINE CORPS.
COL. LAWRENCE H. LIVINGSTON, xxx-xx-xx... U.S. MARINE CORPS.

THE FOLLOWING NAMED COLONEL OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

COL. BOBBY G. HOLLINGSWORTH, U.S. MARINE CORPS.

THE FOLLOWING NAMED BRIGADIER GENERAL OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

IN THE AIR FORCE

JOHN T. COYNE.

AIR FORCE NOMINATIONS BEGINNING JANET S. DREW, xxx-xx-x... AND ENDING ROBERT A. SNORTUM, xxx-xx-x... WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS K. ACHESON, AND ENDING MARIE D. FISHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING ROBERT O. AMAON, AND ENDING THOMAS G. RUNDLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR GARNETT T. ALEXANDER, JR., xxx-xx-xxxx AND ENDING MAJOR FRANCIS H. ZECK, JR. xxx-xx-xxxx WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1992.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JAMES M. NORTON, AND ENDING LEWIS R. MACKEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

ARMY NOMINATIONS BEGINNING JERRY W. BLACK, AND ENDING ROBERT VICKERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING JAMES E. BROWN, AND ENDING ANNA R. WEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

ARMY NOMINATIONS BEGINNING EMMETT M. ADE, AND ENDING GORDON WESTENSKOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING WILLIAM V. ADAMS, AND ENDING WILLIAM A. WOODRUFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING ROBERT L. ACKLEY, AND ENDING CRAIG P. WITTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING WALTER M. BRAUNOHLER, AND ENDING JOHN C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING BRAD A. CASE, AND ENDING HAROLD D. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

ARMY NOMINATIONS BEGINNING THOMAS C ADA, AND ENDING MOLLY S MAGUIRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING WILLIAM R * ADDISON, AND ENDING ROBERT J * YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JAMES E ALBRITTON, AND ENDING JAMES ZARINCZUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JOHN A ATWOOD, AND ENDING FRANK ZIEMKIEWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING JOHN G ANGELO, AND ENDING TIMOTHY J PURDUE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

ARMY NOMINATIONS BEGINNING ROBERT F. GONZALES, AND ENDING * MICHAEL A. RANDOLPH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

ARMY NOMINATIONS BEGINNING FRANCISCO B. IRIARTE, AND ENDING DONALD T. STUCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

ARMY NOMINATIONS BEGINNING LUCIEN A. BRUNDAGE, AND ENDING CHRISTOPHER T. RORES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1992.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING ARNOUX ABRAHAM, AND ENDING ROBERT H. WILLIS, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

IN THE NAVY

NAVY NOMINATIONS BEGINNING EDWARD L SPIRES, AND ENDING LISA C HILDERBRAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 24, 1992.

NAVY NOMINATIONS BEGINNING JOHN G. HANNINK, AND ENDING ANTHONY H. CARPENTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 22, 1992, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1992.

NAVY NOMINATIONS BEGINNING MICHAEL NARCISO ABREU, AND ENDING JOSEPH SALVATORE ZURZOLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

NAVY NOMINATIONS BEGINNING MASON X. DANG, AND ENDING JON S. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING BRUCE W. GLASKO, AND ENDING GLEN C. CRAWFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING PAUL R COX, AND ENDING CATHY L WAGSTAFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING JOHN GEOFFREY SPEER, AND ENDING MARY CATHERINE COSTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

NAVY NOMINATIONS BEGINNING NEAL ADAMS, AND ENDING STANLEY D RHOADES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 29, 1992.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 3, 1992, withdrawing from further Senate consideration the following nomination:

U.S. AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624, WHICH WAS SENT TO THE SENATE ON FEBRUARY 5, 1992:

To be major general

BRIG. GEN. C, JEROME JONES, xxx-xx-xxxx REGULAR AIR FORCE.