HOUSE OF REPRESENTATIVES—*Friday, March 3, 1992*

The House met at 12 noon.

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

We confess, O God, that we have been taught by the prophets of old, we have been reminded by the saints of history, we have been commanded by the Scriptures and all our traditions, and yet so often do we miss the mark and neglect the works of charity and justice. May we heed all Your word, O God, and all the treasurers of our faith to focus on what we ought to be, and what we ought to do, so we will be the people You would have us be and do those good things that honor You and serve every person. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. BURTON] please come forward and lead the House in the Pledge of Allegiance.

Mr. BURTON of Indiana led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 343. Joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day";

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month"; and

H.J. Res. 395. Joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 414. Joint resolution regarding the San Antonio Drug Summit.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 479. An act to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States;

S.J. Res. 139. Joint resolution to designate October 1992 as "National Lock-in-Safety Month";

S.J. Res. 214. Joint resolution to designate May 16, 1992, through May 22, 1992, as "National Awareness Week for Life-Saving Techniques";

S.J. Res. 218. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand";

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week";

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 244. Joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong Federal system of government;

S.J. Res. 246. Joint resolution to designate April 15, 1992, as "National Recycling Day"; and

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

The message also announced that, pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. SPECTER, to the Commission on Security and Cooperation in Europe, vice Mr. Heinz.

APPOINTMENT AS MEMBERS OF UNITED STATES DELEGATION TO ATTEND MEETING OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of section 276d of title 22, United States Code, the Chair appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House:

Mr. GEJDENSON of Connecticut, chairman;

Mr. FASCELL of Florida, vice chairman;

Mr. HAMILTON of Indiana;

Mr. DE LA GARZA of Texas;

Mr. GIBBONS of Florida;

Mr. OBERSTAR of Minnesota;

Mr. LAFALCE of New York;

Mr. BROOMFIELD of Michigan;

Mr. HORTON of New York;

Mr. MILLER of Washington;

Mr. WALSH of New York; and

Mr. HENRY of Michigan.

THE COAL INDUSTRY RETIREE HEALTH BENEFIT ACT OF 1991

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

Mr. MCCLOSKEY. Mr. Speaker, in a matter of weeks, a job crisis will hit the coal industry if Congress does not take swift action; 120,000 retired mineworkers stand to lose their health benefits when a Government-mandated UMWA trust fund runs out of money.

H.R. 4013, the Coal Industry Retiree Health Benefit Act, introduced by my distinguished colleague from Pennsylvania, JOHN MURTHA, would save these benefits. The legislation would provide a self-sufficient program for the provision of retiree health benefits in the coal industry. It establishes a new 1991 UMWA benefit fund to provide health care coverage to retired coal miners. These trust funds would be financed by an industrywide levy based on each employee hour worked in coal production. The coal industry, not taxpayers, would be providing funds for the benefits.

This tax will help cover the health care costs of those retirees who have been orphaned by their employers who are no longer in business.

While I realize that many of my colleagues' districts may not contain coal miners or coal companies, the districts still may be dependent on coal for energy and fuel. Roughly 58 percent of all electricity produced in the United States is generated by coal.

The current UMWA trust fund will have a deficit of $300 million in 1993 if no changes are made. Congress must act now rather than pay the consequences later.

I urge my colleagues to cosponsor H.R. 4013, the Coal Industry Retiree Health Benefit Act of 1991.

CONGRATULATIONS TO THE PRESIDENT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I want to congratulate President Bush on his statement this morning, and that is that he made a mistake 2 years ago when he signed on to the budget summit agreement with the

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Democrats which raised taxes by $181 billion.

He realizes that was a mistake, and he said this morning that now they are trying to raise taxes by $93 billion again in return for a middle-income tax cut that amounts to a candy bar a day.

I congratulate our President. He has learned a tough, tough lesson; that is, when you play with crocodiles, you get eaten.

A CALL TO END DRAFT REGISTRATION

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

Mr. DEFAZIO. Mr. Speaker, 2 years ago, I told this House that it was time to end draft registration, and I thought I had a good case. The Berlin Wall had fallen, the Soviet Union had withdrawn from Afghanistan, and it was the right time to get rid of this relic of the cold war.

Elimination of draft registration made a good case then; it's beyond question now. There is no Soviet Union. Last year, our All Volunteer Forces went halfway around the world and defeated the fifth largest army in the world, and Defense Secretary Cheney went out of his way to say we did not need a draft.

Selective Service has for 13 years hidden a dirty little secret: Draft registration does nothing—nothing—to improve our military readiness. Even if we eliminated draft registration, we could have draftees lined up at the training bases weeks before there were training slots open for them. Not a single soldier would be on the front lines even an hour earlier just because we force young men to sign up in peacetime.

In 1980, Ronald Reagan said that in peacetime, "draft registration destroys the very values that our society is committed to defending," and warned that peacetime draft registration would actually decrease our military preparedness. It is still true.

Today I am introducing legislation to stop draft registration and save this country nearly $30 million a year. I urge my colleagues to join me in ending this waste of taxpayer dollars on a symbolic gesture that has outlived any usefulness it ever may have had. It is the easiest $30 million we will ever save.

FAIRNESS TO FLORIDA

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

Mr. GOSS. Mr. Speaker, no one likes to pay taxes, but when we do, we generally expect a corresponding level of service in return. But this is rarely the case for residents of Florida, whose tax dollars do not seem to buy much in Washington these days.

According to Florida Taxwatch, Florida ranks dead last among the 50 States in Federal grants received per capita. Even when you include the District of Columbia and the 5 territories, we are still last, 56th out of 56. That is a disgrace for the fourth fastest-growing State in the Nation.

That is not all. As a return of Federal taxes paid, Florida taxpayers paid $1.45 for each $1 returned to the State in Federal assistance. We are 44th in Medicaid, 50th in transportation, 48th in housing, 50th in job training, and the list goes on.

What does this mean for Floridians? Fewer services, more strain on State resources, and more anger toward a Federal Government that continually denies us a fair return on our tax dollar.

Mr. Speaker, it is budget time. How about a little fairness for Florida? We are part of the United States, too.

A BILL TO IMPOSE THE DEATH PENALTY IN THE DISTRICT OF COLUMBIA

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

Mr. HUBBARD. Mr. Speaker, another Washington, DC, tragedy has caused those of us in Congress to look again at the wisdom of the death penalty for crimes of a substantial nature in the District of Columbia.

Two days ago, the Sergeant at Arms of the U.S. House of Representatives, Jack Russ, was attacked by two men and a woman just five blocks from our Nation's Capitol Building. They robbed him. They beat him. They put a gun in his mouth and shot him. Fortunately, he turned his head as the gun went off and he is still alive, in stable condition.

We hear daily of similar crimes of violence here in the Nation's Capital, often within sight of the Capitol dome. On January 11, Tom Barnes of Senator RICHARD SHELBY's staff was shot just a block from his residence here on Capitol Hill. He died 4 days later. In December, Joey Lucas of my own staff heard gunshots outside his Capitol Hill residence only to learn the following day that a man had been shot and killed almost at his doorstep for 13 cents.

That same month, Keith Kellem, a young father of four and resident of Owensboro, KY, who had come to Washington to sell Christmas trees, was shot by a man stealing a Christmas tree. He survived the attack, but after nearly 3 months in the hospital he was returned to Kentucky yesterday, not to his family, but to Daviess County Hospital in Owensboro for further care. He appears to be permanently injured.

Members of Congress and their families and staffers have been mugged, shot, and raped in recent months. Citizens of our capital city live in constant fear. Their children are being killed for their jackets or their radios, and drug-related shootings are at an all-time high. Often the victims are innocent bystanders. Many times they are mere children.

Reports of murders and drive by killings have become routine news. In fact, Washington, DC, has the dubious distinction of having the highest murder rate in the Nation. It also has one of the Nation's most lenient penalties for first degree murder: life, with parole after 20 years. Washington, DC, has become a city out of control. Tourists fear to visit their own Capital City. This is a national disgrace.

For a number of years, I have been deeply concerned over the ever-rising murder rate in our Nation's Capital. In my opinion, outright lawlessness can no longer be tolerated in Washington, DC. Any criminal who attacks the rights and lives of others is a danger to society itself and must be severely dealt with.

We must accord every accused person his full rights, certainly. This is essential. But let us keep in mind that the rest of us have some rights too—the right not to be attacked by some thug out on bond after pulling three previous robberies, for example.

It seems clear to me that one really effective way to strike a hard blow at the appalling growth in crime and violence is to confront the offender with sure and stringent punishment. Just what will it take here in the Nation's Capital of Washington, DC, for those of us in Congress to be convinced that we need to bring about the death penalty or life without parole for first degree murder committed in the District of Columbia?

Today, I am introducing a bill, cosponsored by several colleagues, to allow for the imposition of the death penalty, or life imprisonment without parole, for first degree murder in Washington, DC.

SIMPLE LESSONS TO GET THE ECONOMY GROWING

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

Mr. BALLENGER. Mr. Speaker, there are only 17 days before the March 20 deadline, suggested by President Bush, for the U.S. Congress to take action to create new jobs in America. The 1990 budget summit agreement did great damage to our economy. Then the Democrats last week passed yet another huge tax increase which would do

further damage if ultimately passed. Tens of thousands of jobs were lost because of the failed tax policies coming out of the 1990 agreement. The huge tax increases passed in 1990 lengthened one of the worst recessions in American history.

On the other hand, the 1980's gave us one of the longest periods of prosperity in our Nation's history and created millions of jobs. We now need to relearn the lessons of the 1980's and return this country to economic growth.

A recent Heritage Foundation report listed 7 simple lessons for economic growth.

First, economic growth is the best weapon against poverty;

Second, economic growth is stimulated by low taxes;

Third, the poorer get richer when the rich get richer;

Fourth, if the aim is to make the rich pay more actual taxes, cut their tax rates;

Fifth, raising taxes on the rich does not help the poor;

Sixth, increased Social Security taxes have wiped out the benefits of Reagan's tax cuts for many Americans, and

Seventh, hiking taxes does not lower the budget deficit, it raises it.

Mr. Speaker, biding by these seven powerful lessons will bring us out of this long recession, but we need to act now. As one of those who voted against the budget summit agreement in 1990, I am really pleased to see the ever-increasing support for tax cuts in this Chamber. It is not too much to ask to pass a jobs creation bill within the next 17 days.

□ 1210

IN HONOR OF COACH DON HASKINS' 600TH VICTORY

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

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to congratulate University of Texas at El Paso Basketball Coach Don Haskins on winning his 600th victory. It came when the UT El Paso Miners beat the Wyoming Cowboys by one point in the Cowboys' own corral. This victory places Coach Haskins in a position that few can claim; he is 1 of only 12 NCAA division I coaches who have won 600 games during their careers.

Coach Haskins began his college coaching career in El Paso at what was then called Texas Western College [TWC] just before the 1961–62 basketball season. It was after his Miners brought home the 1966 NCAA basketball championship trophy that the name of the school officially changed to UT El Paso, or as we know it, UTEP.

Don Haskins, known throughout the desert Southwest as the Bear, can be found during the basketball season in his trademark open shirt and sports jacket and carrying a rolled-up program. The image of a gruff, short-tempered coach, Haskins stalks up and down the court, shouting to his players and the officials. The Bear is not at all like the image, in fact he helps friends and strangers, many times anonymously.

But Don Haskins will be remembered by the sports world more for his role in changing the face of college basketball than for his wins and losses. In 1966, the majority black TWC Miners beat the all white Kentucky team for the national championship. He said he could not enjoy winning that championship because he was already looking to the next season.

In his 4 decades he has seen 9 of his teams win at least 20 games; for 7 straight seasons—1983–84 to 1989–90—he took his teams to the NCAA tournament; he has won 4 Western Athletic Conference [WAC] postseason tournaments; he has won 6 WAC championships outright, and has been inducted into the Texas Sports Hall of Fame.

During his 30 years at UTEP, the list of big names to play for the Bear includes Jim "Bad News" Barnes, the first NBA draft pick in 1964; NBA Hall of Famer Nate "Tiny" Archibald; Nolan Richardson, basketball coach at the University of Arkansas; and current NBA standouts Tim Hardaway of the Golden State Warriors; Greg Foster, Washington Bullets, and Dave Feitel, New Jersey Nets.

The Bear hasn't stopped growling. The 1991–92 Miners are currently tied with Brigham Young University and the University of New Mexico for the WAC title. All three schools have 10–4 league records with two games left in the season.

He is not looking at his 600th victory as a career-stopper. The Bear is looking ahead to the WAC championships, and then to the next postseason tournament when the Miners bring another national award home to El Paso.

CONGRESS NEEDS TO PASS A TOUGH CRIME BILL

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

Mr. THOMAS of Wyoming. Mr. Speaker, in recent weeks Congress has realized no one is immune from violence and crime. The majority leader said in the paper today that "We have been drenched in an acid bath of violence. We cower behind locked doors."

I do not know what that means. What it means is we need to do something. We need to get a tough crime bill through this House. Why do we not make changes here? The crime bill is not working, yet we continue to give more money to the District to do something that does not work.

This is not something that is impersonal to me. In my own office we have had three staff members victimized, two at gunpoint, in the parking lots of their own apartment houses. My wife and I have had several instances with area crime.

Frankly, I am pleased to hear that Members of this body are calling for tougher treatment of crime and criminals. This is our Nation's Capital. We should be able to walk the streets safely.

We do need to learn from what is happening here. We need to learn that to go easy on crime and criminals does not stop crime. In fact, it encourages it.

More especially, Mr. Speaker, we need to learn it is time for action, not just words and posturing, not just passing discussion about crime bills. We need real crime legislation. We need laws designed to protect citizens and their property. Anything else is a lesson lost.

GOOD REASONS FOR PRESIDENT BUSH'S LOW VOTER APPROVAL RATING

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

Mr. FAZIO. Mr. Speaker, it is no accident that George Bush's approval rating today stands at just 40 percent—one look at the President's budget and anyone can understand voter's skeptism about whether this President stands for anything other than the interests of the wealthy.

The education President cuts 400,000 kids out of the Pell Grant Program. The kinder gentler President cuts Medicare for the elderly. The Desert Storm commander-in-chief cuts entitlements for veterans. And the same President out pressing the flesh for votes and talking about creating jobs offers a budget that sounds appealing on the stump but pales in comparison to the one offered by the Democrats.

BIG SPENDING LIBERALS JUST DO NOT GET IT!

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, out on the campaign trail, I see that the Democratic challengers are trying to woo voters by using a new tactic, by sounding Republican. I notice that each is attempting to portray themselves as a friend of the middle class. How are they doing it? Interestingly enough by offering a varied array of middle-class tax cuts. Imagine that?

Many on this side of the aisle have known that one of the main keys to economic growth is tax relief. Sadly, big spending liberal Democrats just

don't get it. Despite the growing recognition that the tax and spending hikes in 1990 were a mistake which has forced economic hardship on the backs of nearly every American, liberal policymakers in Congress still resist the remedy of tax cuts. Their solution? Liberal Democrats are still convinced the Government must spend its way out of the recession. And to make things worse, last week in the House, they passed another huge tax increase.

As one of those who voted against the tax increase in 1990, the belated recognition by some Members of this body that high taxes and high Government spending hinder job creation and economic growth certainly is welcome news. I am pleased to see new converts. We now have 17 days until the March 20 deadline. Congress needs to adopt the Republican growth package immediately.

THE DIFFERENCE BETWEEN REPUBLICANS AND DEMOCRATS IS BECOMING CLEARER

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

Mr. SMITH of Florida. Mr. Speaker, people say they want us to define the difference between Democrats and Republicans. Last week we proposed and passed a Democratic middle-class tax cut, this week we will begin debating the budget. The difference is becoming clear.

The President's budget, crafted with a stale vision of the world, prepares us to fight against a Communist military threat that no longer exists.

The Democratic budget is the budget of tomorrow: It enables us to fight the economic wars that will define our quality of life, and the quality of life of our children.

Our budget leads the way in our most important economic battle—the campaign to convert our prolific defense production industry into domestic production industry.

It provides $1 billion to help convert military factories into factories that produce products for tomorrow's markets while retaining the high quality jobs that many Americans enjoy today, and while we plan to convert defense industries to domestic industries, the Democratic budget provides jobs to help America overcome the economic straightjacket the administration has put us in.

The Democratic budget creates over 150,000 more jobs than President Bush's budget. These high quality jobs will help our cities build mass transit and highways, hire more teachers, and bring health care to every American. And it does this with a smaller budget deficit than the President's $475 billion deficit and with fairness and compassion.

Mr. Speaker, the difference between Democrats and Republicans is becoming all too clear. The Republicans fight yesterday's battles, while the Democrats prepare America for the future.

□ 1217

COMPREHENSIVE PREVENTIVE HEALTH CARE ACT OF 1992

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

Mr. GILMAN. Mr. Speaker, recently U.S. News & World Report published a cover story on "Health Care Fraud." This article addressed an important problem with our Nation's health care system, the lack of coverage for prevention. Our Nation continues to be burdened by preventable illnesses, injuries, and disabilities. Health promotion and disease prevention offer the opportunity to contain health care costs, to prevent the premature onset of disease and disability, and to help all Americans achieve healthier, more productive lives, as well as the reduction of the number of health care frauds in our country.

My colleagues may be interested to learn that early in this session I introduced the Comprehensive Preventive Health Care Act of 1992, H.R. 4094. This measure provides for periodic health exams, screening and services under the Medicare Program, the Federal Employees Health Insurance Benefits Program, the Department of Veterans Affairs, health care system, and through our Nation's health clinics.

There are a number of proposals to heal our Nation's health care system, but no one proposal has received wide acceptance. The President included many of my preventive health care provisions in his health reform plan. It is essential that we include preventive health care in any national health care plan. People need to be educated more about prevention as an effective alternative to avoidable acute care, as well as a cost effective means of reducing our Nation's health care costs.

Mr. Speaker, I invite my colleagues to take a close look at H.R. 4094 and join me in my effort to produce a healthier nation.

MAKING AMERICA COMPETITIVE AND PRODUCTIVE

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

Mr. MAZZOLI. Mr. Speaker, how can we make American business competitive and productive without lapsing into protectionism? How can we level the trade playing field without limiting the game to one team?

There are two ways to do that, Mr. Speaker. One is to support the Attorney General's effort to redefine United States antitrust laws to apply to Japanese cartels, and Japanese kieretsu organizations which exclude United States-made products. Another way is to support majority leader GEPHARDT's efforts to reinstate Super 301, the provision of the 1988 trade bill which allows the President to retaliate against those countries which in trade matters do not treat us fairly.

All American industry and American workers, the greatest in the world, need is a fair opportunity, Mr. Speaker, and a level playing field. These two measures would give us that situation.

WHO CARES MOST ABOUT EDUCATION EXPENDITURES?

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

Mr. ARMEY. Mr. Speaker, the question is who cares most about the service of our education dollar for the benefit of our youngsters, who cares most for the outcome of that expenditure of resources on behalf of our youngsters, the parents of those children or the union bosses at the National Education Association?

The President believes in the parents of the children. The President believes they are the best judge. He sent us an education bill that would have given those parents a choice.

That choice offended the National Education Association. They bullied, they cajoled, they reasoned with the Democrat majority on the Education and Labor Committee until today the union bosses at the National Education Association have totally taken any vestige of choice away from the American parent. It is not a matter of concern for the children. It is a matter of concern for what does your education dollar do for the National Education Association.

Make your choice: the children or the union. That is what that bill will be all about.

DEATH PENALTY NOT THE ANSWER

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, yesterday while I was at the hospital visiting Jack Russ, some Members took to the floor to call for the death penalty in the District. Jack seemed in remarkably good shape, ever generous and congenial after the outrageous and harrowing experience of being shot while walking his dog.

Members who think that the death penalty is what it takes had best look at data from their own districts. The States that have the death penalty

have murder rates as high, yes, and often higher than States without the death penalty. A brutal sanction, abolished in all but a few mostly oppressive countries, one that does not deter and is applied only after killing is not good enough, my friends. Our people want us to prevent the killing.

Have Members taken a stand on stopping the slaughter? Where do those Members who trumpet the death penalty stand on the Brady bill? How did they vote on the assault weapons provision of the crime bill the day after the Killeen, TX massacre? How did they stand on strict liability on the assault liability referendum that was passed overwhelmingly by the people of the District of Columbia?

If we want to stop the killing, there are proven ways, and the death penalty, my colleagues, is not one of them.

COMMUNICATION FROM THE CLERK OF THE HOUSE

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

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

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit three sealed envelopes received from the White House at 4:40 p.m. on Monday, March 2, 1992 as follows:

(1) Said to contain H.R. 2212, An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and a veto message thereon;

(2) Said to contain a message from the President whereby he transmits the Annual Report on Hazardous Materials Transportation for calendar year 1990;

(3) Said to contain a message from the President whereby he transmits the Agreement between the United States of America and the Republic of Finland on Social Security.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-196)

The SPEAKER pro tempore (Mr. MAZZOLI) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

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.*

ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION, CALENDAR YEAR 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works 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.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Recorded votes ordered on H.R. 939 and S. 2184, will be taken on Wednesday, March 4, 1992. Recorded votes ordered on the remaining bills considered under suspension of the rules will be taken after debate has concluded on those bills.

VETERANS' HOUSING AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 939) to provide eligibility to members of the Selected Reserve for the Veterans' Home Loan Program, as amended.

The Clerk read as follows:

H.R. 939

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

SECTION 1. ELIGIBILITY OF SELECTED RESERVE.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) Each veteran described in section 3701(b)(5) of this title".

(b) FEES.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

SEC. 2. ATTORNEY FEES IN CONNECTION WITH CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROCEEDINGS.

(a) IN GENERAL.—Sections 5904(c) of title 38, United States Code, is amended—

(1) by striking out "In" at the beginning of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), in"; and

(2) by adding at the end the following new paragraph:

"(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act.

SEC. 3. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a demonstration project under this section during fiscal years 1993 and 1994, at not fewer than two but not more than 10 regional offices, for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) REPORT.—The Secretary shall transmit a report to the Congress no later than December 31, 1994, containing a description of the results of the implementation of the project carried out under this section and shall continue to make annual reports to the Congress with respect to the default rate and other information concerning the loans guaranteed under this section.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

(a) AUTHORITY.—Section 3720 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of loans and installment contracts secured by real property made in connection with the sale of properties acquired under this chapter.".

(b) TREATMENT OF PROCEEDS.—Section 3733(e) of title 38, United States Code, is amended by inserting ", and the amount received from the sale of securities pursuant to the authority under section 3720(h)," after "subsection (a)(1) of this section".

SEC. 5. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out "3102" and inserting in lieu thereof "5302".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

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

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 939, the bill now under consideration.

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

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, H.R. 939 would enhance the home loan program for veterans and extend the program to members of the Reserves and National Guard who have served at least 6 years.

My colleagues will recall the role of the Reserves and National Guard units that were called to active duty during the Persian Gulf war. They proved they are the critical part of the total-force concept, and the individuals who served there are already entitled to home-loan benefits, because, Mr. Speaker, they are veterans now, those National Guardsmen and reservists who served in the Persian Gulf war.

This bill would extend the home-loan benefit to those who are called to active duty but who have served at least 6 years in the Reserve or National Guard.

I want to commend the gentleman from West Virginia [Mr. STAGGERS], the distinguished chairman of our Subcommittee on Housing and Memorial Affairs, for the leadership the gentleman has given us in bringing this bill to the floor. I am also grateful for the cooperation and leadership of my good friend, the gentleman from Arizona [Mr. STUMP], the ranking minority member of the full committee. I also want to thank the gentleman from Indiana [Mr. BURTON], the ranking minority member of the subcommittee, for his cooperation and leadership as well.

I think now it is a good time to mention, Mr. Speaker, that a dedicated and longtime member of the Committee on Veterans' Affairs, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], announced Sunday that he would not seek reelection. He certainly will be missed on this committee. He has been on there for many, many years, and he even served as ranking minority member. We will miss JOHN PAUL HAMMERSCHMIDT.

I want to thank the gentleman from Alabama [Mr. PAYNE] for helping draft this legislation.

Section 5 of the bill, as reported by the Committee on Veterans' Affairs, contained language that would have clarified a provision in title XXXVII so that waivers of debt or overpayments, like veterans' benefits themselves, would not be taxed. We recognized that this provision of the bill lies within the jurisdiction of the Committee on Ways and Means, and that committee asked for a referral of this bill.

For the past several months the two committees have attempted to work something out with the Internal Revenue Service. Unfortunately, we were not able to do so, so on February 12, the Committee on Ways and Means chairman ordered the bill reported with an amendment to section 5. For reasons which will be explained by the gentleman from West Virginia, we were unable to agree to the amendment, so section 5 has been dropped from the bill as we are considering it today.

I certainly want to thank the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], the ranking minority member, the gentleman from Texas [Mr. ARCHER], for their interest in trying to resolve the matter, and I also want to thank members of the Committee on Ways and Means.

I want to mention the committee staff of the Committee on Ways and Means who worked with our staff. We tried to solve this with the Internal Revenue Service. It was impossible to do.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS], the chairman of the Subcommittee on Housing and Memorial Affairs, for a detailed explanation of the bill.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee, for their efforts and support. The individual members of the committee have worked hard together to develop this legislation, and I would

like to thank each of them for their excellent contributions.

Mr. Speaker, under current law, home loans guaranteed by the Department of Veterans Affairs are available to veterans with sufficient qualifying service since September 16, 1940; for unmarried surviving spouses of veterans who died from service-connected causes; for spouses of service personnel officially listed as missing in action, or captured, for more than 90 days; and for service personnel who have served at least 181 days.

H.R. 939 expands entitlement to the Department of Veterans Affairs Home Loan Guaranty Program to members of the Reserves and National Guard who have served at least 6 years. As demonstrated by the Persian Gulf war, the scope, size, and importance of missions assigned to Reserve components have increased dramatically.

Today, a substantial portion of the manpower and equipment of each of the services may be found in their Reserve components. The Armed Forces now depend heavily on reservists as a part of a total force comprising 1.5 million ready reservists in addition to more than 2 million active component members. During the Persian Gulf war, a total of about 228,000 reservists were ultimately activated in support of Operation Desert Storm. In his address to the Congress on March 6, President Bush declared that "* * * this victory belongs * * * to the regulars, to the Reserves, to the National Guard. This victory belongs to the finest fighting force this Nation has ever known in its history."

The change to afford home loan entitlement to reservists is needed at this time to recognize the expanded responsibilities of the Reserves in this Nation's defense. An overwhelming majority of reservists responded willingly to the call to active duty, but the recent callup did disrupt lives and, in many cases, caused real economic hardship. Many reservists will be reevaluating their participation in the Reserve components on the basis of their Desert Storm experience. Whether or not members of the Guard and Reserve continue to serve in the Reserve components depends in part on the relief and benefits that are made available to them. With the reduction of the active military forces, the Reserve components will be relied on to provide an adequate cost-effective total force. Hence incentives to recruit and retain reservists and National Guardsmen may become even more important, particularly in light of the personal sacrifices required of recently recalled reservists.

The Montgomery GI Bill Act of 1984 [MGIB] extended education benefits to certain reservists. The 6th QRMC reported that since the enactment of the MGIB, there are clear indications that it is having a positive impact on the quality and number of individuals joining the Reserves. The analysis maintains that reservists participating in the MGIB are more likely to remain in the Reserves than their nonparticipating counterparts. Studies indicated that the continuation rate for MGIB participants is 15.2 percent higher than that for Reserve members not participating. It is not unrealistic to expect that the opportunity to participate in the DVA home loan program would also have an effect on the numbers joining and staying in the Reserves.

There is another corollary benefit that may be realized from extending the home loan program to reservists. Reservists obtaining loans guaranteed by the Department of Veterans Affairs would be creditworthy. They are, generally, an older, more mature, and more stable group with long-time civilian job histories. Many are familiar with the costs and responsibilities of homeownership. Therefore, this group may help to financially stabilize the program through an influx of loan fees with fewer claims to be paid on their behalf.

Currently, veterans must pay a loan fee of 1.25 percent of the loan amount to the Department in order to obtain a guaranteed loan. Fees are lower, 0.75 percent and 0.50 percent with downpayments of 5 percent and 10 percent respectively. In recognition of the differences between veterans and active duty members of the regular Armed Forces, the fees to be charged reservists would be higher: 2 percent of the loan amount or 1.5 percent with downpayments of at least 5 percent and 1.25 percent with downpayments of 10 percent or more.

The bill would also permit attorneys to represent veterans and charge a reasonable fee in connection with any proceeding before the Department arising out of a loan guaranty indebtedness.

Mr. Speaker, statutes governing representations of claimants for veterans benefits have, for over 125 years, imposed limitations on amounts that may be paid to representatives, agents, and attorneys in connection with claims for benefits. The limitation was originally enacted during the Civil War to prevent so-called pension agents from employing sharp practices and collecting excessive fees simply for filling out applications for pensions. The legislative history and purpose of the attorney fee limitation was thoroughly researched in a paper prepared by the Library of Congress and published by this committee in 1987. See "Legislative History of the Ten Dollar Attorney Fee Limitation in Claims for Veterans Benefits," Committee on Veterans' Affairs, House Committee Print No. 8, 100th Cong. 1st Sess. (1987). In 1988, Public Law 100-687, the Veterans' Judicial Review Act amended the limitation by providing that no fee could be charged "in connection with a proceeding before the Department of Veterans Affairs with respect to laws administered by the Department" until after the Board of Veterans' Appeals "first makes a final decision in the case." Testimony presented during committee hearings held in 1986 and 1988 on the existing attorney fee limitation included reference to the VA's interpretation of the scope of the provision and the effect it had on veterans who were indebted to the United States as a result of VA programs.

Congressional intent with respect to limitations on payment of attorneys fees has been less clear in cases involving VA home loan guarantees than those involving veterans' claims for benefits. Following the establishment of the veterans' housing program in 1944, the law was amended to include a general authority for the Secretary to sue and be sued in any court of competent jurisdiction with respect to housing loan matters. As to housing matters properly before any such court, it appears that Congress never intended to regulate attorney fees in such matters, which did not pertain to claims for monetary benefits, the words of the attorney fee limitation in effect when the housing loan program was established.

Subsequent to the modifications of the attorney fee limitation enacted as part of the Veterans' Judicial Review Act, both the U.S. District Court for the Eastern District of Virginia and the VA general counsel construed the reach of the limitations. In a 1989 case, *Bahnmiller* v. *Derwinski*, 724 F. Supp. 1208 (E.D. Va. 1989), aff'd in part, dismissed and vacated in part, 923 F.2d 1085 (4th Cir. 1991), the court held that the fee limitation did not apply in debt collection proceedings outside of the VA's own administrative proceedings. This opinion was quickly adopted in a general counsel precedent opinion which also interpreted the fee limitation as being inapplicable to proceedings related to the collection of payments made by the VA in the case of a foreclosed mortgage. Conversely, the general counsel ruled that the limitation does apply to services performed by attorneys seeking administrative relief in the form of a waiver of the indebtedness under 38 U.S.C. 5302, formerly 3102. Although both the court opinion and the general counsel opinion are public documents, uncertainty and confusion about the scope of the statute is not uncommon, even among members of the bar.

A veteran confronted with VA efforts to collect a loan guaranty debt can raise several alternative defenses to such efforts—including applying for a retroactive release of liability, asserting State antideficiency statutes, or seeking waiver of the debt. However, the existing fee limitation can create an undesirable conflict for the veteran seeking legal assistance. An attorney

may charge for services rendered in connection with nonadministrative, non-VA, proceedings challenging the VA's right to collect the debt or recover some part thereof, but he or she cannot legally bill the client for any services rendered in an effort to have VA waive the debt through its own administrative process. Given the nature of the VA home loan guaranty program, and the requirement that lenders who have made such guaranteed loans must avail themselves of State foreclosure proceedings, attorneys called upon to assist veterans in home loan debt collection proceedings must often enter into fee agreements and render substantial services before they are certain what defenses are available to a veteran and which defense is most likely to succeed.

In light of the confusion this may cause, and to avoid the conflict which an attorney inevitably faces when advising a client to pursue waiver of the debt—a service for which a fee cannot legally be charged—the committee believes a modification to the recently enacted fee limitation may be the best resolution of this conflict. However, the committee is very concerned that the advocates of attorney representation in other types of benefits proceedings may misinterpret the committee's intent in reporting this limiting departure from the traditional prohibition on paid representation in administrative proceedings. In this regard, the committee notes that several major veterans service organizations, which have traditionally provided free representation to veterans seeking waivers of indebtedness, have testified that they would have no objection to this legislative change. Notwithstanding this limited endorsement, given the historically nonadversarial nature of the claims adjudication process, the committee believes that there are compelling reasons to continue the prohibition on paid representation in other administrative proceedings before the Department, and would look with disfavor on any efforts to expand this limited exception to that prohibition.

The bill would permit attorneys to represent veterans and charge reasonable fees in connection with any waiver of debt collection proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code. It would also require the filing of a fee agreement with the Department, as is now required when attorneys provide paid representation before the Court of Veterans Appeals. The committee expects that the Department will review such fee agreements and report to the Congress its findings regarding instances of excessive fees being charged to veterans in such cases.

H.R. 939 would also establish a 2-year pilot program on adjustable rate mortgages at 2 to 10 regional offices in fiscal years 1993 and 1994.

Adjustable rate mortgages [ARM's] have become commonplace in the home loan market. Testimony before the Subcommittee on Housing and Memorial Affairs on May 2, 1991, indicated that the Department of Veterans Affairs is the only major mortgage market participant without the authority to guaranty an ARM. The National Association of Homebuilders and the Paralyzed Veterans of America testified that they believe that it is necessary for the Department to provide for the guarantee of ARM's to make the program fully responsive to market developments. Volatile interest rate fluctuations reduce housing activity and adjustable rate mortgages are used most during such periods. Although interest rates have been stable recently, it is very difficult to predict when such volatility may again occur. The committee believes that a pilot program should be established to determine whether veteran borrowers would benefit from this type of mortgage which is often the preferred mortgage arrangement of nonveteran borrowers.

All the witnesses at the hearing who testified about ARM's advised that an ARM guaranteed by the Department should be circumscribed, with limits on yearly interest rate increases as well as a maximum cap over the life of the loan. Tailoring an ARM in a manner similar to those insured by the Federal Housing Administration [FHA] was also favorably mentioned by the Mortgage Bankers Association, the National Association of Homebuilders, and the Paralyzed Veterans of America. FHA's adjustable rate mortgage program allows interest rates to escalate no more than 1 percent per year with a cap of 5 percent over the life of the loan.

In 1987, the House of Representatives passed H.R. 2672 which included authority for the Department to run a demonstration program on ARM's. However, this legislation was not passed by the Senate. H.R. 5002 which passed the House in 1990 contained a similar provision.

H.R. 939 would require the Secretary to establish a demonstration ARM program in at least 2 but no more than 10 regional offices for 2 years, beginning in fiscal year 1993, in a manner similar to FHA's adjustable rate mortgage program. The reported bill would also require the Department to furnish the Congress with a report by December 31, 1994, containing a description of the results of this project and furnishing a yearly report with respect to the default rate.

Mr. Speaker, this demonstration project is not intended to put veterans in houses they can't afford. Rather, it is simply to test another financing option. If the Secretary determines that the default rate under the FHA program is at an unacceptable rate, the committee recognizes that the Secretary may find it appropriate to adopt underwriting standards that are stricter than those used by FHA.

Finally, the bill would benefit the VA's vendee loan sale program by authorizing the guaranty of certificates that are marketed and traded as securities.

In essence, H.R. 939 would permit the Secretary of the Department of Veterans Affairs to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37.

The mortgage loans in question are vendee loans that arise as an incident to the Department's Loan Guaranty Program. On some number of defaulted loans, it is less expensive for the Department to make partial payments on its guaranties and take over the residential properties than to no bid, that is—pay the entire guaranty amount and leave the properties with the mortgages/mortgagors. When the Department acquires properties, it resells them, and a substantial number are sold with purchase money mortgage financing—that is, with financing provided by the Department. These loans are known as vendee loans. The Department then sells the vendee loans in the secondary mortgage market.

Loans are pooled, securitizes, and then sold—usually three sales per year with an annual volume of about $800 million. The securitization vehicle is a special trust, which issues multiple-class passthrough certificates and elects to be taxed as a real estate mortgage conduit [REMIC]. Outside firms, selected through competitive bidding, assist the Department in setting up and operating each REMIC and in selling the certificates to investors.

The Department already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945 before modern mortgage-backed securities were developed, the Department cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans. This lack of a direct certificate guaranty prevents the Department from obtaining the best pricing on its securitized loans. According to the Department, a certificate guaranty promising timely payment of interest and principal would increase proceeds by decreasing the interest rate or yield that must be offered to investors by an estimated 10 basis points, one-tenth of 1 percent. On a volume of $800 million this could generate additional proceeds of approximately $5 million. The Department also indicates that loan sale expenses would decrease by about $400,000 yearly because a U.S. Government guaranteed security need not be registered with the SEC nor rated as to creditworthiness by commercial rating agencies.

Therefore, Mr. Speaker, a guaranteed certificate by the Department would offer the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of Government National Mortgage Association [GNMA] certificates. According to the Department, adding this direct certificate guaranty of timely payment would result in no material increase in risk or cost to the Government.

Mr. Speaker, these enhancements to the Loan Guaranty Program will not be a cost to our taxpayers in spite of the information furnished by the Office of Management and Budget. On the contrary, if enacted, the Congressional Budget Office estimates that this bill will save $5 million in the first year and $27 million over a 5-year period.

This information which is being circulated by OMB is a prime example of why I voted against the summit agreement. OMB is allowed to play these kind of games. Two years ago OMB agreed that extending the Home Loan Guaranty Program to reservists and National Guardsmen would save money. How they are stating it would increase direct spending without sufficient offsets. Mr. Speaker, let me reiterate that the bill saves money—$27 million over 5 years. I personally resent the administration's attempt to derail this legislation through the use of misinformation at the 11th hour.

Because of the pay-as-you-go requirement of OBRA, I regret that we are unable to move the bill as reported by the Committee on Veterans' Affairs. Although H.R. 939 contains some excellent provisions to enhance the VA's Loan Guaranty Program, we had to drop a very important provision which clarified that waivers of debts or overpayments should be treated in the same manner as other veterans benefits for taxation purposes.

Although no data has been furnished by the Joint Tax Committee on how much money IRS may have collected on waivers in the past, they have estimated that the enactment of the committee provisions would result in a loss of revenue of $8 million in fiscal year 1992 and $89 million over the next 5 years. Unfortunately, no one can challenge this cost estimate. This estimate is just that—an estimate. To our knowledge, the IRS has never collected a penny from a veteran who had been granted a waiver. But, there is no way anyone knows what the loss of revenue will be if the Office of Management and Budget implements its policy to tax waivers. I know one thing. At a time when the Congress is considering tax breaks and can't find the money to exempt veterans from having to pay a tax on a debt waived by the VA, something is really wrong.

The Ways and Means Committee amended the waiver provision by limiting the tax exclusion to waivers of veterans' debts created as the result of defaults on VA-guaranteed home loans that were assumed by third parties. We are deleting the waiver provision as reported by the Ways and Means Committee. It would be difficult to explain to a veteran why a debt waiver in an assumption case is not taxable, but is taxable for a veteran who may have suffered the loss of his home because he lost his job.

□ 1235

Again, I firmly believe that a debt waived by the VA should not be taxed at a time when the administration is proposing tax relief for others.

I plan to pursue this matter at a later date. I have grave doubts about the cost estimates we have received from the Joint Committee on Taxation.

We need to enact the other provisions of this bill. Therefore, I urge favorable consideration to pass this important piece of legislation for the other veterans.

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

Mr. Speaker, I rise in support of H.R. 939, as amended, a bill to amend title 38 with respect to housing loans for veterans and other purposes.

This bill expands entitlement to the VA Home Loan Guaranty Program to members of the National Guard and Reserve. It permits attorneys to represent and charge a reasonable fee in connection with any proceeding before the Department arising out of a loan guaranty indebtedness. It also establishes a 2-year pilot program on adjustable rate mortgages in at least two regional offices.

Yesterday, the committee received a cost estimate from OMB that differs from the Congressional Budget Office. The committee hopes that OMB and CBO can agree on scoring methodology so that we can resolve the cost-benefit issue.

This measure is the result of many hours of hard work. This bill, as reported by the VA committee, originally has a provision that came under the jurisdiction of the Ways and Means Committee. We could not agree with the amendment offered by that committee, so we dropped the provision. My good friend, SONNY MONTGOMERY, the chairman of the Committee on Veterans' Affairs, should be commended for his leadership in moving this legislation.

Mr. Speaker, I also want to commend HARLEY STAGGERS, chairman of the Subcommittee on Housing and Memorial Affairs, and DAN BURTON, the ranking member of the Subcommittee on Housing and Memorial Affairs for their unified achievement in H.R. 939.

Mr. Speaker, I urge my colleagues to consider favorably this veterans' housing legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in strong support of H.R. 939, a measure to extend the home loan benefits enjoyed by retired active duty personnel to certain members of the National Guard and our Ready Reserves.

I would like to commend the gentleman from West Virginia [Mr. STAGGERS] for introducing this important measure, and the distinguished chairman of our Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 939 will extend eligibility for our all important Veterans' Home Loan Program to individuals who have completed at least 6 years of service in the National Guard and Reserves, who were either honorably discharged, placed on the retired list, or transferred to the Ready Reserves or continue to serve with the selected Reserve.

In addition, we should note that this home loan measure will establish loan fees for reservists receiving loans and will permit attorneys to represent veterans in proceedings before the Department of Veterans Affairs arising out of any loan indebtedness involving the VA.

Mr. Speaker, it is all important to note that this bill also directs our Secretary of Veterans Affairs to establish and report annually on a 2-year pilot program, as the gentleman from Arizona noted, on adjustable rate mortgages to mortgages offered by the Federal Housing Administration.

Mr. Speaker, this measure will extend housing benefits already enjoyed by many retired active duty veterans, to many veterans in our selected Reserve who have also served their country faithfully and well.

Accordingly, Mr. Speaker, I strongly urge support for this measure and I urge my colleagues to join in its support.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. HARRIS], a member of this committee.

Mr. HARRIS. Mr. Speaker, I thank the chairman for yielding me this time.

Let me first say, Mr. Speaker, what a pleasure it is to work with the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from West Virginia [Mr. STAGGERS], and all the members of the committee, as well as the gentleman from Arizona [Mr. STUMP], as we work in the interest of our veterans.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 939. This bill will improve veterans' housing programs.

Since I serve on the Subcommittee on Housing and Memorial Affairs in the House VA Committee and have actively supported legislation to extend eligibility for VA home loan guaranty benefits to guardsmen and reservists, I am particularly pleased that this Congress will consider this issue today.

Although H.R. 939 contains many important changes to the VA housing programs, such as authorizing the VA to guarantee payments on certain certificates sold on the secondary mortgage market, I feel that the extension of VA home loan eligibility to National Guardsmen and reservists is a very important part of the bill and is long overdue.

As many of my colleagues are aware, the number of reservists and guardsmen that served in the Persian Gulf war was tremendous. My home State of Alabama had the highest percentage of reservists and guardsmen protecting our Nation. I believe these men and women should be able to enjoy the same benefits as their counterparts in the active service branches.

In addition, I am introducing legislation today that would allow members of the National Guard and Reserve who have served 20 years to be buried in national cemeteries. Just as H.R. 939, I believe this is a matter of fairness.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE] who was the committee, although right now he is operating with the Committee on the Budget.

Mr. PAYNE of Virginia. Mr. Speaker, I would like to thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from West Virginia [Mr. STAGGERS], the chairman of the subcommittee, as well as the ranking minority member, the gentleman from Arizona [Mr. STUMP], the gentleman from Indiana [Mr. BURTON], and all the members of the Committee on Veterans' Affairs for including my bill, H.R. 1314, in today's package of veterans' housing amendments, H.R. 939.

My bill will improve the ability of our veterans to purchase a home by implementing a demonstration program so veterans will have access to adjustable rate mortgages on home loans through the Department of Veterans Affairs.

Mr. Speaker, the Department of Veterans Affairs is the only major participant in the housing market without an adjustable rate mortgage.

Passage of this legislation will establish a 2-year demonstration program modeled after the successful program that HUD has offered since 1984.

The HUD program is reasonable for borrowers because it allows for only a 1-percent adjustment per year, with a 5-percent cap over the life of the mortgage.

The bill directs the Department of Veterans Affairs to implement a 2-year adjustable rate mortgage program in at least 2 of their regional offices, but not more than 10.

I believe it will make the Veterans Housing Program more responsive to market developments and it will allow us to test and perfect how these mortgages can best be offered.

This bill is identical to legislation passed by the House in July of 1990.

Mr. Speaker, I congratulate the Committee chairman for including this very important mortgage product in the legislation before us today, and I am very pleased to be able to help ensure that the dream of becoming a home owner is more widely extended to our veterans.

Mr. Speaker, I urge my colleagues to support this legislation.

□ 1245

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

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS], a member of our committee.

Ms. WATERS. I thank the chairman for yielding.

Mr. Speaker, I rise in support of H.R. 939. I would like to commend the chairman of the Committee on Veterans' Affairs, SONNY MONTGOMERY and the chairman of the Subcommittee on Housing and Memorial Affairs, the gentleman from West Virginia, HARLEY STAGGERS, for their leadership on this legislation.

H.R. 939 addresses two separate crises among veterans, military personnel and their families. The first is a chronic lack of affordable housing for veterans. One-third of all homeless people are veterans. That is, up to one million homeless veterans roam the streets of this country. In addition, foreclosure rates for veterans continue to escalate. In States as diverse as Alaska, New Jersey, Pennsylvania, and Florida, VA foreclosure rates are frighteningly high.

The second crisis is the impending economic dislocation which will affect millions of military employees as they are separated from their careers. With the end of the cold war, our military budget will come down. Downsizing will continue into the indefinite future.

Policymakers cannot wait to assist our veterans make the transition from a military to a peacetime economy. We owe our veterans job training, education, health care and housing.

H.R. 939 affects both these important areas. By expanding eligibility for VA home loans to former members of the National Guard and the Armed Forces Reserves, we will help reservists with the task of buying a home.

While this is a significant step, there is so much more to be done. Our Government must be prepared to reward the individuals and families who have sacrificed to win the cold war, with a significant slice of the peace dividend.

I look forward to working with my colleagues to develop legislation to respond to the needs of this country's military families. They need us now more than ever.

Mr. Speaker, I would like to say to the administration, despite the budget agreement, the Reconciliation Act of 1990, despite the fact that I suppose this Congress agreed that we would not spend dollars that we could not identify and show where we would get the money from, I do not think this should be a question for our veterans. I think veterans should be our No. 1 priority, and I have to stand here today and say that I disagree with the administration. I am sorry the administration is not willing to support this bill; Mr. Speaker, we have a number of courageous people who are, and I am proud to be one of them.

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my colleagues today in support of H.R. 939, the veterans' housing amendments.

This bill extends the same home loan benefits afforded retired active duty personnel, under the Department of Veterans Affairs [VA] Home Loan Guaranty Program, to those members of the National Guard and Reserve who have received an honorable discharge or who have served at least 6 years.

Since the creation of the Veterans' Home Loan Program in 1944, millions of veterans have received mortgage assistance to help them purchase a home.

The Persian Gulf war illustrated the critical role our Nation's Reserve Forces fill in our total force structure. Last year we adjusted the Home Loan Program to make all active duty Persian Gulf veterans eligible for loan guaranty benefits. It is only fitting that we extend the same benefits to our Nation's Reserve Forces.

I urge my colleagues to support H.R. 939.

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take a moment to commend my Veterans' Affairs Committee colleagues for the hard work they put into securing today's House consideration of H.R. 939.

Chairman MONTGOMERY, Mr. STAGGERS, Mr. STUMP, and Mr. BURTON each deserve to be recognized for their efforts and have, once again, done a great service to America's veterans by shepherding this bill through both our committee and the Ways and Means Committee.

Mr. Speaker, among the provisions of the Veterans Housing Amendments of 1991 is language expanding the eligibility for the Department of Veterans Affairs Home Loan Guarantee Program.

On Veterans Day, 1991, I held a press conference calling attention to the benefits of the Home Loan Guarantee Program. At that time, I mentioned that legislation was under review in the Congress which would open up home ownership to members of the Selected Reserve by making these service men and women eligible for VA-backed mortgages.

Less than 4 months later, H.R. 939 is on the floor, ready for our examination.

Mr. Speaker, as Operations Desert Shield and Desert Storm so clearly indicated, our

total force policy strongly depends upon the contributions of our Guard and Reserve forces. As we continue the drawdown of the Department of Defense, we will find that the National Guard and the Reserve component forces will be increasingly relied upon for meeting our defensive needs.

Consequently, Mr. Speaker, we must explore the criteria used in determining eligibility for each of our veterans benefits. With more reliance placed upon the Guard and the Reserve, it becomes evident that eligibility for benefits such as the Home Loan Guarantee Program must be provided to the personnel of the Selected Reserve.

I strongly urge the House to pass this bill without delay.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 939 as reported by the Committee on Veterans' Affairs was sequentially referred to the Committee on Ways and Means because it contained a tax-related provision. That provision has been dropped from the bill. I would like to clarify for the RECORD the disposition of this tax-related provision.

H.R. 939 as originally reported by the Committee on Veterans' Affairs contained a provision which would have excluded from taxable income waivers of veterans indebtedness by the Department of Veterans Affairs. This provision would have violated the pay-go rules of the Budget Enforcement Act of 1990 because revenues lost by the provision were not offset by revenue increases or entitlement reductions. As such, the provision possibly would have caused sequestration.

Upon sequential referral of the bill, the Committee on Ways and Means narrowed the tax-related provision to comply with the pay-go requirements.

After the Committee on Ways and Means reported its amendment, Chairman MONTGOMERY requested that the tax-related provision be deleted from H.R. 939 altogether and that the bill be brought to the floor under suspension of the rules. I have acceded to Chairman MONTGOMERY's request. Consequently, H.R. 939 as before the House today contains no tax-related provision.

Since the tax-related provision was included in H.R. 939 at the behest of the Committee on Veterans' Affairs in the first instance, the Committee on Ways and Means does not oppose the deletion of this provision from the bill.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 939, as amended.

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

The title of the bill was amended so as to read:

A bill to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes."

A motion to reconsider was laid on the table.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL AND NATIVE AMERICAN PUBLIC POLICY ACT OF 1992

Mr. PASTOR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2184) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The Clerk read as follows:

S. 2184

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 "Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.

SEC. 2. REPEAL OF PREVIOUS LEGISLATION.

The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed.

SEC. 3. FINDINGS.

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 5. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of twelve trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to section 5(b)(2) and two trustees appointed pursuant to section 5(b)(3) shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1) and two Trustees appointed pursuant to section 5(b)(3) shall each serve four years; and (iii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1), one Trustee appointed pursuant to section 5(b)(2), and one Trustee appointed pursuant to section 5(b)(3) shall each serve six years; and

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsist-

ence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 6. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 7. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships, and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3), and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6), and section 6(a)(7) conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 8. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund. Investments in public debt securities shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

SEC. 9. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to

carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $40,000,000 to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. PASTOR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. PASTOR].

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

Mr. Speaker, I rise in strong support of S. 2184, the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.

This legislation is a fitting tribute to honor the legacy and achievements of our good friend, Mo Udall. For the past 30 years, Mo has worked tirelessly to serve the people of the Second Congressional District of Arizona, which I am now privileged to represent. Mo Udall was a leader in a number of public policy areas, but he will be especially remembered for his commitment to protecting our precious natural resources.

Mo Udall is undoubtedly a champion for protecting the rights of native Americans. He worked hard to restore dignity to a proud people. He was among the first to recognize that the native American struggle for self-determination be taken seriously. He fought to give native Americans the assistance they need for self-government and economic development.

This bill, which passed the U.S. Senate with the leadership of Senator DECONCINI last month, will continue Mo Udall's work on environmental issues and will help native Americans pursue careers in health care and public policy.

This is accomplished by establishing a Morris K. Udall Foundation. The Foundation is tasked with the mission of increasing the awareness and understanding of environmental issues, with an emphasis on research, training and educational outreach. Also, it has the mission of developing resources to train native Americans and Alaska Natives in health care and public policy areas.

The Foundation can award undergraduate scholarships, graduate fellowships or grants to individuals interested in pursuing careers related to the environment. Moreover, the Foundation is also authorized to award internships in Federal, State, and local agencies.

In order to carry out these ambitious goals, this legislation establishes a trust fund and authorizes the appropriation of funds to this trust fund. Under the 1992 Interior appropriations bill, the Congress appropriated $5 million for the Morris Udall Foundation, to be available on September 30, 1992. Enacting this legislation today will help get this worthwhile program started.

We have addressed this issue once before. Last session, both the Senate and the House passed similar legislation. The bill, S. 1176, was sent to the President over the Christmas holidays. Those circumstances will be discussed by a statement submitted by the Speaker.

This legislation repeals S. 1176 and reauthorizes the Udall Foundation. The Board of Trustees to the Foundation would be comprised of 12 individuals; 9 of those 12 individuals would be appointed by the President of the United States, with the advice and consent of the Senate. Recommendations from the House and Senate leadership, for Board membership, would be considered by the President.

In addition, a program for environmental policy research and an environmental conflict resolution at the Udall Center for Studies in Public Policy, on the campus of the University of Arizona, would also be established under this bill.

At a time when our Nation is confronted with pressing environmental concerns, it is essential that we enact this important legislation. S. 2184 would promote a better understanding of our environmental needs and would create programs to address them. Also, it would establish scholarships, grants, fellowships and internships in the natural resources, health care and public policy areas.

Mr. Speaker, Mo Udall deserves this honor and much more. Mo worked very hard throughout his long career of public service to help people and to make America a better place to live. Let's follow Mo's lead and continue his important work and aspirations.

I want to thank the chairman and the ranking Republican on the Education and Labor Committee for expediting consideration of this bill. I also wish to thank my colleagues, Congressman OBEY and Congressman RHODES and Senator DECONCINI for sponsoring and supporting this legislation. Without their assistance and that of their staffs, we would not be on the House floor today.

Mr. Speaker, I urge my colleagues to pay tribute to the distinguished Mo Udall, and to his lasting legacy, by joining me in supporting this legislation. I look forward to the President's signature and to the release of the appropriated funds so that the Udall scholarships can be awarded on a timely fashion. Let's honor Mo by passing this bill without hesitation.

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

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

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Mr. Speaker, I rise in support of the legislation even though normally I would oppose a sole source grant, but, because of the stature of the man we honor and because of the honorable intent of the legislation, I strongly support it. As I understand it, the administration also supports the legislation at this particular time.

Mr. Speaker, the bill has two principal purposes. It establishes the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Foundation in Tucson, AZ, which is designed to increase awareness of the environment and develop resources, to train professionals in environmental and related fields, and, second, it creates a fund for the Morris K. Udall Scholarship which is designed to support study in fields related to the environment.

Again, Mr. Speaker, it is a privilege to honor someone of the stature of the gentleman we are honoring, former Congressman Mo Udall.

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

Mr. PASTOR. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I am pleased to rise in support of S. 2184, the Morris K. Udall Scholarship and Excellence in National Education Policy Act.

Mo served in this body for three decades representing people of his native Arizona. During that time Mo championed many causes—campaign finance reform, postal reorganization, and civil service reform—to name but a few.

But it was his commitment to the preservation of our Nation's natural resources and to the rights of native Americans and Native Alaskans, a commitment he fulfilled through his stewardship as chairman of the Committee on Interior and Insular Affairs, for which he is best remembered.

Mo authored and shepherded into law numerous bills protecting our environment, monumental legislation such as the Arizona Desert Wilderness Act of 1990 and the Alaska Lands Act of 1980. During the late seventies he was a leader with respect to strip mining legislation. Mo was also a leader with respect to virtually every important piece of Indian legislation considered during his years in Congress.

So, it is altogether fitting that we establish, in his honor, a national foundation with a mission to promote environmental awareness and enjoyment of our Nation's environmental resources, to award scholarships, fellowships, and grants for study in fields related to the environment and native American and

Alaska Native health care, and to award scholarships to outstanding undergraduate students—including native American and Alaska Native undergraduates—who intend to pursue careers in health care and tribal public policy.

Mr. Speaker, as you know, during the last session the House and Senate passed S. 1176, a bill very similar to the one we are now considering. That bill was presented to the President only to have him, on December 20, 1991, purport to pocket veto it. A statement by the Speaker discusses, in detail, this action by the President. I will not reiterate the legal arguments which have been made, but I want the record to show that I concur in the view that the President's action was inappropriate and ineffective.

Mr. FOLEY. Mr. Speaker, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation Act was presented to the President as S. 1176 of the 102d Congress on December 9, 1991. The President purported to pocket veto the bill on December 20, 1991, norwithstanding the pendency of the 1st session of the 102d Congress. Congress was in an intrasession adjournment from November 27, 1991, until 11:55 a.m. on January 3, 1992. See House Concurrent Resolution 260 of the 102d Congress, November 27, 1991. Under clause 2, section 7, article I of the Constitution, because the President did not return the bill with his objections within 10 days, Sunday excepted, after it was presented to him and the Congress did not "by their adjournment prevent its return," the bill became law "in like manner as if he had signed it."

It is not difficult to appreciate the substantive objections of the President concerning a possible conflict between certain provisions of S. 1176 and the appointment clause in section 2, article II of the Constitution. Such objections should, however, be communicated in a message returning the bill to the Congress.

In Kennedy versus Sampson, the U.S. Court of Appeals held that the pocket veto is not constitutionally available during an intrasession adjournment of the Congress if a congressional agent is appointed to receive veto messages from the President during such adjournment, 511 F.2d 430 (D.C. Cir. 1974). As the Congress formally declared 2 years ago when it adjourned the 1st session of the 101st Congress sine die:

First, clause 5 of rule III of the rules of the House authorizes its Clerk to receive messages from the President during periods when the House is not in session;

Second, the House intends by such rule to preserve until its adjournment sine die from the final regular session of a Congress the constitutional prerogative of the House to reconsider vetoed measures in light of the objection of the President;

Third, an order of the Senate authorizes its Secretary to receive messages from the President during periods when the Senate is not in session; and

Fourth, the Senate intends by such order to preserve until its adjournment sine die from the final regular session of a Congress the constitutional prerogative of the Senate to reconsider vetoed measures in light of the objections of the President.

See House Concurrent Resolution 239 of the 101st Congress, November 21, 1989. The joint leaderships considered the inclusion of a similar declaration in House Concurrent Resolution 260 of the 102d Congress to be unnecessary because that resolution provided for an intrasession adjournment to a date certain—and because such a declaration is merely descriptive in any event.

Successive Presidential administrations from 1974 to 1989 have, in accommodation of Kennedy versus Sampson, exercised the veto power during intrasession adjournments only by messages returning measures to the Congress. But President Bush asserted a pocket veto during the intrasession adjournment of August 1989—against a joint resolution moot on its face: House Joint Resolution 390 of the 101st Congress, authorizing the enrollment by hand of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, which had become Public Law 101–73 on August 9, 1989. That improper exercise of veto authority prompted a letter from the joint leaderships to the President, which was later inserted in the CONGRESSIONAL RECORD. See January 23, 1990, pp. H 3–4. The President's response to that letter, via his Attorney General, was also inserted in the RECORD at that point. That response relied almost exclusively on the *Pocket Veto* case, 279 U.S. 655 (1929), which does not address intrasession vetoes. Both letters are appended.

President Bush has also returned an enrolled bill with a memorandum of disapproval alluding to the pocket veto power—as opposed to conveying his objections by message under seal. In a memorandum of disapproval on H.R. 2712 of the 101st Congress, the Emergency Chinese Immigration Status Adjustment Facilitation Act of 1989, he asserted that the pocket veto power was available because the intersession adjournment of the Congress in November 1989 prevented a return veto. The memorandum went on, however, to acknowledge the judicial holdings to the contrary and returned the enrollment with a statement of objections. See for example, *Barnes* v. *Kline*, 759 F. 2d 21 (D.C. Cir. 1984), vacated and remanded as moot sub nom. *Burke* v. *Barnes*, 479 U.S. 361 (1987); *Kennedy* v. *Jones*, 412 F.Supp. 353 (D.D.C. 1976). Congress properly proceeded to reconsider the vetoed bill.

Now President Bush has once again asserted an intrasession pocket veto. This is extremely troublesome. It is not constructive to resurrect constitutional controversies once considered as settled.

I urge the Archivist to assign a public law number to S. 1176. I urge the administration to reconsider its assertion in correspondence from the Assistant Attorney General to the minority leader that section 2 of pending bill S. 2184, which proposes to repeal S. 1176, would have no legal effect. I urge the President to eschew the notion of an intrasession pocket veto power, in appropriate deference to the judicial resolution of that question.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise today in support of S. 2184, to establish the Morris K. Udall Scholarship and Excellence in National Policy Foundation. This legislation establishes a scholarship and foundation to increase the awareness and importance of our natural resources. However, this bill also recognizes the contributions of a man whose good humor and legislative skills worked tirelessly for the people of the State of Arizona and the Nation.

Mo Udall came to the U.S. House of Representatives in 1961 through a special election. I have known Mo personally for a long time. I had the pleasure to serve with him on the House Interior Committee while he was chairman. Mo is a leader in many areas, but he will be especially remembered for his commitment to protecting our natural resources. He will long be remembered for his landmark work on the strip mining bill of 1977 and the Alaska Lands Act of 1980. Most recently it was my pleasure to work with him on the Arizona Desert Wilderness Act of 1990.

S. 2184 attempts to capture Mo's spirit and pass to students, his love of nature by creating a foundation that will award scholarships, fellowships, and internships to outstanding students pursuing environmental studies. S. 2184 will provide energetic young people the resources to continue Mo's vision.

Many men and women are fortunate to have served in the Congress of the United States. Most serve with honor. Many serve with distinction. But only a handful leave the legacy that Morris K. Udall has left in his 30 years in Congress. I ask my colleagues to join with me in supporting passage of this legislation.

Mr. PASTOR. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, this bill is one in a series of fitting tributes that this House should give Mo Udall, a great friend to so many of us and one of the true giants of the Congress. A book compiled from the remarks of his associates during a special order last May will be printed in the next few months. And one of the greatest follow-up tributes to this man would be for this Congress to establish a new Arctic wilderness area in his honor, instead of drilling in the Alaska National Wildlife Refuge for oil.

It is fitting as well that a focus of this bill today would be the establishment of an environmental conflict resolution center. Mo was a master of reconciliation in Congress, a man who could serve in this body for 30 years, be a crusading and controversial idealog who challenged its systems and perks, yet be one of its most productive and creative legislators, a man who finished his service without an enemy, with thousands of devoted friends, and millions of admirers.

I hope Mo Udall's brilliant wit and unchallenged integrity and devotion to

the beauty and wisdom of the natural world will be an inspiration to the students who receive these scholarships in his name. I am sorry that Mo himself cannot be present here today because of his illness, but, if he were here, he would surely joke, maybe complain, about all the fuss we have made on his behalf.

We all share the sincere hope that Mo's convalescence will continue, and that he will have a fruitful retirement and that this scholarship fund and national environmental policy center will perpetuate his legacy.

Mr. DERRICK. Mr. Speaker, I rise in reluctant opposition to the motion offered by the gentleman from Arizona [Mr. PASTOR].

Mr. Speaker, no Member of this House holds Mo Udall in higher esteem than I. It was an honor and a pleasure for me to serve in this body with Mo for more than 16 years. Since his retirement I have missed him, his wisdom, and his fantastic wit greatly; the House has not been the same since his departure. Frankly, it will never be the same because there is only one Mo Udall. Mo loves this institution dearly, and the institution obviously loves him too, both houses having passed S. 1176, the first M. Udall scholarship legislation, unanimously. I strongly supported S. 1176 because Mo deserves not only this honor but many, many more after three decades of loyal, dedicated service to his country.

However, it is with great regret that today I must reluctantly oppose the gentleman's motion, despite my reverence for Mo Udall, because, by passing S. 2184, the Congress will let pass a golden opportunity for a final judicial resolution of the longstanding question of when, if ever, a President may veto acts of Congress merely by slipping them into his pocket.

For the past two decades, Congress and the President have been feuding over when the President may use the pocket veto, which is absolute, to kill legislation, and when he must return vetoed bills to Congress for its reconsideration and possible passage over his veto. Congress believes the Constitution permits the President to use the pocket veto only after its final sine die adjournment, and that during all interim adjournments, the President must return bills he wishes to veto to their houses of origin for reconsideration.

The President believes he may use the pocket veto to kill legislation any time the house of origin is adjourned for more than 3 days when his constitutional 10-day period for review expires. The lower Federal courts have repeatedly rejected the President's position, and numerous constitutional scholars consider it without merit. But the issue remains viable because the Supreme Court last addressed the question squarely in 1929, well before the development of the year-round Congress.

The pocket veto issue has profound implications for Congress and its constitutional position vis-a-vis the President. Those implications exist without regard to any President, political party, or issue of the day. And I believe Congress errs by letting our feelings for Mo Udall prevent us from vindicating the institution he loves so much.

The circumstances surrounding the passage, presentation, and alleged pocket veto of S. 1176 clearly present the best opportunity for a judicial determination of this issue in decades. On December 9, 1991, during an intrasession adjournment, the Secretary of the Senate presented S. 1176 to the President. The President's review of S. 1176 revealed the existence of various constitutional defects in the legislation, so he decided to veto it. But rather than returning S. 1176 to the Senate with his objections within 10 days, as the Constitution requires, the President chose to keep the bill and announced that he had pocket-vetoed it, flouting the appeals court decision in *Kennedy* v. *Sampson,* 511 F.2d 430 (D.C. Cir. 1974). The Sampson court held that no opportunity for a pocket veto arises during an intrasession adjournment where the house of origin appoints agents to accept bills returned by the President, as it had in this case.

Moreover, unlike previous instances of impermissible pocket vetoes involving laws of limited duration or narrow purpose which did not lend themselves readily to extended litigation, the President's actions in this case adversely affect identifiable citizens who could maintain a protracted lawsuit.

Mr. Speaker, I have no doubt the Supreme Court would decide S. 1176 became a law when not signed or returned within 10 days, resolving this issue in Congress' favor once and for all. Congress could strengthen its case tremendously and even expedite a Court ruling by amending S. 1176 directly, correcting its constitutional defects, and adding provisions expediting judicial review. Congress included expedited review provisions in the original Gramm-Rudman-Hollings law, and they served our institutional interests well.

Mr. Speaker, the President could simply have returned S. 1176 to the Senate, issued a memorandum of disapproval outlining his objections, and claimed he had validly pocket-vetoed the bill. Presidents have followed this course on numerous occasions during interim adjournments over the last 20 years. Yet this time the President deliberately chose to confront Congress by not returning S. 1176, literally inviting a challenge. Obviously, the President has decided he wants the issue settled so he and his successors will know what the Constitution requires in this regard.

Mr. Speaker, under our governmental system of separated powers, a final judicial resolution of this constitutional question would represent the most definitive outcome of this impasse between Congress and the President. Although the courts have long held it is their province to say what the law is, Congress clearly has the power to enact legislation expressing its interpretation of the powers delegated to it in the Constitution, and those expressions are entitled to deference by the courts.

To invoke that power, I have sponsored again in this Congress legislation H.R. 849 to clarify the law governing the President's use of the pocket veto. My bill would declare simply that no adjournment of either House other than a final sine die adjournment enables the President to use the pocket veto. Any other construction of the relevant constitutional provisions unnecessarily deprives the people's representatives of the opportunity to reconsider vetoed bills in cases where they will meet again and could do so. I believe the language of H.R. 849 accurately restates current law and also reflects the Framers' original intent. I sincerely hope if Congress is not willing to move instantly and vigorously to protect its constitutional prerogatives in court when the need and the opportunity arise, then at least it will pass legislation to guide the courts in the event such a claim arises through the efforts of others.

Mr. Speaker, I understand the Arizona delegation's desire to enact this corrective legislation establishing the Morris K. Udall Scholarship and Educational Foundation in Tucson, AZ, as soon as possible. I also appreciate the fact that S. 2184 would repeal S. 1176, preserving Congress' position on the merits of the pocket veto issue for another day. However, I cannot in good conscience support S. 2184 because, although well-intentioned, the bill simply does not serve the interests of this institution well with regard to the pocket veto issue. Congress should give the President the lawsuit he has so deliberately sought, and no one would understand that better than Mo Udall himself.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Arizona [Mr. PASTOR] that the House suspend the rules and pass the Senate bill, S. 2184.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2184, the Senate bill just passed.

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

There was no objection.

DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2321

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 "Dayton Aviation Heritage Preservation Act of 1992".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish a unit of the National Park System in Dayton, Ohio, consisting of certain lands and structures associated with Wilbur and Orville Wright and the early development of aviation; and

(2) to create partnerships among Federal, State, and local governments and the private sector to preserve, enhance, and interpret for present and future generations the historic and cultural structures, districts, and artifacts in Dayton and the Miami Valley in the State of Ohio, which are associated with the Wright brothers, the invention and development of aviation, or the life and works of Paul Laurence Dunbar, and which, as a whole, represent a nationally significant resource.

TITLE I—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

SEC. 101. ESTABLISHMENT OF THE DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established, as a unit of the National Park System in the State of Ohio, the Dayton Aviation Heritage National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the following sites, as generally depicted on a map entitled "Proposed Dayton Aviation Heritage National Historical Park", numbered NHP–DAH 80,000, and dated February 1992:

(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company, Hoover Block, and lands between.

(2) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.

(3) The Wright 1905 Flyer and Wright Hall, Dayton, Ohio.

(4) The Paul Laurence Dunbar home, Dayton, Ohio.

SEC. 102. PROTECTION OF HISTORIC PROPERTIES.

(a) ACQUISITION OF PROPERTIES WITHIN THE PARK.—Within the boundaries of the park the Secretary shall acquire the Wright Cycle Company and Hoover Block, and may acquire other properties, or interests therein, referred to in section 101(b), by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with other Federal agencies, State and local public bodies, and private interests and organizations relating to the preservation, development, use, and interpretation of properties within the boundaries of the park in order to contribute to the appropriate use and management of such properties consistent with the purposes of this Act. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to any such property at specified reasonable times for purposes of viewing such property or the exhibits or attending programs established by the Secretary under this subsection; and

(2) the Secretary may make such improvements to any such property as the Secretary deems necessary after consultation with the Commission to enhance the public use and enjoyment of such property and programs.

SEC. 103. PARK GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary, with the advice of the Commission, shall prepare and submit to the Congress a general management plan for the park which includes but is not limited to the information described in section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)), and which takes into account the preservation and development plan developed under section 202.

(b) PARK PARTNERSHIPS.—The management plan shall identify partnership opportunities between the Secretary and other Federal, State, and local governments and the private sector for the development, use, and interpretation of properties within the park.

SEC. 104. STUDIES.

The Secretary shall study the following properties described in this section to determine the feasibility and suitability of including them within the park:

(1) Properties within the Wright-Dunbar Historic District.

(2) Wright Company Factory, Dayton, Ohio. A report of the study of such properties shall be submitted as part of the general management plan required by section 103.

SEC. 105. GENERAL ADMINISTRATIVE FUNCTIONS.

(a) IN GENERAL.—The park shall be administered in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

(b) DONATIONS.—The Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purposes of managing the park.

(c) PROGRAMS.—The Secretary may sponsor, coordinate, or enter into cooperative agreements for educational or cultural programs related to the park as the Secretary considers appropriate to carry out the purposes of this Act.

(d) IDENTIFICATION AND MARKING OF SIGNIFICANT HISTORICAL SITES.—The Secretary may identify other significant sites related to the Wright brothers, the history of aviation, or Paul Laurence Dunbar in the Miami Valley which are related to the park, and, with the consent of the owner or owners thereof, may mark the sites appropriately and make reference to them in any interpretive literature. The Secretary may provide interpretive markers along transportation routes leading to units of the park.

(e) INTERPRETATION OF HUFFMAN PRAIRIE FLYING FIELD.—The Secretary may provide interpretation of Huffman Prairie Flying Field on Wright Brothers Hill, Wright-Patterson Air Force Base, Ohio.

SEC. 106. COOPERATION OF FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 202(b)(9); and

(B) to the maximum extent practicable will not have an adverse effect on the historic resources of the park.

SEC. 107. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE.

Except in the case of properties subject to this Act which are under the control of the Secretary of Defense and which are affected by a national emergency declared by the President, at which time the decisions of the Secretary of Defense shall prevail, for those properties under the control of the Secretary of Defense, the Secretary of the Interior and the Secretary of Defense shall coordinate preservation efforts to the maximum extent practicable through a Memorandum of Agreement.

SEC. 108. ASSISTANCE.

(a) TECHNICAL AND PRESERVATION ASSISTANCE.—The Secretary may provide to any owner of property within the park, and to any organization having an agreement with the Secretary under section 102(b), such technical assistance as the Secretary considers appropriate to carry out the purposes of this Act.

(b) INTERPRETIVE MATERIALS.—The Secretary is authorized to publish interpretative materials for historic aviation resources in the Miami Valley.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—DAYTON AVIATION HERITAGE COMMISSION

SEC. 201. DAYTON AVIATION HERITAGE COMMISSION.

(a) ESTABLISHMENT.—There is established the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing the historic resources in the Miami Valley, Ohio, associated with the Wright brothers, aviation, or Paul Laurence Dunbar.

(b) MEMBERSHIP.—The Commission shall consist of 13 members as follows:

(1) 3 members appointed by the Secretary, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the National Park Service.

(2) 3 members appointed by the Secretary from recommendations submitted by the Governor of the State of Ohio, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the Ohio Historical Society.

(3) 1 member appointed by the Secretary of Defense, who shall represent Wright-Patterson Air Force Base.

(4) 3 members appointed by the Secretary from recommendations submitted by the City Commission of Dayton, Ohio, at least one of whom shall reside near the core parcel of the park (as described in section 101(b)(1)).

(5) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Montgomery County, Ohio.

(6) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Greene County, Ohio.

(7) 1 member appointed by the Secretary from recommendations submitted by the City Council of Fairborn, Ohio.

(c) TERMS.—(1) Members shall be appointed for terms of 3 years. A member may be reappointed only 3 times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1), in which case such member may be reappointed 4 times. A member may serve after the expiration of his term until a successor is appointed.

(2) The Secretary shall appoint the first members of the Commission within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b) (2), (4), (5), (6), and (7).

(d) CHAIR AND VICE CHAIR.—The chair and vice chair of the Commission shall be elected by the members of the Commission. The terms of the chair and vice chair shall be 2 years. The vice chair shall serve as chair in the absence of the chair.

(e) VACANCY.—(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary responsible for such appointment shall fill any such vacancy within 30 days after receiving a recommendation for the position.

(2) A member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. A member may serve after the expiration of his term until his successor has taken office.

(f) QUORUM.—A majority of the members of the Commission then serving shall constitute a quorum, but a lesser number may hold hearings.

(g) MEETINGS.—The Commission shall meet not less than 3 times a year at the call of the chair or a majority of its members.

(h) PAY.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) FACA.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(j) TERMINATION.—The Commission shall cease to exist on January 1, 2004.

SEC. 202. DAYTON HISTORIC RESOURCES PRESERVATION AND DEVELOPMENT PLAN.

(a) IN GENERAL.—Within 2 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a preservation and development plan which may include the Wright-Dunbar Historic District, the Dunbar Historic District, the Ed Sines House and the Daniel Fitch House, and the 45 sites identified in Appendix A of the document entitled "Study of Alternatives Dayton's Aviation Heritage, Ohio" published by the National Park Service. Within 90 days after the receipt of such plan, the Secretary shall approve such plan or return it with comments to the Commission. If the Secretary has taken no action after 90 days upon receipt, the plan shall be considered approved. If the Secretary disapproves a plan, the Commission shall submit a revised plan to the Secretary. The plan shall include specific preservation and interpretation goals and a priority timetable for their achievement. The Secretary shall forward copies of the approved plan to the Congress.

(b) CONTENTS OF PLAN.—The plan referred to in subsection (a) shall—

(1) set detailed goals for the preservation, protection, enhancement, and utilization of the resources of the district and sites referred to in subsection (a);

(2) identify properties which should be preserved, restored, developed, maintained, or acquired;

(3) include a tentative budget for the subsequent five fiscal years;

(4) propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions;

(5) recommend methods for establishing partnerships with Federal, State, and local governments and the private sector to foster development and to preserve and enhance such resources;

(6) propose transportation links, including pedestrian facilities and bicycle trails among historic aviation sites including an interurban between the district and the historic resources at Wright-Patterson Air Force Base;

(7) address the use of private vehicles, traffic patterns, parking, and public transportation;

(8) propose educational and cultural programs to encourage appreciation of such resources;

(9) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of the properties among such resources;

(10) establish an index which shall contain documentary evidence of historical and cultural significance and which includes property in the Miami Valley associated with the Wright brothers, the history of aviation, or Paul Laurence Dunbar.

(c) CONSULTATION.—In developing the plan, the Commission shall consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over historic aviation resources in the Miami Valley area. The Commission shall also consult with property owners and business, historic, professional, neighborhood, and citizen organizations affected by the actions proposed in the plan.

SEC. 203. GENERAL POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or service from individuals, foundations, corporations, and other private entities and public entities for the purpose of carrying out its duties.

(c) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(d) MAIL.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) USES OF ACQUIRED ASSETS.—Any revenues or other assets acquired by the Commission by donations, the lease or sale of property, or fees for services shall be available to the Commission, without fiscal year limitations, to be used for any function of the Commission.

(f) HISTORICAL AND CULTURAL PROGRAMS.—The Commission is authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the Miami Valley associated with the Wright brothers, aviation, or the life and works of Paul Laurence Dunbar.

(g) TECHNICAL AND PRESERVATION ASSISTANCE.—The Commission may provide technical and preservation assistance to owners of property within the districts, sites, and properties referred to in section 202(a) consistent with the purposes of this Act.

(h) OBTAINING PROPERTY.—(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the districts, sites, and properties referred to in section 202(a)—

(A) by gift or device; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in such district and sites.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

SEC. 204. STAFF OF COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the pay of such additional personnel as the Commission deems necessary. Such staff may include specialists in areas such as interpretation, historic preservation, black history and literature, aviation history and technology, and urban revitalization.

(c) TEMPORARY SERVICES.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(d) DETAIL.—Upon request of the Commission, the head of any Federal agency represented by a member on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(e) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) STATE AND LOCAL SERVICES.—The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

(g) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-15 of the General Schedule.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated annually to the Commission to carry out its duties under this Act $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

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

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

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2321, the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2321 would establish the Dayton Aviation Heritage National Historical Park in Dayton, OH. This bill was introduced by Represent-

atives TONY HALL and DAVID HOBSON along with a number of Representatives from the State of Ohio.

Although many Americans know about the Wright brothers' flight over the beaches of Kitty Hawk, few are familiar with the important role played by the city of Dayton, OH, in aviation history. Dayton is where Wilbur and Orville Wright grew up, developed the technology for the first airplane, constructed and flew the world's first practical and maneuverable airplane, and established the world's first permanent flying school.

The purpose of H.R. 2321 is to preserve, enhance, and interpret the historic structures and artifacts in the Dayton area associated with the Wright brothers and the development of aviation. The bill is based on a study conducted by the National Park Service in 1990.

H.R. 2321 has undergone close review and extensive revision in the Interior Committee. The original park proposal included a significantly larger number of buildings and acreage. In the Interior Committee substitute, lands and structures were deleted from the proposed park boundary, leaving only those sites of primary historical significance.

Under the bill, as amended, the Dayton Aviation Heritage National Historical Park will consist of four sites: First, the Wright Cycle Co. and Hoover Block, where the Wrights developed the tools and skills to invent the airplane; second, the Huffman Prairie Flying Field, were the Wrights conducted hundreds of flying experiments; third, the home of Paul Laurence Dunbar, a prominent black writer who was a friend and business partner of the Wrights; and fourth, the 1905 *Wright Flyer*, the first practical airplane. All of these sites have already been designated as national historic landmarks, and together they tell the story of the invention of the airplane and the importance of the Dayton environment to that process.

The committee substitute scaled back the provisions establishing a Dayton Aviation Heritage Commission. The Dayton Aviation Preservation Commission created by the substitute is similar to other heritage preservation commissions established by Congress. The Commission proposed in the original bill had overly broad loan- and grant-making and land acquisition authority. The bill, as amended, provides a reasonable and appropriate role for the Commission and places a cap and matching requirement on the funds available for the operation of the Commission.

Mr. Speaker, the invention of the airplane is one of the most significant technological events of this century. Fortunately a number of structures and artifacts related to this invention remain intact in the Dayton area. The bill before us would preserve those structures and sites for the benefit of present and future generations. The bill as amended is reasonable in scope, responsible in cost, and consistent with precedents for park establishment. It has strong bipartisan support and I urge Members to support the bill.

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

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

Mr. Speaker, I have real problems with H.R. 2321, a bill to establish the Dayton Aviation National Heritage Park in Dayton, OH. As originally introduced, this bill was basically an attempt to provide a much needed economic boost to Dayton, OH. While the bill before us today reflects an attempt to select the most justifiable role for the Federal Government in this project; the real question Members must ask themselves, is not whether this bill is more reasonable than the introduced one, but whether the sites proposed in the bill merit and require designation as a park area at all.

The answer to that question is quite simply, no. As the administration statement points out, the national significant sites included in this bill are already protected by a combination of other government and private entities. While some of these other entities are struggling financially, so is the Federal Government. It is precisely such proposals as this which continue to add to our $400 billion national deficit.

The multibillion in acquisition, construction, and operations backlog already facing the park system is well known. The Interior Committee continues to relentlessly pass legislation adding to that backlog. In the first session of this Congress, we passed about $170 million in new NPS obligations, excluding the $300 to $600 million California Desert Protection Act. While CBO tentatively estimates that this measure will cost only about $10 million in the next 5 years, it is notable that this bill writes a blank check for this park by authorizing such sums as necessary. Because of all the language in this bill dealing with future potential expansion of Federal responsibilities, I imagine the actual costs of this bill will be much higher.

Mr. Speaker, the reasons for the inconsistency between the intense debate on costs of the Steamtown authorizing legislation just a few weeks ago and this bill, which is likely to be even more costly, escape me. Unlike Steamtown, with this bill we have an opportunity to say no unnecessary obligations at the outset, and to make a policy statement that Congress does not believe that the park system should be used as an economic development tool. Rather, we should only call on participation of the Federal Government when absolutely required to save truly outstanding national resources. Such is clearly not the case with this project.

Mr. Speaker, I yield such time as he may consume to a consponsor of the bill, the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker. I rise in strong support of the Dayton Aviation Heritage Preservation Act. This legislation will promote our Nation's aviation heritage by establishing a national park that tells the story of the birth of aviation in this country.

I have joined with Congressman TONY HALL to support the creation of a national park that will tie four sites together in the Dayton area to bring to life the story of the Wright brothers and the place where they grew up, invented the plane, and learned to fly.

There is the Wright brothers bike shop where Wilbur and Orville Wright began experiments which led to the development of the airplane. And right next door, there is the Hoover building which housed the Wright's printing business. Also, the *Wright Flyer III*, the Wright brothers' third airplane which made over 50 flights, is also included in the park.

Mr. Speaker, I am particularly proud that the park features Huffman Prairie which is located in my congressional district. This is the site of the world's first flying field, the first turn in flight, and the first permanent flying school. This is where the invention first became functional, where the airplane became an airplane.

We in the Miami Valley are also proud that this is also the location of Wright-Patterson Air Force Base, where we can truly see how far we have come in the world of flight as F-16's roar over the first flying field.

I also want to say a word about Paul Laurence Dunbar and his connection to the Dayton Aviation Heritage Park. Dunbar was an outstanding black American poet, who was a good friend and business partner of the Wright brothers. In a time when we desperately need to promote harmonious race relations, I believe Dunbar's friendship with the Wrights is an important part of this story, needs to be part of the park, and part of our permanent history.

Finally, I believe this bill is a result of a true public-private partnership. There has been strong community support and strong emphasis on State and local responsibility. Community leaders have worked hard to preserve the sites. But, it will take the experience and expertise of the National Park Service to tie the sites together so the full story can be told.

I want to thank all those in the local community and here in Congress who

have worked so hard to support the preservation of our aviation heritage.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HALL], who is the primary sponsor of this bill. He has marshaled our support, as well as support from his colleagues on the other side of the aisle on this project. He has done a good job, and I commend him for it.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of H.R. 2321, the Dayton Aviation Heritage Preservation Act, a bill I introduced with my colleague from the Dayton area, Mr. HOBSON.

The conquest of flight represents one of mankind's greatest technological triumphs. From ancient times, people dreamed of soaring like a bird through the air. However, it was up to two men from Dayton, OH, at the beginning of this century, to make that dream come true. The world has never been the same.

Great distances that once took days can be traveled in hours. Remote parts of the globe have been opened to exploration. Millions of lives have been saved by airlifting emergency food assistance. Modern warfare is now dependent on air power. All of this traces back to the creative genius of Orville and Wilbur Wright.

More than any other single place, Dayton, OH, was the location of many of the major events in aviation history. It was here that Orville and Wilbur Wright grew up. It was here that they conducted their aviation experiments and developed the technology for flying. It was here they constructed the world's first airplane. It was here they constructed and flew the world's first airplane capable of practical flight. And it was here they established the world's first permanent flying school. Following from the work of the Wright brothers, other inventors in Dayton developed technology that made commercial and military aviation possible.

A few steps from this Chamber, in the rotunda of the Capitol, a scene of the Wright brothers concludes the historical frieze that wraps around the base of the dome. Congress authorized the scene as a testament to the significance of the first flight in our history.

Today, the House of Representatives considers a measure that goes beyond a symbolic commemoration of the Wright brothers' work. The Dayton Aviation Heritage Preservation Act seeks to preserve for present and future generations the most important buildings and sites which remain intact on their original locations associated with the Wright brothers. The measure also seeks to preserve the numerous structures in the Dayton area where important developments occurred in the history of aviation.

Additionally, the act honors Paul Laurence Dunbar, one of the greatest black American poets. Dunbar was a friend and business partner of the Wright brothers and the Wrights printed many of Dunbar's earlier works. The friendship between these men of different races is a story that bears great meaning for our times.

To accomplish this, the measure establishes the Dayton Aviation Heritage National Historic Park as a unit of the National Park Service. The park consists of four sites, each containing a national historic landmark associated with the Wright brothers or Paul Laurence Dunbar. The measure also establishes the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing historic resources in the Dayton area.

Though the goals of the bill are broad, the measure recognizes that Federal funding is extremely limited. For that reason, only a small percentage of the park will be owned and operated by the National Park Service. By creating a partnership between Federal, State, and local government and the private sector, relatively few Federal dollars are required. The Dayton community stands strongly behind this proposal and public and private leaders have committed non-Federal funding to ensure that the park succeeds.

The bill which is before the House today represents a compromise that helps fulfill Dayton's historic preservation goals under the Federal Government's severe budget limitations. I would like to thank Mr. VENTO, chairman of the Subcommittee on National Parks and Public Lands, and the subcommittee staff for their guidance during the difficult process of crafting this bill. I would also like to thank Mr. MILLER, chairman of the Committee on Interior and Insular Affairs, for his support. Additional thanks are due Mr. LAGOMARSINO for his assistance during subcommittee consideration.

This measure would not be possible without the help and support of numerous people and organizations in Dayton. I would like to mention the 2003 Fund Committee of Dayton, chaired by U.S. District Court Judge Walter H. Rice, for its leadership in promoting the Dayton Aviation Heritage Preservation Act.

I urge my colleagues to adopt the measure.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. First of all, Mr. Speaker, this is difficult for me because the Members who are sponsoring this bill, both Democrats and Republicans, are friends of mine, and I am a big admirer of the Wright brothers and what they accomplished. I also have very strong ties with the city of Dayton. I have a lot of friends over there. But unfortunately, this bill is too expensive and goes beyond what the National Park Service believes should be done in this area as far as making these sites national sites.

We have facing us this year, as last year, a deficit of approximately $400 billion. We have a $4 trillion national debt now, and the people of this country are very concerned about spending. They are very concerned about taxes.

The other day we talked about a $93 billion tax increase. About 2 years ago we raised taxes $181 billion. It is not because we do not have enough money. Ten years ago we brought in $500 billion in tax revenue. This coming year we are going to bring in $1.3 trillion in revenue, so we have almost tripled the amount of tax revenue. Yet we have almost a $400 billion shortfall in the deficit last year and this year staring us in the face.

The National Park Service came up with a plan for this project that would cost $1.25 million over 5 years, and they did not oppose that kind of an approach. This approach, according to them, is open ended and will cost $10 million over the next 5 years.

I would just like to read a few excerpts from the statement made by Don Castleberry, the Midwest Regional Director of the National Park Service, about this project. He says:

> We do not support enactment of H.R. 2321 as currently drafted because of the unsuitability of the majority of the sites in the bill, the potentially unconstitutional management structure of the proposed area, and the open-ended costs of such an arrangement to the Federal Government.

He goes on to say this:

> * * * the National Park Service completed both suitability/feasibility as well as alternatives studies evaluating the aviation-related resources in the Dayton area. Of the 5 sites found to be nationally significant, the Wright Cycle Company building, Huffman Prairie Flying Field, the Wright Flyer III (not including Carillon Historical Park), Hawthorn Hill, and the Paul Laurence Dunbar House, the study determined that only the Wright Cycle Company building was suitable for inclusion in the National Park System.

□ 1315

He went on to say:

> Protection is assured for Huffman Prairie Flying Field by the United States Air Force, for the Dunbar House by the Ohio Historical Society, and for the Wright Flyer III by the Educational and Musical Arts, Inc.

He said:

> We believe, however, that the bill creates an overly complicated and costly framework for such a partnership. The Dayton community, including both public and private entities, has demonstrated both the desire as well as the ability to actively lead such a partnership and should be able to continue to do so without the creation of a Federally authorized and funded commission and a Federally authorized historic preservation district.

The bottom line is, the Park Service said they would go along with a plan that was limited, would cost $1.25 million over 5 years. This is open ended. It

is going to cost at least $10 million. We cannot afford it right now.

We must prioritize spending, with all due respect to my colleagues from Ohio and my colleagues from across this country. We have to prioritize spending.

One subcommittee of the Committee on Appropriations, one subcommittee of the 13 appropriations subcommittees last year had 350 requests or had 350 Congressmen request over 3,000 special projects, 350 Congressmen asked for 3,000 special projects from 1 subcommittee of the 13 appropriations subcommittees.

That is the reason, one of the main reasons spending is out of control in this place. We have almost tripled revenues coming into the Treasury for the past 10 years, and we still have a $400 billion shortfall.

This project, much of it is worthy. I am a big supporter, like I said, of the Wright brothers. I think they made a tremendous contribution to this country and to the world. But we have got to prioritize spending.

If we continue on the trail we are on, we are going to bankrupt this country and the future generations of this country are going to pay the freight for what we are doing today.

I see some children in this place, very small children, and we are going to leave them a terrible legacy, a tremendous debt. They are not going to be able to live the quality of life that we have because we are not doing our job. So we need to prioritize.

For that reason, I do oppose this and will ask for a rollcall vote.

Mr. VENTO. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is interesting to hear repeated the testimony that occurred in subcommittee some 6 or 7 months ago when we first heard this measure in the House because we had, obviously, to listen to that testimony and craft the bill in response to the testimony of the regional director, Don Castleberry, at that time.

In fact, the sites that were selected that they said were of national significance and suitable are exactly the sites that we included in the legislation.

The bill, as initially introduced, had expanded in terms of the number of sites that we designated. Those were deleted in concurrence with the sponsors of the legislation. They have been very cooperative.

Obviously, there is no question about the national significance of the site in the Hoover block, and the Wright Brothers Cycle Shop, which would be purchased by the National Park Service. Nobody is arguing that.

The other sites are already in public ownership. We anticipate cooperative agreement for the utilization and for the identification of those sites. They are already national landmarks. There is no question about that.

The cost of the bill clearly in terms of the administrative responsibilities of the Park Service by virtue of designating this, according to the Congressional Budget Office, are $3.6 million to $6.8 million over a period of 5 years.

What the sponsors of this measure are asking is to preserve for future generations a very important part of our technological history and culture in terms of the Wright brothers, the invention of the airplane by the Wright brothers and others in aviation history that are depicted in the Dayton area. It is an urban area that has these resources. Amazingly they are still intact, and they still have historic fabric. They are still valid.

The point is that I understand the concern of the gentleman from Indiana about the budget, concerns about the deficit. The question is, Does that mean we have to disavow any interest in our culture, in our history as a people at the altar of a $400 billion deficit? Is that the legacy that we want to leave to our children, one that does not include the proud history of this particular community of the achievements of the American people in the 20th century? I do not think so.

I think that this has great value, great significance, great importance. I think this is a priority.

I think that this particular project and bill ought to be passed so it can compete in the appropriation and priority process around here which the gentleman is so concerned about with the budget. I do not think disavowing and making it impossible to preserve these resources through the one vehicle we have, the National Park Service, is really in the best interest of the people I represent or in the best interest of the people of this country.

If the gentleman has an argument with the budget process, the appropriations process, the proper forum, all they are asking to do is to compete for the dollars so that we can have projects that are worthy. This has been through the subcommittee process, through the full committee process. It is a good bill.

As it is presented, it is an efficient and cost-effective piece of legislation. To portray it any other way, I think is unfair to the authors and to the work that this subcommittee has done on this measure.

This is the only way that this is going to be preserved. We only have one resource or one agency that will manage this type of resource on a national basis for something of national significance. Vote "yes" on this and designate this important site.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I do not want to belabor the point. I understand that the gentleman believes that this is a priority item, but that is a matter for the body as a whole to decide.

Some of the things that the gentleman mentioned, the Huffman Prairie Flying Field, will be preserved by the U.S. Air Force. The Dunbar House, by the Ohio Historical Society. The Wright Flyer III, by the Education and Musical Arts, Inc., according to this report. And the National Park Service was not opposed to making the main item a national historic landmark, and it was going to cost $1.25 million.

This is open-ended, going to cost $10 million.

I will say one more time that I think it is important that we start prioritizing around here because every Congressman, every Congressman has something they would like to have for their district. When we add all those up, a million here, a billion there, we are talking about real money. We have to do something to control spending. It is out of control.

I think we ought to prioritize.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I do not want to prolong the dialog on this. I do think it is important to say that these sites are important to preserve in a park setting so that children of this country can visit them. We cannot visit the Huffman Prairie today as a tourist facility today. It is not prepared to do that. The Air Force had to work a cooperative agreement with the Park Service so that we can see the Wright Flyer, and behind it the F-16's taking off.

Near this is the Air Force Museum, which frankly is the largest single tourist attraction we have in Ohio. And coupled with this, there are even greater things for our heritage of the future.

I think this is a good way to spend resources.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2321, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

TERMINATING RESERVATION OF USE AND OCCUPANCY AT THE BUFFALO NATIONAL RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 996) to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River, and for other purposes.

The Clerk read as follows:

S. 996

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) in 1979 Harold and Margaret Hedges conveyed approximately 711 acres, including a homesite, to the National Park Service for addition to the Buffalo National River;

(2) Mr. and Mrs. Hedges retained a reservation of use and occupancy for a term of twenty-five years for use of their homes and approximately forty-two acres of adjacent land;

(3) on January 1, 1991, the house was destroyed by fire, apparently caused by arson;

(4) Mr. and Mrs. Hedges are now unable to use the remaining term of their use and occupancy reservation, without incurring extraordinary costs and expenses; and

(5) the most equitable resolution is to provide for the termination of their use and occupancy reservation, with an appropriate refund of the unused portion of the value of the reservation.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "reservation" or "reservation of use and occupancy" means the reservation of use and occupancy retained by Harold and Margaret Hedges, pursuant to Buffalo National River Deed 922, including tracts 66-104, 66-111, and 66-112, executed on October 25, 1979, and valued at $19,148;

(2) "Secretary" means the Secretary of the Interior; and

(3) "unused term" means the period of time between January 1, 1991, and October 25, 2004, inclusive.

SEC. 3. TERMINATION OF RESERVATION OF USE AND OCCUPANCY.

(a) IN GENERAL.—Upon application by Harold and Margaret Hedges of Harrison, Arkansas, the Secretary is authorized and directed to terminate the reservation of use and occupancy at the Buffalo National River described in section 2.

(b) REFUND.—Upon termination of such reservation, the Secretary shall, notwithstanding any other provision of law, refund the value of the unused term of such reservation, determined on a pro rata basis.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

□ 1325

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

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

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 996, the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 996, which passed the Senate on July 31, 1991, authorizes and directs the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River. The legislation, introduced by Senator DALE BUMPERS of Arkansas, clears up an unfortunate situation at the Buffalo National River where Harold and Margaret Hedges' home burned on January 1, 1991, in a fire that was probably caused by arson. The Hedges, who were early supporters of the Buffalo National River, had sold their home and land to the National Park Service in 1979. Subsequently their homeowner insurance was canceled because the insurance company claimed the Hedges no longer were the owners of the home and that they were renters. At that time, they reserved a 25-year term of use and occupancy of the property, so they could have lived there until 2004. They are seeking to be reimbursed for the years that they cannot occupy the house that burned. The amount of funds involved here is really quite small but nevertheless important to the party concerned.

It is clear from the Interior Committee's review of this matter that the issue here is the fair and just way of dealing with the Hedges' situation. I endorse S. 996 as a means to do just that and recommend the bill's adoption by the House.

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

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

Mr. Speaker, I rise in opposition to S. 996, a bill which would direct the Secretary of the Interior to compensate a private property owner for portions of an unused use and occupancy reservation at Buffalo National River. The problem with this bill is that it will result is the Federal Government spending about $7,000 to acquire an unused reservation on a house which burned to the ground over 1 year ago. While loss of the Hedges' residence is indeed unfortunate, the taxpayers should not be required to purchase something which no longer exists.

This bill is bad policy and, therefore, I oppose it and urge my colleagues to join me.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from California [Mr. LAGOMARSINO] suggested that this would require the U.S. Park Service to purchase something that it does not need. The Park Service was the owner of the home. The fact is that they had an obligation, or there is inherent an obligation, to provide the actual structure which the use and occupancy or for which the term of use and occupancy will be permitted. That was obviously impossible to do unless they were to rebuild the house in an area, in a park, which is going to be designated as wilderness, on top of everything else.

Really what we are doing here, while it is simple and the amount of money is not very great, I think the principle is very important. I think we need to establish that in terms, because the homeowners were not able to even buy fire insurance because they did not own the property. The Park Service owned the property. So we have a unique situation.

I think it is important that we try and clarify the policy, so I am happy to rise in support of this and urge Members to support the measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 996.

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

A motion to reconsider was laid on the table.

FRANK M. JOHNSON, JR. UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1467) to designate the U.S. courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse," as amended.

The Clerk read as follows:

S. 1467

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

SECTION 1. DESIGNATION

The Federal Building and United States Courthouse located at 15 Lee Street in Montgomery, Alabama, shall be known and designated as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gen-

tleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I am pleased today to rise in support of S. 1467, as amended. Frank Minis Johnson, Jr., born October 30, 1918, in Winston County, AL, was educated at Massey Business College, and received an LL.B from the University of Alabama in 1941.

He was a decorated World War II war hero, having served in the United States infantry in France and Germany. Twice wounded during the war, he was decorated with the Purple Heart with oak leaf cluster, the Bronze Star, and the Combat Infantryman's Medal.

In 1946, Frank Johnson began his legal career in private practice at the firm of Curtis, Maddox & Johnson. In 1953, he was appointed U.S. attorney for the northern district of Alabama; in 1955, he was appointed to the middle district of Alabama. In 1979, President Carter nominated him to be a U.S. circuit judge for the fifth Circuit.

In 1981, he was assigned to the newly created Eleventh Circuit Court of Appeals where he currently retains senior status.

Judge Johnson's outstanding career as a jurist is highlighted by his many courageous decisions involving several landmark cases dealing with equal rights for all citizens of Alabama. He ordered the integration of public schools and public accommodations, abolished the poll tax, allowed the civil rights march from Selma to Montgomery, and ordered the first comprehensive statewide school desegregation program.

It is indeed fitting, and a truly deserving tribute, that the U.S. courthouse and Federal building, at 15 Lee street in Montgomery, AL, be designated the Frank M. Johnson, Jr. Federal Building and U.S. Courthouse.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I thank the gentleman from New Jersey for yielding time to me.

Mr. Speaker, I rise today to express my strongest support for S. 1467, which pays tribute to a long-time friend of mine from Alabama, U.S. circuit Judge Frank M. Johnson, Jr.

This legislation was introduced in the Senate by my good friend and colleague, Alabama's senior Senator HOWELL HEFLIN. It provides for the naming of the U.S. courthouse in Montgomery, AL, in honor of Judge Johnson. He is retiring after a very distinguished career on the Federal bench and we want to recognize his many accomplishments.

Judge Johnson is a native of Winston County, AL, which is in my district, and is a graduate of the University of Alabama School of Law. He became a U.S. district judge in Alabama in 1955, serving as Chief Judge from 1966 to 1979. Then, in 1979, he became a U.S. circuit judge for the old U.S. Court of Appeals, Fifth Circuit. Since 1981, he has served in this capacity for the eleventh Circuit.

During his tenure on the Federal bench, our Nation went through a very difficult time in which Judge Johnson played a major role in upholding and implementing the laws of the land.

The 1950's and 1960's saw the birth of the civil rights movement, the integration of schools and other public places throughout the South. Alabama was at the center of these profound changes and the transition was, at times, violent.

As an Alabama U.S. district judge, Frank Johnson used his wisdom, integrity, and deep commitment to the law to pioneer what was new territory for Alabama and the South. His rulings in a number of desegregation, voting rights, and legislative reapportionment cases changed a way of life and set our history on a new course.

In more recent years, he has taken on the battles of prisoners and the mentally ill.

He has always been courageous, evenhanded and dedicated to the law. His commitment to civil rights, equality, and justice for all people stands as a hallmark to his illustrious career.

Judge Johnson is truly a legend in his own time and will always be remembered for the role he has played in shaping our Nation's history.

I have known Frank Johnson personally for many, many years and I have the highest regard for him.

I feel that it would be most fitting and appropriate to designate the Federal courthouse in Montgomery, AL, in honor of Judge Johnson's many contributions to our Nation.

I urge my colleagues to support this legislation.

□ 1332

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

Mr. Speaker, as has already been indicated, S. 1467 will designate the Federal building and U.S. courthouse in Montgomery AL, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

Judge Johnson is a remarkable individual. During his military service in World War II, he saw combat in Normandy and Germany. He was decorated for gallantry and was discharged as a captain. Following his military service he practiced law with the firm of Curtis, Maddox and Johnson in Jasper, AL. His appointment to the bench in 1955 coincided with the beginnings of the civil rights movement. It was during his tenure and in his courtroom that many of the historic civil right cases were decided.

Thus, it is fitting that we honor him by naming a courthouse in Montgomery, AL—where the genesis of the whole civil rights movement began—after him. I urge my colleagues to support S. 1467.

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

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, Congress should act to honor a special man whose actions moved the Nation. During his 36-year tenure on the bench, Judge Frank M. Johnson of Alabama issued rulings that not only reshaped the South, but changed our Nation. Johnson, who is 73, has taken senior status on the Federal court.

It is fitting that the Federal courthouse in Montgomery be named for Judge Johnson. I'd like to share with my colleagues the judge's favorite quote, by Abraham Lincoln:

> I do the very best I know how, the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference.

We don't need a host of angels to attest to the correctness of the judge from Winston County, AL. His courageous, far-reaching rulings—almost by themselves—ended segregation in Alabama and gave meaning to our fundamental American principles, that all men are created equal, that this indeed is the land of opportunity for all.

I can think of no more fitting tribute than to name the building, in which so many of these decisions were rendered, after Judge Frank M. Johnson.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my chairman, Mr. ROE, for yielding time to me.

Mr. Speaker, I rise this afternoon with a great deal of pleasure and delight to urge my colleagues to support S. 1467. This bill would name the Federal courthouse in Montgomery, AL, after Federal District Judge Frank M. Johnson, Jr. The courthouse, which is located at 15 Lee Street in historic Montgomery, AL, would become the "Frank M. Johnson United States Courthouse."

It is fitting and appropriate that we honor this great American, Judge Frank M. Johnson, Jr. This man did more than any member of the Federal bench to change the South. He made the South something different and something special. He was the presiding judge during the Montgomery bus boycott of 1955 and 1956. He was the presiding judge during the freedom rides in 1961. He was also the presiding judge during the march from Selma to Montgomery.

Judge Johnson has been a courageous, fair, and tireless fighter for simple justice. As a nation and as a people, we are all indebted to this outstanding jurist. As a participant in the civil rights movement, I often testified in this courthouse before Judge Johnson. I knew back then that we would get a fair hearing because many of us saw Judge Johnson as a sympathetic referee in the struggle for simple justice.

In 1955, Judge Johnson was appointed by President Eisenhower to serve as a U.S. district judge for the Middle District of Alabama. In 1966, he became the chief justice for the Middle District of Alabama. Between 1979 and 1991, he served on the Eleventh Circuit Court of the U.S. Court of Appeals. He currently has senior status on the U.S. Court of Appeals.

Judge Frank M. Johnson, Jr., is one of the true heroes of the modern South. He did more to change the State of Alabama and the South than any person during this period. By changing Alabama, Judge Johnson helped to transform the South and the Nation.

Again, I urge my colleagues to support S. 1467. It is fitting and just that we do so.

Mr. HAMMERSCHMIDT. Mr. Speaker, S. 1467 designates the U.S. courthouse, located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse." Judge Johnson's career has been one of entire devotion to the rule of law and justice. This devotion is clearly evident in Judge Johnson's decisions in numerous landmark cases involving civil rights, voting rights, prison and mental health rights, and school desegregation. It is entirely fitting to name the courthouse in Montgomery in honor of Judge Johnson.

I urge my colleagues to support this bill.

Mr. SAVAGE. Mr. Speaker, S. 1467, as amended, is a bill to designate the U.S. Courthouse and Federal Building in Montgomery, AL, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse."

Judge Johnson's career is one devoted to the rule of law and justice. The genesis of the civil rights movement began in Montgomery, Alabama. During that early period of Judge Johnson's tenure on the district bench many landmark cases came before him in his second floor courtroom in the U.S. courthouse. His decency and fairness, as well as his application of equal justice under law were known to all those who came before his bench.

Judge Johnson is truly deserving of the honor of having the U.S. Courthouse and Federal Building in Montgomery, AL, named in his honor.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 1467, as amended.

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

The title of the Senate bill was amended so as to read: "An Act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the 'Frank M. Johnson, Jr. Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

□ 1340

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1467, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EWING T. KERR UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1889) to designate the U.S. courthouse located at 111 South Wolcott in Casper, WY as the "Ewing T. Kerr United States Courthouse," as amended.

The Clerk read as follows:

S. 1889

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ewing T. Kerr has dedicated 64 years of his life to the practice of law in the State of Wyoming;

(2) over a period of 36 years, as a Federal district judge, Ewing T. Kerr has embodied the spirit of public service and has been dedicated to upholding the law of the land; and

(3) Ewing T. Kerr deserves recognition, honor, and gratitude.

SEC. 2. DESIGNATION.

The Federal Building and United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, is designated as the "Ewing T. Kerr Federal Building and United States Courthouse".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal Building and United States Courthouse referred to in section 1 is deemed to be a reference to the Ewing T. Kerr Federal Building and United States Courthouse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I am pleased today to rise in support of S. 1889, as amended. This legislation would name the Federal building and U.S. courthouse located at 111 South Wolcott Street in Casper, WY, as the "Ewing T. Kerr Federal Building and United States Courthouse."

Ewing T. Kerr, born in 1900 in Bowie, TX, received a B.A. degree from the University of Oklahoma and a B.S. degree in education from Central State University in Oklahoma. While working as a school principal in Cheyenne, WY, he studied law, and was admitted to the Wyoming bar in 1927.

Judge Kerr's legal career, which spans several decades, was interrupted in 1943 when he joined the Army and served his country in North Africa.

Judge Kerr has served the public as the assistant U.S. attorney for Wyoming, attorney general for the State of Wyoming, and in 1955, as the third Federal judge from the State of Wyoming. At 91 years of age, Judge Kerr still maintains an active docket.

Judge Kerr is committed to public service, and to the legal system. All who have come before him have benefited from his wisdom and common sense.

S. 1889, as amended, is a fitting tribute to the outstanding dedication and public service of Ewing T. Kerr.

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

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

Mr. Speaker, it is a real pleasure for me to rise in support of S. 1889 which would designate the Federal building and courthouse in Casper, Wyoming as the "Ewing T. Kerr Federal Building and United States Courthouse." I cannot help but point out that although Judge Kerr has contributed greatly to the legal system in the State of Wyoming, he received his education in the great State of Oklahoma. I just want to assure my friend from Wyoming that we in Oklahoma are happy to have shared with you one of our own.

After receiving his university education in Oklahoma, Judge Kerr moved to Wyoming to teach school and eventually completed his legal education and was admitted to the Wyoming bar in 1927. His appointment to the bench came in 1955 where he still serves with distinction. In the years following his admittance to the bar and prior to his appointment to the bench, Judge Kerr established himself as a highly regarded member of the legal community. He was assistant U.S. attorney from 1929 to 1934 and in 1939 became the Wyoming State attorney general, a post he held until 1943.

Throughout his career, Judge Kerr has lived the life of community involvement. He has been involved with local chamber of commerce, charitable groups, and the Rotary Club as well as his church. Clearly, this is a gentleman that deserves to be honored on this way and I urge my colleagues to support S. 1889.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, Judge Kerr, 91 years old, was the third Federal judge for the State of Wyoming. Nominated by President

Dwight Eisenhower in 1955, Judge Kerr's career spans from the turbulent days of the civil rights movement to the energy boom of the 1970's and 1980's, to the environmental concerns of the 1990's. In addition to hearing cases in Wyoming's Federal court, he has heard cases in every State of the tenth circuit: Louisiana, California, New York, Florida, and Puerto Rico. Even today, nearly 37 years after he took the oath of office, Judge Kerr retains senior status, maintaining an active docket in his court.

In addition to his career of excellence on the Federal Bench, though, Judge Kerr has a long and distinguished career as an attorney and public servant. Born in Bowie, TX, in 1900, he earned a B.A. degree in economics and government from the University of Oklahoma and a B.S. degree in education from Central State University in Oklahoma.

After serving as principal of a junior high school in Hominy, OK, Judge Kerr moved to Cheyenne, WY, at the urging of his sister, who was teaching school there. After reading law while working as an elementary school principal in Cheyenne, Judge Kerr took the Wyoming bar examination in 1927 and began practicing law.

In 1929, Judge Kerr was appointed Assistant United States Attorney for Wyoming, and for the next 4 years he aggressively prosecuted Federal criminal offenses, including the famous Casper conspiracy prohibition law case. Then from 1939 to 1943, Judge Kerr was Wyoming's State attorney general. Among other duties in that important role, he argued two landmark water law cases before the U.S. Supreme Court—Nebraska versus Wyoming and Wyoming versus Colorado—cases which dominate water caselaw to this day.

Judge Kerr joined the Army in 1943 and was assigned to the allied military government in North Africa. Later, he supervised reestablishment of civilian courts in southern Italy.

Recognizing the need for another judge to help handle the rapidly growing caseload in Wyoming, Judge Kerr took senior status in 1975. Nonetheless, he continues to take an active role in the business of the Federal District Court of Wyoming.

Beyond professional and judicial business, Judge Kerr has lived a life of community involvement. Over the years, the local chamber of commerce, charitable groups, his Rotary Club, and his church have benefited from his energy and commitment. He also served as the chairman of the Wyoming Republican Party from 1945 to 1954, longer than any other state chairman.

As demonstration of the high regard in which Judge Kerr is held, every member of the Federal bench from Wyoming has written in support of naming the Casper, WY, courthouse in Judge Kerr's honor, and I have attached copies of those letters to my written statement.

This legislation recognizes the commitment and service of Ewing T. Kerr to Wyoming, the Nation, and our legal system. I can think of no finer tribute than naming this courthouse after him, and thank you for the timely attention to this bill in committee, and I encourage its prompt consideration on the floor of the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, S. 1889 designates the Federal building and U.S. Courthouse, located at 111 South Wolcott Street in Casper, WY, as the "Ewing T. Kerr Federal Building and United States Courthouse."

Ewing T. Kerr was born in Bowie, TX, in 1900. He received his education in Oklahoma and moved to Wyoming to teach school. While working as an elementary school principal in Cheyenne, Kerr read the law and was admitted to the Wyoming bar in 1927.

President Dwight D. Eisenhower appointed Kerr to the bench in 1955. During Judge Kerr's 37-year career, he handed down decisions in several landmark cases involving several civil rights and environmental laws.

Judge Kerr, at 91 years of age, still maintains an active docket in his courtroom and is also involved in various community and church activities. It is fitting and proper that we honor this outstanding public servant by naming a courthouse after him. I urge my colleagues to support S. 1889.

Mr. SAVAGE. Mr. Speaker, I rise in support of S. 1889, as amended. This legislation would honor a distinguished and dedicated jurist and public servant by having the Federal Building and U.S. Courthouse in Casper, WY, designated the "Ewing T. Kerr Federal Building and United States Courthouse."

Judge Kerr began his legal career in 1929 and today is 91 years of age, as he continues to take an active role in the business of the Federal court of Wyoming.

Judge Kerr argued two landmark water law cases before the United States Supreme Court, cases which still dominate water case law to this day.

A gentleman held in high regard by his peers and his many friends, judge Kerr is deserving of the honor of having the Federal building and U.S. Courthouse in Casper WY, named in his honor.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 1889, as amended.

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

The title of the Senate bill was amended so as to read: "An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the 'Ewing T. Kerr Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1889, the Senate bill just passed.

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

There was no objection.

CLARKSON S. FISHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2539) to designate the Federal building and the U.S. courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 2539

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

SECTION 1. DESIGNATION.

The Federal Building and the United States Courthouse located at 402 East State Street in Trenton, New Jersey, shall be known and designated as the "Clarkson S. Fisher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Clarkson S. Fisher Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time so I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 2539. Clarkson S. Fisher was born on July 8, 1921, in Long Branch, NJ. Following graduation from St Benedict's Preparatory School in Newark, NJ, Clarkson Fisher attended the University of Notre Dame in Indiana. However, his studies were interrupted by his service in the U.S. Army during World War II in the Pacific theater. Following his honorable discharge he resumed his studies at Notre Dame, graduating from there in 1947, and from Seton Hall Law School in 1951.

In 1964, he was appointed a judge with the Monmouth County Court. In 1970, President Nixon appointed him to the U.S. District Court for New Jersey. In

1979, he became chief judge and served with distinction for eight and one-half years.

Judge Fisher is widely respected by, not only his colleagues but also by legal scholars. His professional demeanor and his involvement with community and civic organizations describe a man whose contributions extend beyond his extensive legal endeavors.

In tribute to a distinguished career and gentleman, I urge my colleagues to approve this legislation.

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

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

Mr. Speaker, H.R. 2539 designates the Federal building and U.S. courthouse located in Trenton, NJ, as the "Clarkson S. Fisher, Federal Building and United States Courthouse."

Judge Fisher has served the people of New Jersey with distinction since his first publicly held position in 1958 as a West Long Branch councilman. He also served one term in the New Jersey Assembly and served as a Monmouth County court judge from 1964 to 1966. In 1966, he was appointed to the New Jersey Superior Court and in 1970, he was appointed by President Richard M. Nixon to the U.S. District Court.

Throughout his career, Judge Fisher has been described as an extremely kind, even-tempered and gentlemanly person. He is an individual whose contributions reach beyond his legal career. Therefore, I am pleased to support H.R. 2539 and urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take this opportunity to urge my colleagues to support my legislation, H.R. 2539, which, as has been said, designates the Federal building and U.S. courthouse located on East State Street in Trenton, NJ, as the new "Clarkson S. Fisher Federal Building and United States Courthouse."

Mr. Speaker, Judge Fisher has served with distinction. He has served with honor as the chief judge of the U.S. District Court for the District of New Jersey from 1979 until 1987. So many of his decisions, so many of them both during his tenure as chief judge and beforehand while serving as district judge, were looked upon by many in the legal profession with a tremendous amount of respect.

Mr. Speaker, my good friend, the gentleman from New Jersey [Mr. ROE], and my good friend, the gentleman from Oklahoma [Mr. INHOFE], have very adequately described his credentials, his background.

I just want to say that his devotion extended beyond his legal expertise to a very tightly knit family. He has been married to the former May Hoffman since 1949, and they have four sons. He is also very active in his parish, St. Michael's Roman Catholic Church, in Long Branch, NJ.

□ 1350

Mr. Speaker, last month I received a letter of appreciation from Judge Fisher who now resides as a senior judge on the court in which he has served for 9 years as chief judge. In reading his letter, it became very clear to me that while Judge Fisher certainly did not ask for this honor to be bestowed upon him, did not in any way seek it, he was very grateful to his fellow Federal judges who advanced the idea to me.

I am hopeful that this designation will have quick approval so that the Trenton Federal Building and U.S. Courthouse can be appropriately named in honor of Judge Fisher.

Mr. Speaker, I would like to thank my two friends for their quick action on this bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I thank the chairman, the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I also rise in support of this legislation designating the Federal building and courthouse located at 402 East State Street in the capital of New Jersey as the "Clarkson S. Fisher Building and U.S. Courthouse."

Mr. Speaker, this occasion is particularly special to me because I had the distinct honor of serving as an intern to Judge Fisher on the U.S. district court in Trenton in 1978 and 1979. The experience of serving a jurist of the caliber of Judge Fisher enhanced my career immensely.

I also take a certain added pride in noting that Judge Fisher is a native of Long Branch, NJ, which also happens to be my home town.

I should tell you that Judge Fisher is a Republican. He also happens to be ideologically very conservative, but that never stopped him when he was choosing interns or choosing law clerks to pick both Democrats and Republicans. In fact, I know of no one really who is as nonpartisan as Judge Fisher.

We also have a dinner every year honoring him by the clerks and interns who work for him, and it really is a great occasion for all of us to get together and joke with him. He has a tremendous Irish sense of humor.

Mr. Speaker, Judge Fisher is one of the most astute, able and honorable men to ever grace the Federal bench, in my opinion. For a young law student like myself, serving as his intern was an opportunity to observe his unique combination of legal reasoning and judicial fairness. It is because of men like Judge Fisher that to this day I remain confident in the honor of the men and women who serve on the Federal bench.

Judge Fisher has been a friend and mentor for many years. It is with great pride that I have an opportunity today to cast a vote in favor of naming the Federal building and courthouse in Trenton in his honor.

We should also know, Mr. Speaker and friends, that Judge Fisher was very instrumental in wanting to have the courthouse there. He really loved Trenton. At one time he was transferred to the Federal courthouse in Newark, and he always wanted to go back to Trenton because he figured that was his home. So this really is a fitting tribute in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2539 designates the Federal building and U.S. courthouse, located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

Clarkson S. Fisher was born on July 8, 1921, in Long Branch, NJ, where he lived until attending school in Newark, NJ. His college education at the University of Notre Dame was interrupted by World War II. Following his service in the U.S. Army, he completed his studies at Notre Dame and graduated from Notre Dame Law School in 1951. He was admitted to the New Jersey bar the same year.

His first appointment to the bench occurred in 1964 as a judge for the Monmouth County court. He was later appointed to the Superior Court of New Jersey in 1966.

President Nixon appointed him to the U.S. district court in 1970. From 1979 to 1987, Judge Fisher served as the chief judge for the district. In 1987 he took senior status.

In addition to being a distinguished and respected member of the court, Judge Fisher has served his community through various civic and church activities. It is most appropriate that we honor Judge Fisher in this way, and I urge my colleagues to support H.R. 2539.

Mr. SAVAGE. Mr. Speaker, I am pleased today to rise in support of H.R. 2539. This legislation is a just and fitting tribute to Clarkson S. Fisher, a man of distinction in both his legal career and private life.

Judge Fisher's career includes notable appointments in the New Jersey superior court and the U.S. district court. He is currently a senior judge on the U.S. court for the district of New Jersey. Judge Fisher deserves to be honored by having the Federal building and courthouse at 402 East State Street, Trenton, NJ, known as the "Clarkson S. Fisher Federal Building and United States Courthouse."

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2539.

The question was taken; and—two-thirds having voted in favor thereof—

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2539, the bill just passed.

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

There was no objection.

L. DOUGLAS ABRAM FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3041) to designate the Federal building located at 1520 Market Street, St. Louis, MO, as the "L. Douglas Abram Federal Building".

The Clerk read as follows:

H.R. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1520 Market Street, St. Louis, Missouri, shall hereafter be known and designated as the "L. Douglas Abram Federal Building". Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "L. Douglas Abram Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I am pleased today to rise in support of H.R. 3041. This legislation would honor a brave and very courageous American: Federal Bureau of Investigation [FBI] Special Agent L. Douglas Abram.

Special Agent Abram would be honored by having the Federal building at 1520 Market Street in St. Louis, MO, being designated as the L. Douglas Abram Federal Building.

Special Agent Abram, a 14-year veteran of the FBI, was tragically killed in the line of duty on January 19, 1990. Abram was an outstanding credit to the FBI and the Nation.

He has earned a special place in this country's law enforcement history.

Special Agent Abram is survived by his mother Reva, his wife, Rebecca and his three children.

In tribute to Special Agent Abram's contributions to the FBI and this country, I urge my colleagues to approve this legislation.

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

Mr. Speaker, as has already been noted by the chairman, the gentleman from New Jersey [Mr. ROE], H.R. 3041 honors L. Douglas Abram, an FBI special agent who died as a result of gunshot wounds he received in the line of duty by naming a Federal building in St. Louis, MO, after him. This is a fitting tribute to a man who made the ultimate sacrifice while performing his duties as a law enforcement officer. I urge my colleagues to give this measure their support.

Mr. SAVAGE. Mr. Speaker, H.R. 3041, is a bill to designate a Federal building in St. Louis, MO, as the "L. Douglas Abram Federal Building."

Federal Bureau of Investigation [FBI] Special Agent L. Douglas Abram was a brave individual who lost his life in the line of duty in a shoot-out that occurred while he attempted to serve a search warrant on suspected felons on January 19, 1990. He was the first FBI agent killed in the line of duty in the St. Louis area.

He was born on April 10, 1942. He graduated from the University of Arkansas in 1968. Special Agent Abram joined the FBI in 1976, and served with the FBI until his death.

Special Agent Abram will be remembered as a courageous, dedicated law enforcement officer. He deserves to be honored by having this Federal building in St. Louis, MO, named in his memory. I urge my colleagues to pass this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3041 designates the Federal building, located at 1520 Market Street in St. Louis, MO, as the "L. Douglas Abram Federal Building."

L. Douglas Abram was a special agent with the FBI who lost his life in the line of duty on January 19, 1990. Special Agent Abram was attempting to serve a search warrant when he was fatally shot. He is survived by his mother Reva Abram, his wife Rebecca, and three children.

Fortunately, it is not often that we lose FBI agents. Special Agent Abram was the first in the St. Louis office and only the 40th in the Nation to lose his life. However, when it does happen, it is a tragic loss not only for the family but also for the Nation, because we have lost an individual who has willingly put his life on the line to protect and serve the citizens of this country. Therefore, it is most appropriate that we recognize the heroism and dedication of this public servant.

I urge my colleagues to support H.R. 3041.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3041.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3041, the bill just passed.

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

There was no objection.

MITCHELL H. COHEN U.S. COURTHOUSE

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2475) to designate the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

The Clerk read as follows:

H.R. 2475

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

SECTION 1. DESIGNATION.

The United States courthouse under construction at 400 Cooper Street in Camden, New Jersey, shall be known and designated as the "Mitchell H. Cohen United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mitchell H. Cohen United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I am pleased today to rise in support of H.R. 2475. This bill would provide a special tribute to a distinguished jurist from my home State of New Jersey: Judge Mitchell H. Cohen. This legislation would honor Judge Cohen's over 50 years of public service by naming the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse." This is appropriate because Cohen made many important contributions to the State of New Jersey as a jurist.

A short review of some of his accomplishments reflects this. He served on the Camden City Municipal Court, the Camden County Court, and the Superior Court of New Jersey. Judge Cohen's judicial career culminated when President Kennedy appointed him to the U.S. District Court for the District of New Jersey. He later became the chief judge at this court. Subsequently, he assumed senior status. Judge Cohen's focus was not restricted to the law.

He had an avid interest in music and theater, and he helped his community by participating in various civic and charitable organizations.

Judge Cohen passed away in 1991. Unfortunately, he did not live to see this legislation enacted. I urge my colleagues to approve this legislation so a great American will be honored.

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

H.R. 2475 will designate the U.S. courthouse in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

Mitchell Cohen began his public service career in 1936 as a city prosecutor for Camden. Later, he served as a judge in the Camden Municipal Court. In 1958, he began his service on the New Jersey County Court and in 1961 became a member of the New Jersey Superior Court. His appointment to the U.S. district court was made by President John F. Kennedy in 1962.

In addition to his judicial contributions, Judge Cohen also served the Camden community through his involvement in several civic and charitable organizations.

H.R. 2475 is a fitting tribute to Judge Cohen and I urge it's adoption.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ANDREWS].

□ 1400

Mr. ANDREWS of New Jersey. I thank the chairman, the gentleman from New Jersey, for yielding this time to me.

Mr. Speaker, I also thank the chairman of the subcommittee and the ranking member of the committee and all the members of the committee for their consideration of this bill.

Mr. Speaker, I would like to especially thank my colleague, our dean, the gentleman from New Jersey [Mr. ROE], chairman of the full committee, for his gracious cooperation.

Mr. Speaker, the chairman of our committee would have very much liked Judge Mitchell Cohen because just as the chairman of our committee, the dean of our delegation, has been a builder and trailblazer, so was Judge Cohen. As our dean has blazed trails for members of our delegation in areas of policy, politics and personal ethics, so did Judge Cohen. He was one of the builders of the legal community in the city and county of Camden.

When they look back, as young lawyers in the country do, at the giants of the profession, Judge Cohen certainly numbered among them. He set a tone of practice in the private practice of law where a person's word was always good, where a person's personal ethic was always enough to carry a transaction through, and where law was a profession, where the practice of law was a dignified profession and not simply another way of earning a living. He blazed a lot of trails for younger lawyers before he even took the bench.

When he took his seat on the Bench both in the Sate and the Federal levels, he served with great distinction. He was a person who was a judicious decision maker, he was kind to the lawyers who appeared before him, but he held the lawyers to high standards who appeared before him and demanded the best of them.

Mr. Speaker, he was a builder in our political community. It is worth noting that Judge Cohen was a Republican, but he was appointed by a Democratic President, President Kennedy. His commitment was to the law and not to any partisan political agenda.

Finally, he was a builder of a great family in our community, a family that contributed to the arts, to its religion, to charitable ventures, and not simply to itself.

As the family grew, so did the beneficence and contributions to the people of the greater Camden area.

So, it is with great pride and thanks to our chairman and all who played a role in this that I rise in support of H.R. 2475.

I thank my colleagues for their consideration and support.

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2475, legislation to designate the U.S. courthouse being constructed in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

I had the pleasure of knowing Mitchell Cohen both personally and professionally for many years. Judge Cohen's record of public service, which spanned more than 50 years, is an inspiration to everyone involved in the practice of law. Mitchell Cohen was a lawyer's lawyer and an outstanding jurist.

After his admittance to the bar in 1930, Mitchell Cohen became the city prosecutor in Camden. In 1942, he served as a judge in the Camden Municipal Court, and he later served as a special deputy attorney general for New Jersey.

Judge Cohen went on to serve on the New Jersey County Court and the New Jersey Superior Court, before being appointed by President Kennedy to the U.S. District Court for the District of New Jersey in 1962. He became Chief Judge in 1973.

Mitchell Cohen left a long and distinguished legacy in the field of law and jurisprudence. He was a wonderful human being, and the decision to name the new courthouse in Camden after Mitchell Cohen is a fitting tribute to a great American.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2475 designates the U.S. courthouse, being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse."

Mitchell H. Cohen was born on September 11, 1904, in Philadelphia, PA. He attended Temple University and Dickinson School of Law, graduating in 1928. A dedicated public servant for over 50 years, Mitchell Cohen was appointed to the U.S. District Court for New Jersey in 1962 by President John F. Kennedy. He became chief judge in 1973.

Until his death in January of this year, Judge Cohen served his community and profession with distinction. I urge my colleagues to honor Judge Cohen by supporting H.R. 2475.

Mr. SAVAGE. Mr. Speaker, I strongly support H.R. 2475, legislation to honor Judge Mitchell H. Cohen by naming the U.S. courthouse under construction in Camden, NJ, after him. Cohen was born in Philadelphia, PA. He graduated from college at Temple University and the Dickinson School of Law. His outstanding career of public service includes service as the city prosecutor for Camden, NJ, as a judge on the Camden County Court and on the New Jersey Superior Court. The most important step in his legal career was his appointment to the U.S. District Court for the District of New Jersey. He later rose to be chief judge of this Court, before taking senior status.

This individual, who contributed so much to his State and Nation is most deserving of being honored by naming this new U.S. courthouse after him. I urge you to join me in support of this legislation.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2475.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2475, the bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from new Jersey?

There was no objection.

SILVIO O. CONTE FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2818) to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes.

The Clerk read as follows:

H.R. 2818

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

SECTION 1. FINDINGS.

Congress finds that—

(1) Silvio O. Conte, during his 32 years in Congress, embodied the true spirit of public service;

(2) Mr. Conte dedicated his entire life toward helping those individuals less fortunate than himself; and

(3) Mr. Conte's presence in Congress will be sorely missed.

SEC. 2. DESIGNATION.

The Federal building located at 78 Center Street in Pittsfield, Massachusetts, is designated as the "Silvio O. Conte Federal Building".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the Silvio O. Conte Federal Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I rise in support of H.R. 2818, legislation that would designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building."

Silvio O. Conte had a very distinguished congressional career spanning 32 years. He wielded great power as the ranking Republican on the House Appropriations Committee. He also served on the Small Business Committee. Some of the many projects to which Conte contributed are the Patriot missile, the Polymer Research Center at the University of Massachusetts, and research funds for the Occupational Health and Safety Administration.

He will be best remembered for the special character traits that made him an outstanding representative for his constituents and won him bipartisan respect and friendship among his colleagues in Congress. Silvio Conte was a champion for education, a strong protector of our environment, and a man of humor and compassion.

Consequently, it is fitting and proper that this exceptional individual be honored by having the site of his primary district office for many years, the Federal building at 78 Center Street in Pittsfield, MA, named after him as the "Silvio O. Conte Federal Building." I urge your strong support for this bill.

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

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

Mr. Speaker, this bill not only honors a great American but also a distinguished former Member of this body. The "Silvio O. Conte Federal Building" is a fitting tribute to a dedicated public servant and one that is sorely missed around here. Selecting the building where his primary district office was located for his namesake is very appropriate given that for 33 years, Sil helped the people of the First District of Massachusetts from that location.

Sil Conte was one of the rare individuals in Congress who had no enemies. Everybody loved and still loves Sil Conte.

I support H.R. 2818 and urge my colleagues to do likewise.

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

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 2818, legislation to designate the Federal building on Center Street in Pittsfield, MA as the "Silvio O. Conte Federal Building."

It has been a little over 1 year since the Congress lost an outstanding legislator and a great friend. Rarely has this Chamber lost someone with his lust for life and sense of humor. We miss him still.

Silvio Conte was a product of western Massachusetts, the land in which he was born and where he lived his entire life. Born and raised in Pittsfield, Sil Conte called that historic New England town his home. After distinguished service in the Seabees in the South Pacific during World War II, Sil returned to his home State to attend Boston College. He was first elected to the Massachusetts State Senate at the age of 29.

From that early age on, Sil worked hard to serve his constituency well, and continued when he joined the U.S. Congress in 1958. He was a dedicated legislator, devoted to caring for the poor, hungry, and the elderly.

I am pleased to support this measure. I believe that designating this Federal building in Sil's hometown would mean a great deal to him.

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

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the chairman, the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I am here to strongly support H.R. 2818, the bill before us, which names the Federal building in Pittsfield, MA, for my predecessor, Silvio Conte.

There is really no truly fitting memorial to Silvio. He was so powerful, so colorful, so caring. His work touched so many people in Massachusetts and throughout this Nation. This bill will provide a small but important tribute.

The people of my district remember Silvio not as a legislator or a politician, but as a friend. Silvio cared deeply for those he represented, for their needs and problems.

This friendship was earned through his never-ending advocacy, and made strong by all that he had in common with the land and people of western Massachusetts. Like our farmers and businessmen, Silvio had an independent spirit; like our factory workers and laborers, Silvio was hard working and determined; and like all of us who have walked the trails, driven the long and narrow roads, and climbed the mountains, Silvio loved the beauty of our land.

Silvio honored this friendship by fighting countless battles for all who asked for his help. And for those whose voices were often not loud enough to be heard all the way down here in Washington, Silvio would speak loudest on their behalf. The veterans, the poor, the elderly, the young, and the average taxpayer, all had a voice through Silvio—and he never forgot that they needed that voice more than the interest groups and big businesses.

Silvio knew that average taxpayers needed someone to fight waste and pork, and he often led the charge against unnecessary spending. He knew that the poor and elderly needed heat in the winter and he fought tirelessly for government assistance for home heating. Silvio knew that education in America was slowly deteriorating, and through his position on the Appropriations Committee, he always kept the student's needs in mind.

As I have come to know people that Sylvio knew here in Washington, I have heard many of the same stories. But for all the fun he brought to his colleagues here with the singing and the poems, I know it was unequaled to the caring and compassion he brought to the people of western Massachusetts. And for that he deserves far more than his name on a building, but in a small way, today we will acknowledge the work of a great man.

□ 1410

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New Jersey [Mr. ROE] for yielding this time to me.

Mr. Speaker, I was not going to speak on this. There are a million reasons why Silvio Conte deserves this recognition and the accolades that have been given him today. But on a lighter note, he was one of the most entertaining and nicest guys in the U.S. House of Representatives.

One little thing I remember was when I played on the baseball team against the Democrats. Silvio Conte was our coach, and he was so enthusiastic, and he had his cigar and was standing over on the base pads. I was on second base, and I took too big a leadoff, and Silvio started hollering at me in his own inimitable way, and everybody in the place heard him, and I looked at him, and it distracted me

from what I was doing there, and I got picked off second base, and it caused Congressman BONIOR to get three stitches in his leg because I spiked him going into second. So, there were some casualties because of that incident.

Mr. Speaker, I just wanted to say that I always enjoyed Silvio Conte, I think everybody did, and I think this is a great honor befitting him.

Mr. SAVAGE. Mr. Speaker, H.R. 2818 is legislation that would provide a special tribute to a great American by naming the Federal building in Pittsfield, MA, after Silvio O. Conte.

Silvio O. Conte was born in Pittsfield, Berkshire County, MA. He was the son of Italian immigrants. He studied at Boston College and then at Boston College Law School.

He then began his distinguished career. Congressman Conte served as a member of the Massachusetts State Senate, served as parliamentarian for two Republican State conventions, and was elected to the U.S. House of Representatives for the 86th Congress. He served in each succeeding Congress for 32 years.

Conte became the senior Republican member of the powerful House Appropriations Committee and also served on the Small Business Committee. A regent of the Smithsonian Institution, he was a strong supporter of its programs.

As a Congressman, Conte won great respect from his colleagues. He was known for his fine integrity and special commitment to the welfare of the elderly, sick, and poor.

The entire Massachusetts delegation supports this legislation. I urge you also to support this honor for Silvio O. Conte.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 2818 designates the Federal building, located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building."

This bill not only honors a great American, but also a distinguished former Member of the House. Unfortunately, time will not allow me to highlight all of Sil's accomplishments. However, I believe he will be best remembered for his vigorous and, at times, colorful work as the ranking Republican member on the Appropriations Committee.

In addition to Sil's wit on the floor, he was known for being a very snappy dresser. Frequently during floor consideration of appropriation bills, Sil would wear very colorful sport jackets which normally followed a nautical theme.

Without question, Sil's contribution to the House as an institution goes beyond his wit and choice of dress. He was an accomplished and dedicated legislator. The building which will be named for Sil was his primary district office for many years. It is fitting that it stand as one of many tributes to this great American.

I urge my colleagues to support H.R. 2818.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2818.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

THEODORE ROOSEVELT FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3118) to designate Federal Office Building No. 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building".

The Clerk read as follows:

H.R. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Federal Office Building Number 9, which is occupied by the Office of Personnel Management and is located at 1900 E Street, Northwest, in Washington, D.C., is hereby designated as the "Theodore Roosevelt Federal Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Theodore Roosevelt Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I am pleased today to rise in support of H.R. 3118. This legislation would designate Federal Office Building No. 9 located at 1900 E Street, Northwest in Washington, DC, as the "Theodore Roosevelt Federal Building." This building is occupied by the Office of Personnel Management which requested the legislation in honor of the 100th anniversary of President Roosevelt's tenure as Civil Service Commissioner.

Although President Roosevelt is a towering figure in American history for other, more well-known aspects of his career, such as his successful role in foreign relations and his work as a naturalist, he made major contributions to creating our modern civil service and its basis on merit, not favoritism.

While Commissioner, Roosevelt added many more positions to the competitive service, the type and scope of the written tests were improved, a method of rating work experience was adopted, and unified civil service rules were adopted. To these improvements, as Commissioner, Roosevelt added his invaluable enthusiasm and energy and influence.

As President, Roosevelt continued to improve the civil service system by strengthening its commitment to merit principles and to being a professional agency.

For his many contributions to our civil service system, it is a fitting tribute to honor President Roosevelt by passing this legislation to name this Federal building after him. I urge my colleagues to approve this bill.

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

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

H.R. 3118 designates the Federal Office Building No. 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building." The primary tenant in FOB 9 is the Office of Personnel Management.

As we all remember from history, President Roosevelt served as the Civil Service Commissioner from 1889 to 1895. It was during his tenure at the Civil Service Commission, that much of the groundwork for the modern merit system was established. Following his election to the Presidency in 1901, he continued his efforts to professionalize the civil service by encouraging stability and stronger merit principles to civil service.

As we commemorate the 100th anniversary of President Roosevelt's period of service as a Civil Service Commissioner, it is fitting that we name FOB 9 after him.

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

Mr. GILMAN. Mr. Speaker, as the principal sponsor of H.R. 3118, I want to commend the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] the distinguished ranking Republican on the Public Works and Transportation Committee, for their cooperation in bringing this bill to the floor. Subcommittee Chairman SAVAGE and JIM INHOFE, the ranking minority member on the Public Buildings and Grounds Subcommittee, also played major roles in expediting action on H.R. 3118.

This bill designates Federal Office Building No. 9, at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building." The building is headquarters for the Office of Personnel Management which administers the modern civil service merit system.

To me, it is fitting and appropriate that the one person who served the

United States both as a Civil Service Commissioner and President should be honored with his name on the office building which houses the personnel responsible for directing merit system operations.

H.R. 3118 also will commemorate the 100th anniversary of President Roosevelt's service as a Civil Service Commissioner from 1889 to 1895. Under his aggressive leadership, much of the groundwork for the present merit system was put into place. Significant numbers of positions were brought into the competitive service. In addition, the type and scope of written tests improved, and unified civil service rules replaced the separate ones which had been in place in each agency.

As a vigorous and enthusiastic Civil Service Commissioner, Theodore Roosevelt brought high visibility to our service. As Commissioner and President, Theodore Roosevelt was instrumental in promoting, expanding, and sustaining the civil service merit system.

Mr. Speaker, this is noncontroversial legislation worthy of overwhelming bipartisan support.

Mr. SAVAGE. Mr. Speaker, H.R. 3118 would honor a great American, Theodore Roosevelt, by naming a Federal building in the District of Columbia after him. Theodore Roosevelt was born in New York, NY. He attended numerous colleges and universities including Harvard, Columbia, where he earned his degree, and Oxford.

His remarkable public service career included service as president of the New York Police Board, Assistant Secretary of the Navy, and Governor of New York.

Theodore Roosevelt brought great success to his job as Commissioner of the civil service. He dramatically reformed the service by increasing the number of positions subject to competition, providing unified civil service rules, making the service more professional, and basing the service more on merit.

He did not stop his interest in the civil service when he no longer was the Commissioner. Instead, as President he continued to make valuable contributions that improved the civil service.

President Roosevelt is the only individual who has served as Civil Service Commissioner and as President of the United States, so it is altogether appropriate to commemorate his reform of the civil service by naming Federal Building No. 9, located at 1900 E Street, Northwest, where the Office of Personnel Management is located, as the "Theodore Roosevelt Federal Building." I strongly support passage of this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3118 designates Federal Office Building No. 9, located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building."

Prior to serving as President, Theodore Roosevelt served as the Civil Service Commissioner from 1889 to 1895. It is in this capacity as Civil Service Commissioner that we honor him today. During his tenure with the Civil Service Commission, Roosevelt laid much of the groundwork for the modern merit system. His desire to elevate and professionalize the civil servant continued during his Presidency.

As we commemorate the 100th anniversary of President Roosevelt's period of service as a Civil Service Commissioner, it is fitting that we name the Federal office building, which houses the Office of Personnel Management, after him.

I urge my colleagues to support H.R. 3118.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3118.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

GEORGE C. YOUNG U.S. COURTHOUSE AND FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3818) to designate the building located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

The Clerk read as follows:

H.R. 3818

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

SECTION 1. DESIGNATION.

The building located at 80 North Hughey Avenue in Orlando, Florida, is designated as the "George C. Young United States Courthouse and Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "George C. Young United States Courthouse and Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, H.R. 3818 is a bill to designate the building located at 80 North Hughey Avenue, Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young, born August 4, 1916, in Cincinnati, OH, moved to Daytona Beach, FL, at a very early age. He received his AB and LLB degrees with honors from the University of Florida.

During World War II, George Young served as lieutenant in the U.S. Navy in the Caribbean and Philippine theaters.

After the war, he practiced law in Jacksonville, FL. In addition, he served as the president of the Jacksonville Bar Association, and as a member of the board of governors of the Florida Bar.

In 1961, President Kennedy appointed Young as a U.S. district judge for the middle district of Florida. He has been a resident Federal judge in Orlando since 1964, and served there as chief judge from 1971 to 1981. In 1981 he assumed senior judge status.

For the past 30 years, George Young has served the judiciary with distinction. During his career he has made thoughtful, meaningful contributions to the judicial system. This bill today is a tribute to his outstanding career.

□ 1420

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

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

Mr. Speaker, H.R. 3818 designates the building located in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young served as the resident Federal judge in Orlando, FL, from 1964 to 1971 at which time he became the chief judge for the Orlando district He took senior status in 1981 and still maintains an active docket in his court. Throughout his judicial career, the judge has had a reputation for fairness and evenhandedness among the members of the Central Florida Bar.

I am in full support of this bill and urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I feel it a special privilege to come before the House today to speak on behalf of my bill, H.R. 3818, to designate the George C. Young U.S. Courthouse and Federal Building.

If the measure of a man can, at least in part, be taken by how much he has given to his community, then certainly Judge Young can be said to stand tall in central Florida. After graduating from the University of Florida, serving in the Navy during and shortly after

World War II and a distinguished career in private law practice, Judge Young was appointed by President Kennedy in 1961 as a U.S. district judge from the middle district of Florida which runs from Fort Myers through Tampa and Orlando and all the way to Jacksonville.

In 1964, Judge Young became the resident Federal judge in Orlando, serving for a time as the only Federal judge for the district and taking on an enormous caseload while earning a reputation for fairness and evenhandedness among the members of the central Florida bar. This was during a period of incredible growth for the Orlando area and the pressures on Judge Young were very great. In 1971, he became the chief judge for the Orlando district, and in 1984 took on senior judge status, a position that he holds to this day and that any of you who are familiar with the Federal court system know entails long hours and a large caseload. Altogether, George C. Young has served the people of the middle district of Florida as a Federal judge for more than 30 years.

In addition, Judge Young has served as a member of the board of governors of the Florida Bar, and as a trustee of the University of Florida Law Center Association. These, and a variety of other activities, have been the hallmark of a career of dedicated civil service and commitment to the community in which he has lived for nearly 75 years.

Further, I would like to add, as a personal note, that I have had the pleasure of working with Judge Young and have the high privilege of calling him a friend. I can assure you, Mr. Speaker, that Judge Young's résumé hardly does justice to his character, his integrity, his intelligence, and to his sense of service and loyalty to his country. The people of Orlando, the people of central Florida, and indeed, the people of Florida as a whole cannot begin to know, as I have come to know, how much they have benefited from Judge Young's service and experience on the bench and contributions to his community.

That is why, Mr. Speaker, I introduced H.R. 3818. I do not believe that there can be any higher tribute to Judge Young, no greater expression of gratitude from his community, than to have his name placed on a building that will house the work to which Judge Young has dedicated so much of his life. Indeed, I cannot imagine anything that would please Judge Young more than to have a courthouse in his community bear his name, so committed has he been to seeing to it that justice is done for the people of central Florida.

I therefore ask that my colleagues vote to approve H.R. 3818, so that the people of central Florida may be able to present to Judge Young a fitting tribute to his hard work and dedication.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3818 designates the building, located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

George C. Young was born on August 4, 1916 in Cincinnati, OH. He and his family later moved to Daytona Beach, FL, where he lived until attending Rollins College in Winter Park, FL. Following his freshman year at Rollins College, Young transferred to the University of Florida where he graduated with a law degree in 1940.

In 1941, Young enlisted in the U.S. Navy and served until 1945. Following his discharge, he practiced law in Florida until his appointment to the bench in 1961 by President John F. Kennedy. He served as chief judge from 1971 to 1981, taking senior status in 1981.

Throughout his legal career, Judge Young has been known for his fairness and consistency. As a tribute to his outstanding legal career, it is fitting and proper to honor Judge Young in this way. I urge my colleagues to support H.R. 3818.

Mr. SAVAGE. Mr. Speaker, I rise today in support of H.R. 3818. This legislation will designate the building at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young United States Courthouse and Federal Building."

Throughout a distinguished career on the bench Judge Young has enjoyed a reputation for fairness, consistency, and excellence. Judge Young has the distinction of being an outstanding public servant, learned jurist, and civic leader.

It is fitting and proper that Judge Young be honored with the designation of the courthouse and Federal building in Orlando, FL, as the "George C. Young Courthouse and Federal Building."

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Florida [Mr. McCOLLUM] for his very personal and fitting remarks, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3818.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2321, as amended.

The Clerk read the title of the bill.

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that any votes on unfinished business be postponed until tomorrow.

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

There was no objection.

□ 1430

UNITED STATES-CHINA ACT OF 1991—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-197)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2212, the "United States-China Act of 1991," which places additional conditions on renewal of China's most-favored-nation (MFN) trade status.

The sponsors of H.R. 2212 believe they can promote broad economic and foreign policy objectives in China by placing conditions on the renewal of China's MFN status. They expect that the Chinese will improve respect for human rights, cooperate in arms control, and drop barriers to trade, given a choice between losing MFN and addressing these concerns.

Let me state at the outset that my Administration shares the goals and objectives of H.R. 2212. Upholding the sanctity of human rights, controlling the spread of weapons of mass destruction, and free and fair trade are issues of vital concern. My objection lies strictly with the methods proposed to achieve these aims.

There is no doubt in my mind that if we present China's leaders with an ultimatum on MFN, the result will be weakened ties to the West and further repression. The end result will not be progress on human rights, arms control, or trade. Anyone familiar with recent Chinese history can attest that the most brutal and protracted periods of repression took place precisely when China turned inward, against the world.

Recent agreements by the Chinese to protect U.S. intellectual property rights, to abide by the Missile Technology Control Regime Guidelines, to accede to the Nuclear Non-Proliferation Treaty by April, and to discuss our human rights concerns—after years of stonewalling—are the clear achievements of my Administration's policy of comprehensive engagement.

We have the policy tools at hand to deal with our concerns effectively and with realistic chances for success. The Administration's comprehensive policy of engagement on several separate fronts invites China's leadership to act responsibly without leaving any doubts about the consequences of Chinese misdeeds. Our approach is one of targeting specific areas of concern with the appropriate policy instruments to produce the required results. H.R. 2212 would severely handicap U.S. business in China, penalizing American workers and eliminating jobs in this country. Conditional MFN status would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform.

We are making a difference in China by remaining engaged. Because the Congress has attached conditions to China's MFN renewal that will jeopardize this policy, I am returning H.R. 2212 to the House of Representatives without my approval. Such action is needed to protect the economic and foreign policy interests of the United States.

GEORGE BUSH.

THE WHITE HOUSE, *March 2, 1992.*

The SPEAKER pro tempore (Mr. MAZZOLI). The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 2212, be postponed until Wednesday, March 11, 1992.

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

There was no objection.

UNITED STATES SHOULD HELP DEFUSE CONFLICT IN AZERBAIJAN

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

Mr. MOODY. Mr. Speaker, today's New York Times, and Washington Times, and Friday's Washington Post, which I am inserting into the RECORD, carry horrifying eyewitness accounts of the massacre and mutilation of scores, perhaps hundreds, of defenseless Azerbaijani villagers by Armenian forces in the Ngorno-Karabagh enclave in Azerbaijan.

I visited Azerbaijan and Ngorno-Karabagh, probably the only Member of Congress to do so, to learn first hand what U.S. interests are and should be in that troubled, explosive area of the Caucasus.

First, our interests lie in stopping the killings so that peaceful solutions can be found. This powder keg situation could ignite a serious conflict, costing thousands of lives and destabilizing the fragile condition of the Commonwealth of Independent States—the former Soviet Union. We have a national interest in peace and economic growth in the region.

Second, the United States—and the rest of the West—are in direct competition with Iran for influence in the mostly Muslim and Turkic-speaking former Republics of the Soviet Union. The modern, progressive, and democratic leaders in those Republics look to us and to the Republic of Turkey for leadership.

If we default on our special ability and good offices to defuse the current escalating violence, or worse, side with Armenia simply because they are Christians and the Azeris are Muslim, we will handed Iran a great propaganda victory.

Our democratic and humanitarian traditions, and our future stake in the region, requires even handed United States engagement, not blind sanctions against the frequently victimized Azeris, as some of our colleagues advocate.

[From the New York Times, Mar. 3, 1992]

MASSACRE BY ARMENIANS BEING REPORTED

AGDAM, AZERBAIJAN, March 2 (Reuters)—The last of the former Soviet troops in the Caucasus enclave of Nagorno-Karabakh began pulling out today as fresh evidence emerged of a massacre of civilians by Armenian militants.

The Itar-Tass press agency said the 366th Motorized Infantry Regiment had started its withdrawal, in effect removing the last frail buffer separating the region's two warring ethnic groups, Armenians and Azerbaijanis.

The two sides made no attempt to interfere, it added.

Nagorno-Karabakh is within the republic of Azerbaijan, but most of its population is Armenian.

SHELLING OF TOWN REPORTED

The Azerbaijani press agency Azerinform reported fresh Armenian missile fire on the Azerbaijani-populated town of Shusha in Nagorno-Karabakh on Sunday night. It said several people had been wounded in another attack, on the settlement of Venjali, early today.

The republic of Armenia reiterated denials that its militants had killed 1,000 people in the Azerbaijani-populated town of Khojaly last week and had massacred men, women and children fleeing the carnage across snow-covered mountain passes.

But dozens of bodies scattered over the area lent credence to Azerbaijani reports of a massacre.

Azerbaijani officials and journalists who flew briefly to the region by helicopter brought back three dead children with the backs of their heads blown off. They said shooting by Armenians had prevented them from retrieving more bodies.

"Women and children had been scalped," said Assad Faradzhev, an aide to Nagorno-Karabakh's Azerbaijani Governor. "When we began to pick up bodies, they began firing at us."

The Azerbaijani militia chief in Agdam, Rashid Mamedov, said: "The bodies are lying there like flocks of sheep. Even the fascists did nothing like this."

TWO TRUCKS FILLED WITH BODIES

Near Agdam on the outskirts of Nagorno-Karabakh, a Reuters photographer, Frédérique Lengaigne, said she had seen two trucks filled with Azerbaijani bodies.

"In the first one I counted 35, and it looked as though there were almost as many in the second," she said. "Some had their heads cut off, and many had been burned. They were all men, and a few had been wearing khaki uniforms."

Ethnic violence and economic crisis threaten to tear apart the Commonwealth of Independent States, created by 11 former Soviet republics in December. The commonwealth has been powerless in the face of the ethnic hatred rekindled in the age-old dispute between Christian Armenia and Muslim Azerbaijan, which are members.

Four years of fighting in Nagorno-Karabakh have killed 1,500 to 2,000 people. The last week's fighting has been the most savage yet.

The 366th Regiment, based in Stepanakert, the capital of Nagorno-Karabakh, has been caught at the center of fighting in which at least three of its soldiers were killed late last month.

Speaking to his Parliament in Yerevan, the Armenian capital, President Levon Ter-Petrosyan criticized the withdrawal from the enclave of the commonwealth's last troops.

"This regiment, though not involved in military operations, was a stabilizing factor," Mr. Ter-Petrosyan said.

[From the Washington Post, Feb. 28, 1992]

NAGORNO-KARABAKH VICTIMS BURIED IN AZERBAIJANI TOWN—REFUGEES CLAIM HUNDREDS DIED IN ARMENIAN ATTACK

(By Thomas Goltz)

AGDAM, AZERBAIJAN, February 27.—Officials of the main mosque in this town just east of the embattled enclave of Nagorno-Karabakh said they buried 27 bodies today, brought from an Azerbaijani town inside the enclave that was captured Wednesday by Armenian militiamen.

Refugees fleeing the fighting in Khojaly, a town of 6,000 northeast of the enclave's capital, Stepanakert, claimed that up to 500 people, including women and children, were killed in the attack. No independent estimate of deaths was available here. The Agdam moseque's director, Said Sadikov Muan, said refugees from Khojaly had registered the names of 477 victims with his mosque since Wednesday.

Officials in Baku, the capital of Azerbaijan, estimated the deaths in Khojaly at 100, while Armenian officials in their capital, Yerevan, said only two Azerbaijanis were killed in the attack. An official from Baku said here that his government fears Azerbaijanis would turn against it if they knew how many had been killed.

Of seven bodies seen here today, two were children and three were women, one shot through the chest at what appeared to be close range. Another 120 refugees being treated at Agdam's hospital include many with multiple stab wounds.

The Armenians who attacked Khojaly Tuesday night "were shooting, shooting, shooting," said Raisa Aslanova, who reached Agdam Wednesday night. She said her husband and a son-in-law were killed and her daughter was missing.

Armenian officials in Yerevan said Azerbaijani soldiers, backed by tanks and several helicopters, launched an attack this morning on Askeran, an Armenian-populated town just inside Nagorno-Karabakh on the road between Khojaly and Agdam.

A cease-fire negotiated Wednesday night by visiting Iranian Foreign Minister Ali Akbar Velayati never took effect. Velayati

called off a planned visit today to Nagorno-Karabakh and headed instead for Yerevan.

More than 1,000 persons have been killed in four years of fighting touched off by Armenian demands that predominantly Armenian Nagorno-Karabakh, an enclave surrounded and controlled by Azerbaijan, should become part of Armenia.

Among the refugees who fled here over the mountains from Nagorno-Karabakh were two Turkmen soldiers from former Soviet Interior Ministry forces who had taken refuge in Khojaly after deserting from their unit last Friday because, they said, Armenian noncommissioned officers had beaten them "for being Muslims."

The two deserters claimed their former unit, the 366th Division, was supporting the Armenian militiamen who captured Khojaly. They said they tried to help women and children escape. "We were bringing a group through the mountains when the Armenians found us and opened fire," said Agamehmet Mutif, one of the deserters. "Twelve were killed."

[From the Washington Times, March 3, 1992]

ATROCITY REPORTS HORRIFY AZERBAIJAN

(By Brian Killen)

AGDAM, AZERBAIJAN.—Dozens of bodies lay scattered around the killing fields of Nagorno-Karabakh yesterday, evidence of the worst massacre in four years of fighting over the disputed territory.

Azeri officials who returned from the scene to this town about nine miles away brought back three dead children, the backs of their heads blown off.

At the local mosque, six other bodies lay stretched out, fully clothed, with their limbs frozen in the positions in which they were killed. Their faces were black from the cold.

"Telman!" screamed one woman, beating her breast furiously over the body of her dead father, who lay on his back with his stiff right arm jutting into the air.

Those who returned from a brief visit by helicopter to Khojaly, captured by the Armenians last week, said they had seen similar sights—only more. One Russian journalist said he had counted about 30 bodies within a radius of 50 yards from where the helicopter landed.

Armenia has denied atrocities or mass killings of Azeris after its well-armed irregulars captured Khojaly, the second-biggest Azeri town in Nagorno-Karabakh, last Wednesday. Azerbaijan says 1,000 people were killed.

"Women and children had been scalped," said Assad Faradzhev, an aide to Karabakh's Azeri governor.

Mr. Faradzhev said the helicopter, bearing Red Cross markings and escorted by two MI-24 helicopters of the former Soviet army, succeeded in picking up only the three children before Armenian militants opened fire. "When we began to pick up bodies, they started firing at us," he said.

Mr. Faradzhev said they were on the ground for only 15 minutes.

"The combat helicopters fired red flares to signal that Armenians were approaching and it was time to leave. I was ready to blow myself up if we were captured," he said pointing to a grenade in his coat pocket.

Reuters photographer Frederique Lengaigne saw two trucks full of Azeri corpses near Agdam.

"In the first one, I counted 35, and it looked as though there were almost as many in the second. Some had their heads cut off and many had been burned. They were all men, and a few had been wearing khaki uniforms," she said.

In Agdam's mosque, the dead bodies lay on mattresses under a naked light bulb. People screamed insults at Azerbaijan's president, Ayaz Mutalibov, saying he had not done enough to protect Karabakh's Azeri population.

Hundreds of people crowded outside chanting Islamic prayers. Some wept uncontrollably and collapsed near their dead relatives, brought to the town by truck only minutes earlier.

Chilling film of dozens of stiffened corpses scattered over a snowy hillside backed accounts of the slaughter of women and children sobbed out by refugees who made it safely out of the disputed Caucasus enclave.

Azerbaijani television showed pictures of one truckload of bodies brought to the Azeri town of Agdam, some with their faces apparently scratched with knives or their eyes gouged out. One little girl had her arms stretched out as if crying for help.

"The bodies are lying there like flocks of sheep. Even the fascists did nothing like this," said Agdam militia commander Rashid Mamedov, referring to the Nazi invaders in World War II.

"Give us help to bring back the bodies and show people what happened," Karabakh Gov. Musa Mamedov pleaded by telephone to the Soviet army base in Gyandzha, Azerbaijan's second-largest city.

A helicopter pilot who took cameramen and Western correspondents over the area reported seeing some corpses lying around Khojaly and dozens more near the Askeran Gap, a mountain pass only a few miles from Agdam.

INTRODUCTION OF LEGISLATION TO AMEND BANKRUPTCY CODE WITH REGARD TO OIL AND GAS BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to amend the Bankruptcy Code to cure a problem which is arising far too often in the oil and gas business.

Farmout agreements are a traditional and standard practice in the oil business and are essential to financing the drilling of productive wells. Very simply, an owner of mineral rights may seek to transfer a portion of his interest in the wells to those who assist in developing the lease. Thus, a driller may transfer a portion of the oil and gas interest to an engineer or geologist in payment for services provided in sinking the well.

Under current application of the provisions of the Bankruptcy Code, such farmout agreements are not recognized as having transferred these interests from the estate of the developer, and consequently can be trapped in a bankruptcy proceeding should financial problems ensue. The effect of this action is to inhibit necessary drilling and development of oil and gas wells throughout the country. That is surely not the way to cut down on this country's growing dependence on foreign oil.

The legislation I am sponsoring today is a narrow and specific response to this critical problem. It would simply amend section 541(b) of the Bankruptcy Code by clarifying that farmout agreements in which interests are transferred in conjunction with the development of an oil and gas lease are not included in the debtor's estate in a subsequent bankruptcy proceeding. This straightforward amendment will go a long way to foster the continued development of our Nation's rich oil and gas resources.

I urge all Members to join in this effort.

GOVERNMENT OVERREGULATION HURTING AMERICAN CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 5 minutes.

Mr. INHOFE. Mr. Speaker, all too often we in this Chamber want to enact regulations to regulate the lives of people who could do it a lot better on their own.

I take no responsibility for the passage of the OSHA legislation, the Occupational Safety and Health Administration, or the EPA (the Environmental Protection Agency). In these pieces of legislation we have created more problems for the frail businesses in America than we have solutions.

It has been very frustrating to me to find as a Member of Congress that I spend better than 50 percent of my time helping people fight the bureaucracy that we set up in the first place to help individuals.

I have many times in talking to business groups, chambers of commerce throughout America, held up the manual that is used in the field by the OSHA inspectors and said that I can take this manual and shut down any business in existence in this room. They have taken me to task many times and I have been able to do that, because we have given to unelected bureaucracies the power of life and death over many of the businesses and industries throughout America.

We are particularly concerned about this right now because this is a time when we have a frail economy, not just in my State of Oklahoma, but throughout America. Here we are in Congress trying to do things and pass laws that are going to correct that situation.

Mr. Speaker, I had a call just a few days before this past Christmas from a young man named Keith Carter in Skiatook, OK. I recognize most of my colleagues do not know where Skiatook is. It is in the northern part of my district, a very small community.

Keith Carter developed a spray several years ago that you spray on horses. I do not know what it does, but obviously it is something you have a market for. He called me up right before Christmas and said the EPA had come in and put him out of business. Keith Carter had six employees. Those employees were planning for a very happy Christmas at that time, until they got the notice that their jobs would be terminated.

I asked him why he was put out of business. He said:

It is because they claim in Washington in the EPA office that I failed to notify them when I moved my office 5 years ago within the same State. I did not give the proper notice.

I asked him if they had no knowledge that he had moved. He said:

Oh, yes, on a regular basis I have been communicating and sending my reports to the EPA, but I have been sending them to the regional office in Dallas, TX.

So here we had a bureaucracy that closed down a business a week or so before Christmas that employed six people because supposedly 5 years before they failed to give proper notice of changing the address of the business.

We checked into it and found in fact that is what had happened. He had been in communication with the district office or another regional office in Dallas, but not the Washington office.

We finally got that corrected after numerous conference telephone calls. Shortly after that he called me back and said:

Congressman Inhofe, I have got another problem. I appreciate what you have done for me, but now I have another problem.

I said:

What is that?

He said:

Well, since they shut me down and reinstated me, they gave me a different registration number.

And since we have a different registration number now, I can't use the 55,000 bottles that I had already silk-screened because they have the wrong registration number on it.

□ 1440

After a while we were able to correct that. Those bottles incidentally cost him 50 cents apiece. That is over $25,000 worth of inventory he had to destroy as a result of that one bureaucracy making a mistake.

If he had not called me, of course he would be out of business today.

I bring this up at this time because there is a bill that has been introduced that is H.R. 3642, that would start treating drugs or the FDA treating drugs or food as if they were drugs. The FDA would be in a position to recall products, to embargo products, to issue subpoenas, and to assess civil penalties against individuals.

I can only say that what this country does not need is another Gestapo bureaucracy like the EPA and OSHA. And we do not want that to happen to the FDA.

I urge my colleagues to oppose this and any other legislation that gives unelected bureaucrats the power of life and death over Americans and American business.

CHEAP HANDGUNS KILL, TOO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Florida. Mr. Speaker, while Congress has been concentrating on the Brady bill and legislation to control assault weapons, cheap, short-barreled, concealable, inaccurate handguns continue to be used in senseless killing after senseless killing.

In an excellent February 28 report on the comings and goings of George Jennings, the head of the first family of the "Saturday Night Special," Wall Street Journal reporter Alix M. Freedman adds more information to the volumes that justify legislation to ban cheap, easily concealable handguns.

Three companies control the cheap handgun industry. Three brands—the Raven .25, the Jennings .22, and the Davis .380—dominate this deadly market.

As Ms. Freedman wrote:

The three companies that make the Raven, Jennings and Davis guns are all owned by members of the Jennings family. Every year, they churn out some 400,000 cheaply made Saturday Night Specials. While high-power weapons like the Tec 9, the AK-47 and the Mac 10 dominate the headlines in fleeting moments of mass murder, the Jennings family's small-caliber pistols are far more lethal by dint of their sheer numbers, rock-bottom prices and easy availability.

BEGINNER'S WEAPON

Selling for as little as $35, versus $600 for higher-quality weapons, these are the starter guns for the fearful, the criminal and, increasingly, the very young. To a startling degree, they also figure disproportionately in robberies and murders, piling up an alarming toll of casualties and an unending litany of violence.

A five-month investigation by this newspaper followed these handguns from the factory to the middleman and ultimately to the street. The picture that emerges is of a volatile family empire that built itself on the mundane details of low-cost manufacturing and high-volume distribution and thrives on the advantages of government protectionism and de facto oligopoly. In many ways, this is such a typical business that it's easy to lose sight of the product's main feature: It kills.

After discussing the internal machinations within the oligopoly that dominates this part of the business, the article notes:

For years the family companies operated as a friendly and informal cartel. But more recently, riven by internal feuds, they have begun invading one another's turf with new guns and cutthroat pricing. They also are expanding into higher-power weapons, 9-millimeter pistols that will sell in huge volumes at some of the lowest prices on the market.

MOUNTING TOLL

One likely result: a further escalation of the carnage and killing on the nation's meanest streets. The family's pistols sell in all sorts of neighborhoods throughout the U.S., but they exact their highest tolls in urban centers. "We have a fire burning, and these companies are throwing gasoline on it," says Josh Sugarmann of the Violence Policy Center, which studies violence prevention. "These people know what the inner-city gun buyer wants."

The Jennings interests offer no apology. Dave Brazeau, general manager of Raven Arms, says that, for those customers who use the pistols illegally, "if it wasn't a gun, it would just be something else—a rock, a bow and arrow or a baseball bat."

But it isn't a rock or a bat that kids on the street prefer these days. Recently, in a graffiti-stained stairwell at the Martin Luther King housing project in Harlem, a pudgy boy with a baseball cap shoved down over his round, smooth face embarked on a mission of revenge. A few days earlier someone had slapped his girlfriend. Now he was here to buy a gun—a Davis .380, which is deceptively powerful and easy to conceal in his pants pocket.

He hands $70 in crumpled cash to a lanky, 16-year-old dealer and grabs a brown paper bag, heavy with the weight of black metal. "I got to go do something," the pudgy youth says. He spins on his heels, bolts down the stairs and is gone.

"He's gonna shoot someone who smacked his girl," the teen-age dealers says. It is business as usual. In just a year the dealer, who calls himself Jerry and peddles only the Jennings family lines, says he has made $4,000 selling 50 small-caliber handguns—including seven to students at West Side High School, where he is an 11th-grader.

"Here where I live, every young kid has a .22 or a .25," Jerry says. "It's like their first Pampers."

The guns that leave the family's factories are first bought by wholesalers, who in turn sell the weapons to gun stores and pawnshops for legitimate trade. Often, though, the pistols are bought in bulk at retail by illegal dealers—particularly in states where gun laws are lax—and smuggled by bus or train to urban centers for resale on the street.

Clearly, the criminals who use the guns are the ultimate abusers in this market. But the thriving trade has nonetheless redounded to the benefit of the Jennings family, helping its guns snap up market share and gain cachet with the young, turning some neighborhoods into virtual free-fire zones. For example:

In December, police say, 15-year-old Mack Moton used a Raven to rob and murder three cocaine dealers in Brooklyn, N.Y., shooting each once in the temple. Mack, who awaits trial, says an accomplice pulled the trigger. Less than three years before, the boy used a .25-caliber to kill a man who had stabbed his grandfather.

In Long Beach, Calif., 14-year-old Danny Jones stands outside a pawnshop and tells how he was just suspended from school after a Jennings .22 was found in his locker. Among his pals, Ravens and Jenningses "with pearly handles" are hot.

On Jan. 21, 15-year-old Rasheen Smith stood on a rooftop of a New York housing project and allegedly aimed his Raven .25 at a cop and fired, hitting him in the ankle. "Damn! I wanted to bust him in the cabbage," Rasheen said, according to bystanders. Rasheen is awaiting trial. "In this neighborhood, they distribute guns like food stamps," says the wounded officer in an interview at the hospital.

In 1990, in the Bronx section of New York, a five-year-old carried a Raven to kindergarten in his pocket. It was loaded.

For years, gun control opponents have argued that "Saturday Night Specials" are not a criminal problem. But information obtained by the Wall Street Journal indicates otherwise.

The annual combined sales of Raven, Jennings and Davis may barely hit $20 million, a fraction of the size of the nation's No. 1 gun maker, Smith & Wesson Co. Yet the trio accounted for 22 percent of all handguns produced in 1990 in the U.S. and an even higher proportion of handguns used in crime. In the past two years the U.S. Bureau of Alcohol, Tobacco and Firearms has traced some 24,000

handguns sold after 1986 and used in murders and other offenses. The family's three brands accounted for about 27 percent of those traces, compared to roughly 11 percent for the much larger Smith & Wesson. Among the top 10 brands traced, Davis ranked first, Raven second and Jennings sixth.

In Houston last year, police seized almost 1,000 guns used in crimes, and the Raven .25, the Davis .380 and the Davis .32 were the top three guns. In Cleveland, police took in more than 2,000 handguns, and 154 of them were Ravens, making it the No. 2 brand.

Paradoxically, the ubiquitous Raven and the Jennings gun dynasty were born of a federal law meant to curb small-caliber weapons. After the assassinating of Robert F. Kennedy and Martin Luther King, Congress passed the Gun Control Act of 1968. The measure sought to reduce the availability of Saturday Night Specials, which then were largely imports, by cutting imports in half. Instead, it encouraged U.S. makers to jump into the market.

So, these guns are being produced because of a loophole in the 1968 Gun Control Act that encouraged the domestic manufacturing of handguns that Congress barred from entering this country.

Fortunately, a vehicle to close this loophole is before us: H.R. 1770, the Handgun Violence Prevention Act. My bill makes it unlawful to manufacture, assemble, transfer, or acquire any handgun that cannot be imported into this country.

One reason my bill is needed is the simple fact that "Saturday Night Specials" are inherently unsafe. The article notes:

All three of the firms, whose low-tech plants are located in nondescript industrial parks scattered outside Los Angeles, use the same spartan approach. Low costs and high production are key. For the big U.S. handgun merchants like Smith & Wesson and Sturm, Ruger, producing guns is a labor-intensive process that yields small quantities, one reason their average price is $600 a gun. Constructing just one Colt .45 requires about half an hour. It takes a mere three minutes to completely assemble a Raven, rivals of the company say.

"You can't become any more efficient than us," says Bruce Jennings.

Raven Arms, Jennings and Davis Industries use many of the same suppliers, and often the internal parts of their guns are similar. Unlike standard guns, which use stainless steel, the Raven and its offshoots are made from cheap materials, notably die-cast zinc alloy. Molds form the Raven's key components, the frame and slide. And because the gun is virtually complete when it comes out of those molds, Raven need employ only 20 or so workers.

the zinc alloy used by all three has a low melting point—it begins to distort at 700 degrees Fahrenheit, compared with 2,400 degrees for the stainless steel in quality guns, says a competitor who also uses the alloy. As a result, the Jennings family's wares typically won't withstand much use compared with better-quality guns.

While Davis, Jennings and Raven all have minimal safety devices that block the trigger from being pulled the pistols don't have other features, such as firing-pin blocks, that help prevent accidental discharge and that often appear on high-quality guns. Lance Martini, a firearms consultant who owns the Accuracy Gun Shop in San Diego, says he once took a tour of the Raven plant with George Jennings, who he says told him the only reason Raven takes the extra step of rifling the barrel on its pistols—a process that stabilizes the bullet path for accuracy—is to avoid federal restrictions on the sale of unrifled handguns.

Officials at the Bureau of Alcohol, Tobacco and Firearms say the Raven .25 fails the "drop test" and can discharge if it is loaded and dropped to the floor. But that isn't a violation of any law, since, under the Gun Control Act of 1968, the test applies only to imported revolvers, not U.S.-made pistols. In fact, there are no safety requirements for U.S.-made guns, giving them the status of one of the least-regulated hazardous products in America.

Let me reiterate that last statement: There are no safety requirements for U.S.-made guns. Imported handguns must pass the criteria established in 1968. Under H.R. 1770, domestically produced handguns that do not meet the import criteria could not be manufactured in the United States.

The article continues:

"On these guns," says Edward Owen, chief of the bureau's technology branch, "they don't do any more to them than they have to to make them work." The family has faced little legal fallout from product liability cases; it has vigorously fought those actions brought against it.

Despite periodic calls for gun control, actual restrictions are few, and are at the state level. Only a few states ban sales of models made by the Jennings companies. Maryland determined the Jennings .22 and .25 were "unreliable as to safety"; it also banned the family's other brands because of insufficient data. Furthermore, South Carolina and Illinois say the three brands can't be sold there because their zinc-alloy frames melt at less than 800 degrees.

Many gun store owners have decided on their own not to sell the cheap pistols, saying the quality is too poor, replacement parts are too hard to get and the dollar profit per gun is too small. In Los Angeles, at Turner's Hunting and Fishing, clerk Donald Bush nods toward the $79.99 Jennings .22 and says the store discourages sales of the pocket-pistols. "They tend to jam," he says. "We try to move people up to better quality and higher stopping power. This is a last-defense gun."

Rivals estimate that, all told, the Raven costs $13 to make but sells to wholesalers for $29.75—an enviable 100%-plus gross margin. The margins are estimated to be even better for Jennings and Davis, which sell at higher prices. Bruce Jennings won't comment on the estimates but says that when overhead and other costs are added, "all of a sudden the $12 to $13 gun is up to $30 to $35.

That is what you call cheap death.

Because of "family squabbles," other companies have been formed to build even more "Saturday Night Specials." Their purpose: sell more handguns for less. As Ms. Freedman wrote:

The internecine combat started when a nephew of George Jennings formed Sundance Industries in 1989 and began selling a clone of the Raven .25. The same year, Jim Waldorf, a buddy of Bruce's when they were in high school, started up Lorcin Engineering Co. in Mira Loma, Calif., setting his sights on Raven, too. Lorcin's plant manager: John Davis.

Sundance turns out only small volumes, but Lorcin is a bigger threat. It has brought uncharacteristic marketing flair to an industry that remains all but untouched by Madison Avenue. While Raven and Jennings avoid advertising, Lorcin heavily touts its .25-caliber pistol as "the world's most affordable handgun." It has introduced eye-catching innovations like neon-pink grips and camouflage guns.

It has also aggressively targeted the pawnshop trade. At a Cash America pawnshop, located across the street from the J.C. Napier housing project in Nashville, manager David Buck says he does a brisk business in Lorcins. Pointing to a display of the guns, priced at $45 each, he says simply: "They're low-dollar guns for poor folks."

Lorcin's sales have soared, apparently clipping Raven's wings. Raven's production, which peaked at about 15,000 pistols a month a few years ago, according to government statistics, later fell to about 8,000 a month, Mr. Waldorf estimates. Today, Lorcin begins shipping its new .380 pistol and is expected to introduce a .22-caliber in July. "The Jennings family has controlled the market for 20 years," declares Mr. Waldorf. "They're ripe to get picked."

In the face of their first serious competition in 20 years, the relatives that used to play—and price—together are bent on taking aim at one another.

Jim Davis is soon expected to introduce a .22 that will compete head-on with Bruce Jennings's best-seller. Bruce has just cut prices by 14% on his .380 to match the Davis price. Even George Jennings, who hasn't introduced a new product in two decades, considered coming in with a .22 that would have nudged up against his son's turf.

"This end of the market is collapsing," says a distressed Bruce Jennings. "We're just going to have a bunch of unprofitable companies."

"Now," says Lorcin's Mr. Waldorf, "it's a no-holds-barred free-for all." A simple truth motivates this flurry of activity, he says. "There are more poor people than rich people.

Cheap is synonymous with volume."

I now want to include two items that show the top pistol makers in the United States and the top crime handguns:

Top pistol makers

[Ranked by share of total pistol production in 1990 of 1.36 million units]

	Percent
Smith & Wesson	16.6
Sturm, Ruger	15.4
Davis	10.5
Jennings/Bryco	1.05
Beretta	9.2
Raven	8.7
Colt	6.9
Firearms Imp. & Exp	2.4
Arms Technology	2.3
Lorcin	2.2

Source: Bureau of Alcohol, Tobacco, and Firearms.

Top crime handguns

[Leading handguns used in crimes 1990-91. Data are based on completed traces of handguns sold after 1986]

Davis	2,676
Raven	2,671
Smith & Wesson	2,523
Taurus	1,717
Sturm, Ruger	1,199
Jennings/Bryco	1,164
Intratec	1,158
SWD	894
Beretta	879
Glock	860

Source: Bureau of Alcohol, Tobacco, and Firearms.

Finally, Mr. President, I encourage my colleagues to obtain a copy of the entire article

and to read it in full. I hope that they will come to the same conclusion that I reached years ago.

Twenty-four years ago, Congress recognized that certain imported handguns served no legitimate purpose and enacted legislation that permitted the banning of these firearms. Even the Bush administration recognized that certain imported assault weapons served no legitimate purpose. If we recognize the unsuitability of imported handguns and imported assault weapons, it is time that we recognize the unsuitability of domestically produced counterparts.

My bill covers unsuitable domestically produced handguns. I urge my colleagues to take a look at H.R. 1770 and to cosponsor this important legislation.

TRANSIT TEMPORARY MATCHING FUND WAIVER ACT OF 1992

(Mrs. COLLINS of Michigan asked and was given permission to address the House for 1 minute.)

Mrs. COLLINS of Michigan. Mr. Speaker, today I am introducing the Transit Temporary Matching Fund Waiver Act of 1992. This legislation compliments the Intermodal Surface Transportation Efficiency Act of 1991, which was signed into law by President Bush in December 1991 Public Law 102-240.

Public Law 102-204 provides for an 80 percent Federal share for all major programs while States are required to match the projects with 20 percent. In order to stimulate the economy, provide jobs for Americans, and assist those many States that are financially strapped, the bill permits States to temporarily waive the match for highway projects.

This provision is commendable and indeed necessary for those States that cannot immediately meet their 20 percent match for highway projects. However, the law inadvertently omits to give waivers for the mass transit category of projects included in the legislation.

Mass transportation is the cornerstone for rebuilding our cities. It provides alternatives and options for people who live and work in cities. The decay of our urban infrastructure makes many residents prisoners of their own community.

My bill simply puts equity into the law by giving jurisdictions with mass transit projects the same options afforded to highway projects. If this option is not allowed, jurisdictions that cannot meet the match for mass transit projects will have to return the Federal funds. This would be a travesty.

Please join me in giving Americans an option and provide an even more efficient movement of people in the communities as well as give them access to jobs outside of major cities.

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STRENGTHENING THE ECONOMY AND PROVIDING OPPORTUNITIES FOR AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the opportunity to discuss just briefly some of the things that we have been talking about here for a good long time and talking about them because they need to be talked about. And that of course is the area of strengthening the economy, of providing more jobs, of providing a stronger opportunity for people in this country to work and be gainfully employed in good jobs.

So that is the problem that we have talked about here for some time and with great intensity for the last several months, and I suspect we will continue to do so in the future. We will continue to do so because I think the real basic problem is a long-term problem, not a short-term jump start, although we would like to have that, too.

I suspect the problem involves more a matter of having a reduction in productivity in this country over a period of about 15 years, and that has been the case. We have for various reasons had a reduction in productivity. So it will take some time to recover that. I think there are two or three really long-term basic issues that we need to deal with.

One of them has to do with investments. Unfortunately, this country has had one of the lowest investments of any industrialized country in terms of savings. The savings has not been good. And certainly the Federal Government has not been a good example in terms of savings for financial responsibility. It takes increased savings because it takes more and more dollars to invest in a good job, thousands of dollars to provide one.

The second, of course, is an educational background so that we have an educated workforce that can in fact operate in the hightechnology industrial area that we need to compete.

And third, of course, an increase in our R&D, our research and development, to keep us as leaders in the world. These are the problems that we deal with. I have been disappointed, frankly, in the Congress, in that we seem to have dealt with a reaction to a poor economy or to a recession and to sort of have safety nets strung out all over the place instead of dealing with the real issue and that is providing jobs.

The best safety net, of course, is a job. There is need to have temporary safety nets, but the long-term problem requires that we have jobs.

□ 1450

I think we ought to be looking for solutions, not discussing issues. People in America want leaders in politics to have solutions, and that is what we ought to be talking about.

We have long been recognized, of course, as the most powerful country in the world. We still are. We need to continue to be in that position. Our people are the most successful. We have had the highest standard of living. We have had more things for more people and more personal freedom than any other country in the world.

One of the greatest shows of evidence of that is that practically all the world is changing from a centralized, controlled economy to a market economy such as ours, changing from totalitarian governments to democracies such as ours. We ought to be very proud, I think, of that, that we have in over 200 years developed a system that nearly everyone else in the world is beginning to follow.

So what do we do? It seems to me that we need to take a look at the elements that have allowed us to be the strongest nation in the world, the elements that have allowed us in 200 years to have more things for more people with more personal freedom at the same time. I think there are a number of things. Let me just talk about a couple of them.

One of them, I believe, is our vision of government in terms of how it applies to the private sector. It seems to me that less government is better than more. It seems to me the role of government is to provide an environment in which the private sector can prosper. The private sector, after all, is the only place where we can develop wealth, where we can develop long-term jobs and have enough of an engine to drive an economic apparatus so we then have the resources to do the social and cultural things we want to do.

Our Government, on the other hand, has gotten increasingly large and made it increasingly difficult, in my opinion, for the private sector to function. We have overregulation, we have overtaxation, and we have made it very difficult, particularly, for small businesses to prosper.

In my State of Wyoming, by far the largest employers in the aggregate are small businesses that employ less than 15. These are the kinds of businesses that we need to talk about, that we need to provide an environment in which they can prosper, not make it more and more difficult for them to do that. But we do not talk about that very much. We talk about additional regulations, and we talk about additional costs that we will have to shoulder in the private sector, when in fact we ought to be saying to ourselves, "What is our vision of government? What is it that we think government ought to do?"

I appreciate very much the opportunity to talk about that one segment of our economy.

CUSTOMS AUDIT OF HONDA

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

Mr. PICKLE. Mr. Speaker, October 16, 1991, the Subcommittee on Oversight of the Committee on Ways and Means examined the U.S. Customs Service audit of Honda. Honda had imported thousands of Honda Civics from Canada—during a 15-month period in 1989 and early 1990—without paying $1 in duty. Honda claimed that the Civics imported from Canada were duty free under the United States-Canada Free Trade Agreement because more than 50 percent of the Civics' components originated in either Canada or the United States. Customs did not agree with this position and challenged Honda. The Honda audit is very important because it is the first Customs audit under the FTA.

Part of the dispute between Customs and Honda involves, for example, the Civics' engine assembly. Honda purchased engine parts from hundreds of foreign and domestic sources. They also manufactured some of the parts themselves and then assembled the engines at their plant in Ohio. The engines were then shipped to Canada where they are installed in Honda Civics, which were then imported to the United States. Honda claimed that the engine was of U.S. origin. Customs took the position that it was not, because the engine was made up of mostly foreign parts.

The Customs audit went along fine until the press reported the leak of a confidential internal Customs memorandum indicating that the audit was complete and Honda owed the U.S. Treasury $17 million in duties. At the subcommittee's hearing, Customs and Treasury stated that the audit was not complete; that the media reports were inaccurate; and, in fact, the international document signed by the Customs Commissioner was wrong.

What is going on here? The public and Congress wonder.

Months passed while Treasury and Customs sorted out their position, and Honda hired everyone in town to make sure that if Treasury came out in their favor, Treasury was smart; if Treasury came out against Honda, then Treasury was wrong and ignoring congressional intent. Of course, now that Customs has come out against Honda, Honda says that this whole process has been politically motivated.

Yesterday, Customs announced the results of its audit of Honda. According to Customs, the Honda Civics did not qualify for duty-free treatment under the free trade agreement.

I commend the hard work done by the Customs and Treasury officials involved in this audit and the timeliness of their effort. Who knows how many more transplanted automobile manufacturers—or other manufacturers—are cheating on the duty they owe the United States?

Unfortunately, Customs' war with Honda is not over yet. By just looking at the number of people who have called, written, or personally met with me, committee members, and staff, I know Customs has a hard road ahead of them. Between the amount of attorney and lobbyist fees Honda has paid to date and their plan to drag this process out in the courts for years, I bet Honda will end up spending close to another $17 million.

I think that we all realize that the $17 million isn't the issue to Honda: It's that they end up with a good public relations spin on the case. I think they should stop the squawking and pay what they owe.

Two years ago, the Subcommittee on Oversight investigated tax noncompliance by foreign-owned/U.S. subsidiaries in the automobile and electronics industries. We did not find a pretty picture there either. The Internal Revenue Service [IRS] was badly outmanned and outgunned. Most of the foreign-owned corporations that we looked at paid little or no taxes. We managed to enact legislation that year amending section 482 of the Tax Code to give IRS a few more weapons to fight with. However, much more needs to be done.

The same issue is raised by the Honda case. How can we expect to compete with foreign producers if we let them import and sell their products in the United States without paying their fair share of duties and taxes?

Our committee will do everything within our power to ensure that our trade and tax laws are enforced to their fullest and that foreign-owned U.S. corporations do pay their fair share. The United States doesn't need to be a patsy any longer.

PRESIDENT'S VETO OF LEGISLATION IMPOSING CONDITIONS ON MOST-FAVORED-NATION STATUS FOR PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes.

Mr. SKAGGS. Mr. Speaker, I am concerned and wish to address the House this afternoon with respect to the President's veto yesterday of H.R. 2212, legislation with respect to the objectives which the People's Republic of China must meet in order to qualify for nondiscrimination treatment under the trade laws of the United States. I disagree with the President's veto, strongly oppose the sentiment that informed that veto, and urge my colleagues in the House, when we have the opportunity next week, to vote to override that veto.

We take pride in this body in being representatives of the people of the United States, representatives that are probably in closer touch with the beliefs and feelings of the people of this country than any other entity in this capital. After the despicable and tragic events of June 3, 1989, known as the Tiananmen Square massacre, I was honored to participate with many other Members of this body in a march, I think unprecedented, from the Capitol of the United States to the Embassy of the People's Republic of China to protest what had occurred in Beijing a few days earlier. In 3 months we will mark the third anniversary of that tragedy, and I do not believe that the depth of feeling that moved us to make that march almost 3 years ago is any lessened across this land.

We have always had a kind of unique tension in this country between our ideals and the practicalities of government, especially in the areas of foreign policy, and that is certainly true in this instance as well, ideals reflecting ideas, the ideas of freedom and democracy and respect for individual rights that are the foundation of our form of government.

What do we learn from the last few years of the dramatic developments that have taken place around the world? I believe that they should have taught us of the power of the ideas and the ideals that this democracy of ours has stood for for more than 200 years, the revolutions in the countries of Eastern Europe that have so wonderfully transformed what used to be the appendage of the old Soviet Union into a new and wonderfully varied mix of new democracies and new, free economies; the vote in Nicaragua to embrace again a free political and economic system, and most remarkably of all, the changes that have occurred in the old Soviet Union as the constituent republics there have asserted a new mandate for freedom and democracy and open economics.

□ 1505

Those are remarkable developments in their own right. I think they are all the more remarkable, because the people in those countries over and over and over again have pointed to the inspiration that they have derived from the United States of America, from the founding documents of this country, our Declaration of Independence and our Constitution, as beacons that they looked to to inspire reform and change in their countries.

Now, we are called upon by the President of the United States in the context of our relationship, our trade relationship, with the People's Republic of China to be practical, not to give vent and form to those ideals that we hold so dear in this country, not to clamp down even prospectively on the awful human-rights practices and the im-

moral trade practices of the People's Republic, because it would be, according to the administration, counterproductive to our ends of liberalization and reform in the long haul. I think not.

I am caused to recall an incident that occurred in the spring of 1977 when I was traveling through the old Eastern Europe and was in Prague, Czechoslovakia, and I was approached one afternoon, and I was there as a tourist, I was approached one afternoon by a greying distinguished-looking gentleman, well dressed, if a little shabbily, who initially asked me if I wanted to exchange some money. I had the good judgment to decline that offer, which was more dangerous in those days, but we then became engaged briefly in conversation about his country and his concerns about his country.

That, as you may recall, was a time when President Carter had imposed very strict human-rights policies on United States international affairs, ones that were directed in part at the regime in Czechoslovakia.

This man spoke almost flawless English, was clearly well educated, and also clearly suffering in the current circumstances in Czechoslovakia. I asked him, "What do you think the United States should do under these circumstances? Should we pursue this policy of strict human-rights requirements in our relationship with your country even though, in doing so, it will cause suffering for your people, perhaps yourself, and have results that we can only hope may occur in the longer term?" And he paused for a moment. We were standing in the great open square near Wenceslas, and he said, "I would suggest to you that you recall your Presidents Washington and Jefferson, and especially your President Lincoln," and he proceeded to quote to me, a Czech citizen who I stumbled upon in downtown Prague, proceeded to quote to me the words of Lincoln's Gettysburg address, and he finished by saying, "Your country must, above all, stand true to your principles and your ideals. That is what will move the other peoples of the world to continue to look to the United States for inspiration, for moral support, for the wherewithal to continue their struggle," in regimes such as the one that then existed in Czechoslovakia to achieve freedom and democracy for themselves.

So I got a very clear and, I think, instructive message from that individual about the importance of this country remaining true to its own principles even when, as was the case then in Czechoslovakia, it would carry some short-term discomfort for the citizens of the country involved.

That is much the same situation that we also faced in dealing with sanctions against South Africa which have resulted now in enormous change in that regime. We hope that will continue.

It is argued in these circumstances that we ought to defer to the President's wisdom, especially in this aspect of policy that has serious foreign policy implications, but the problem is that I simply do not discern wisdom in the President's position and his rationale in this case.

Let us examine what this legislation that he has vetoed is about. What were the problems that we were trying to address? What are the remedies that this legislation uses to try to make the situation in China better?

It has been clear on the occasion of Tiananmen almost 3 years ago and subsequently that the current regime in China is fundamentally disrespectful of the rights of its citizens, fundamentally unconcerned with the conventions of human decency in the dealings of that government with its own people. Since the Tiananmen crackdown there have been secret trials of those that participated in the human rights demonstrations of that time resulting in the sentencing of many Chinese, in some cases, to years in prison and not to mention the executions that occurred after the Tiananmen Square massacre itself.

Living conditions that these individuals are suffering through in China are reported to be absolutely awful and degrading. There are also credible reports that the Chinese regime exploits prisoners to produce goods for export that are coming into this country.

I just came from hearings involving the head of the Customs Service of the United States who confirmed again the difficulty that we are having in excluding what we believe to be prison labor manufactured goods from being imported into the United States, notwithstanding that it is in violation of our law.

Chinese leaders since Tiananmen have continued to suppress free expression and the exercise of any kind of civil rights. They have continued to sell missiles and other armaments to countries in the Middle East and South Asia, and to quote from the committee report, if I may, Mr. Speaker, "The purpose of H.R. 2212 is to get at this whole complexion of behaviors and misdeeds by the current regime in the People's Republic of China," and it is, and I quote, "To send a strong message to the hard-line leaders of China that this behavior toward their own people and certain of their actions on the international front will not be tolerated by the United States."

The particular points in this legislation that has been vetoed by the President would require, in order for most-favored-nation status to be continued, an accounting by the Chinese Government of the citizens detained, accused, or sentenced as a result of their nonviolent expression of political beliefs during the events of 1989 and the release of citizens imprisoned for that conduct. It would require the Chinese Government to adhere to the joint declaration with respect to the future status and devolution of Hong Kong in 1997. It would require the Chinese Government to refrain from supporting or administering coercive abortions or involuntary sterilization. It would require that that Government not assist nonnuclear states in acquiring nuclear explosive capability, and to refrain from contributing to the proliferation of missile technology particularly in the Middle East and South Asia. It would require that Government to take steps to prevent prison-labor exports and to permit international inspection of places of detention to ensure against that practice.

□ 1515

And it would require the Chinese Government to moderate its position with respect to Taiwanese participation in GATT.

In addition, this legislation requires that China make significant progress in dealing with its human rights behavior, both in China proper and in Tibet.

The bill calls for progress in these areas, preventing gross violations of internationally recognized human rights, ending religious persecution, removing restrictions on freedom of the press and access to Voice of America broadcasts, terminating harassment of Chinese citizens resident in the United States, insuring access of international human rights monitoring organizations, insuring freedom from torture, and terminating bans on peaceful assembly and demonstration. That is what this legislation is about. It is eminently reasonable, clearly consistent with the best interests of the United States, particularly in light of the changes that have occurred around the world and the reasons that so many of the repressive regimes that we for so long have seen in our adversaries have now changed their forms of government, their forms of economics and have every reason now to be treated as our friends.

I would be absolutely baffling and dismaying if at the time that we commemorate the third anniversary of the Tiananmen Square massacre that we stand by as this country nearly ignores what the Chinese Government has been doing over these last several years and willy-nilly extends most-favored-nation trade status for another year.

I pray that Congress will act appropriately and decisively to override the President's veto. We must stand firmly with the Chinese people in behalf of the ideals and interests that we share with them, namely, economic and political freedom and reform.

It is really hard to fathom how we could seriously consider action on China trade that so glibly ignores that Government's human rights record and so casually forfeits the influence that

we can bring to bear on behalf of reform.

Does anyone really believe that we gain effective leverage in these circumstances by being kinder and gentler?

A regime that so callously represses its own people with executions and prison is unlikely to respond intelligently to that kind of finesse.

Why should Americans care? First, for the last several years it has been demonstrated, as I have mentioned already, that it is important for us in this country to make common cause with reform movements around the world that promise more access for their people to their governmental institutions and success in reforming closed societies into open ones.

Second, we must act unequivocally to show the Chinese Government that we do not tolerate this kind of cynical policy of destabilizing the Third World with its sales of advanced weapons.

Finally, the American people do not want to play the fool by acquiescing in China's blatant violation of law in exploiting prison labor to make export goods or in pirating the intellectual property covered by United States patents and copyrights. Resorting to tactics like that, it is not surprising that the People's Republic has built up a trade surplus with the United States approaching $15 billion a year.

I do not know who the President believes he is kidding. I hope it is not this House. I hope that we will act next week to override the President's veto.

Mr. Speaker, I am pleased at this time to yield to my colleague, the gentleman from the great State of Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman very much for yielding to me.

Most often, Mr. Speaker, when we come to this floor we take some delight in being able to say to fellow Members that we take pleasure in responding to them and with them on an issue, but I am sure the distinguished gentleman from Colorado would agree that we take no pleasure at all today in the subject matter we have to address. On the contrary, what we find is an opportunity, yes, but an opportunity to discuss an issue which should have been laid to rest sometime ago, which should have stood as a beacon, if you will, and a measure of what this country stands for.

I am always interested to see the sound bites which occasionally crop up on television in which the President states with a great deal of vigor, at least verbal vigor, "This will not stand" with respect to human rights, with respect to a country invading another country, with respect to international law and provisions that need to be made by freedom-loving people on behalf of those who are oppressed and suffering injustice.

In this particular instance, we have an ironic phrase at best in the context within which we are discussing this issue about China, most favored nation. Most favored nation, indeed. One would think that most favored nation would refer at a minimum to a shared set of principles, not only in trade, but in relations with one another. We do not find that to be the case, Mr. Speaker, in this instance. The horrifying sight of armed troops slaughtering hundreds of peaceful students in Tiananmen Square was a turning point in Sino-American relations.

No American who witnessed the televised massacre can be comfortable with a China policy that fails to register our outrage clearly and meaningfully. With scenes of the dead and dying being brought into our living rooms, it is no longer possible to do business as usual with the tyrants responsible for the massacre.

This does not seem to have occurred to the President. I find it extraordinary and astounding that he can be so blind to this particular issue and that he can be so casual in his references to his ability to work diplomacy.

I assure you, Mr. Speaker, that I will outline what has taken place since the passage of this bill from the House to indicate the further deterioration and disrespect not only for the Presidency of the United States, but for the people of this country and those values that we espouse; yet business as usual is precisely the course taken by President Bush. With a proprietary air toward United States-China policy, the President has vetoed legislation that places conditions on the extension of most-favored-nation trade status to China. Most-favored-nation status grants a foreign nation the privilege of exporting its products to the United States on terms as generous as those accorded to any other nation. Just think of that.

These are not abstractions, Mr. Speaker. We are talking about the literal lives and deaths, literal quality of life of vast numbers of people, into the millions, and we are saying that we equate the trade policies of that country with those of our own as being founded, as resting upon those values similar to our own. Those trade privileges as accorded to any other nation, and if I can make an analogy, as to driving an automobile, this favored nation status is not a right. You are not entitled to have it as a matter of course. It is not a diplomatic nicety that is accorded to anyone who happens to enter the room. Like any other privilege, it is subject to conditions, to suspensions and to revocation.

I think it is especially important that we understand this. The Chinese Government is not entitled to a most-favored-nation trade status. It is something that has to be earned. It is something that has to be acknowledged as being recriprocal, mutually beneficial, and it is subject to conditions. It is subject to suspension and it is subject to revocation.

The strongest argument to be made against most-favored-nation condition is that the foreign trade brings economic development that benefits the people of China, that it provides leverage for the United States to persuade the Chinese Government to liberalize its policy and that it creates social and economic conditions which strengthen that democracy and the democratic movement within China.

□ 1525

On the surface these arguments sound reasonable. But they rest on the assumption that Chinese export goods are produced in much the same way as other nations' products.

I want to go over that very briefly again. The President maintains that foreign trade brings economic development that benefits the people of China, that it liberalizes its policies with respect to political dissidence within China, that it creates social and economic conditions which strengthen the democracy movement.

Information uncovered by Asia Watch last year revealed in painful detail that China's export drive is fueled by slave labor performed by prisoners, many of them pro-democracy activists and Tibetan patriots in Chinese gulag prisons.

May I say parenthetically, Mr. Speaker, that I attended the rally this past Saturday, in freezing weather conditions, across from the White House, as Tibetans and supporters of Tibetan freedom gathered from all over the Nation to make clear our commitment to the freedom, the territorial freedom under the Universal Declaration of Human Rights in the United Nations, make clear our support for that declaration and the resolution on human rights that is now before the world.

The invasion of Tibet is a perfect example of what happens when the Chinese Government understands that, with impunity, it can ignore the minimal conditions that are set for most-favored-nation trade status.

Since the House overwhelmingly supported the conference report, H.R. 2212, last November, the Chinese Government has undertaken the following actions. I want to point out, Mr. Speaker, this has taken place within the time that the President could have utilized for diplomatic negotiations. They have stepped up persecution of religious believers; they have further imprisoned pro-democracy activists; they have sold $250 million in missiles and dangerous nuclear technology to Middle Eastern countries, including Iran.

Although China has periodically agreed to stop such sales, it has not done so, and, Mr. Speaker, I maintain it will not do so so long as it under-

stands that President Bush will do nothing to stop it, will do nothing to stop the trade status. There is no reason for them to live up to their word. Our trade deficit has nearly tripled, reaching $13 billion in 1991.

Chinese democracy leaders have told me explicitly that most-favored-nation status is by far the most effective means of bringing American influence to bear on human rights issues. If we can deny this trade status, it denies to the Chinese Government the capacity to say to its own people that it has world approval.

I also had the honor of meeting the Dalai Lama, the spiritual leader of Tibet's people. He made it clear that the Chinese government wants most-favored-nation status very badly and that it is the strongest lever in our hands to secure progress in the area of human rights.

Mr. Speaker, international trade can be a powerful tool for peace, prosperity, and mutual understanding. Where it serves those purposes, it should be encouraged and fostered; where it serves to strengthen the hands of tyrants, it should be curbed.

On every factual ground of factual history that has taken place since this House passed our resolution, Mr. Speaker, there is failure on the part of the administration to be able to carry through in any meaningful way on what it says it could do with most-favored-nation status as the basis for its diplomatic negotiations. There is one way and one way only that we can get this message through to the Chinese Government, and that is for us to overwhelmingly defeat the President's veto.

If there is anything that we can do to show that the United States is indeed serious about human rights and serious about our own domestic proposals with respect to trade, with respect to jobs, with respect to those conditions which will provide for a prosperous economy not only for ourselves but with our trading partners throughout the world, it is to see to it that this Presidential veto is overridden.

Mr. Speaker, I again thank the gentleman for yielding.

Mr. SKAGGS. I thank and congratulate the gentleman from Hawaii [Mr. ABERCROMBIE] for his fine remarks and his insight into the challenges that faces us in overriding the veto.

Mr. Speaker, no Member of this body has been a finer leader, nor more resolute in insisting that we do the right and proper thing in this circumstance than the gentlewoman from California [Ms. PELOSI]. This is her bill. All of us are grateful to her for the leadership she has demonstrated in the House and in this country on this issue.

Mr. Speaker, it is my privilege to yield to the gentlewoman at this time.

Ms. PELOSI. I thank the gentleman from Colorado [Mr. SKAGGS] for his kind words and, more importantly, I thank him for his leadership on this issue, which is fundamental to our country, to our very foundation.

I thank the gentleman for taking this special order today on a day that I think is a very sad veto by the President of the United States. I also wish to commend the gentleman from Hawaii [Mr. ABERCROMBIE] for his commitment and his grasp of this issue and the time that he took to help us educate the public as to why this is important to every American, whether it is on the basis of our principles and our democracy, whether it is on the basis of jobs, whether it is on the basis of nonproliferation, the safety of the world or the security of their own jobs.

It is particularly difficult for the gentleman from Colorado [Mr. SKAGGS] and the gentleman from Hawaii [Mr. ABERCROMBIE] to support this legislation, because they, like I, represent areas which benefit from the trade with China. But we do not benefit from trade with China that results in a very strong imbalance with China having a huge surplus while other parts of the country suffer from that United States deficit.

Mr. Speaker, yesterday, when the President vetoed the legislation—and, by the way, it was a bill that was very, very modest in its conditions—is it too much to ask that the Chinese rulers free the prisoners arrested at Tiananmen Square in order for them to have a $12 billion trade surplus for 1 year? Is it too much to ask the Chinese authorities not to sell M-9 and M-11 missiles to Syria and Iran?

If the administration is convinced that they are not doing this, making these sales of weapons, then this condition should be very easy for the Chinese Government to meet.

However, the President saw fit not to sign this bill, as I say, with its very modest objective conditions and with some further subjective conditions about significant progress that he would be in a position to make judgment about.

With his veto statement, President Bush has once again acceded to the wishes of the Chinese Communist leaders over the appeals of the pro-democratic advocates. President Bush is attempting to mislead the American people. He says that supporters of this bill wish to isolate China and will slow down reform there.

How can the President make such an outrageous statement when the bill has the support of leading dissidents, such as Fang Lizhi; Chai Ling, the young woman who was a leader in Tiananmen Square; Liu Binyan, called the Thomas Paine of Chinese letters; Shen Tong, author of the book "Almost a Revolution," about the springtime in China, the time of the demonstrations; and Li Lu, a leading advocate, who started as one of the leaders of the hunger strike in Tiananmen Square that spring.

The list goes on and on and on.

Do they not know about prodemocratic reform in China? Do they not know about repression in China?

The last thing they want to do is for the United States to isolate China.

Frankly, none of us wants most-favored-nation status to be revoked; we just want to use our leverage with it. Why can this President of the United States not join this Congress and this House in overwhelming numbers, 401 to 21, in sending a message to the Chinese regime that we are united in our call for an improvement in human rights, freeing of the prisoners, cessation of the sales of weapons to the Middle East and other unsafeguarded countries and stopping unfair trade practices as far as American workers are concerned?

It has never been the goal of this Congress to isolate China, and the President knows that.

President Bush says the bill calls for a long list of conditions. He knows there are only the two objective conditions I mentioned: free the prisoners; and do not sell M-9 and M-11 missiles to Syria and Iran.

With this veto message, President Bush is saying it is too much to ask the Chinese Government to do these two things.

Since the takeover of China by the Communists, there has been a debate in our country over who lost China. Now, faced with this opportunity to support reformers in the leadership struggle in China, President Bush has chosen instead to strengthen the hands of the hard-liners instead of the reformers in China.

□ 1535

Mr. Speaker, I have said on the floor before that the Chinese Communist Congress will be coming up soon, in March and April. At that time there will be a struggle between the reformers and hard-liners. A signature by the President on this legislation would have sent the message very clearly in support of prodemocratic reform.

For a moment I would like to address some of the contentions made by the President in his veto statement. He says, for example, that he agrees with us on upholding the sanctity of human rights, and controlling the spread of weapons of mass destruction, of free and fair trade. He may agree with our priorities that we have set forth, but he is not willing to stand by us to make it happen. We are the leaders of this country. We have to make these decisions. If we do not make them, they will not be made, and this President was in a position to be great. Again he missed an opportunity. The President's policy, as far as China is concerned, has been a failure.

I remind the Speaker that it is nearly 3 years since the Tiananmen Square massacre. Students and others who

spoke out for democracy there are still in jail nearly 3 years later. The very day of the Senate vote in the other body the Chinese Government, instead of releasing prisoners, as was our hope, tried and sentenced more dissidents for their activities in Tiananmen Square. The arrogance of this Government knows no end. It is only matched by the intransigence of our own President to respond to an opportunity to send a message.

The President says in his message that there is no doubt in his mind that, if we present China's leaders with an ultimatum most favored nation, the result will be weakened ties to the West and further repression. I mentioned this earlier. Mr. Speaker, and, as I said then, does he think that all of the prodemocracy advocates who support this legislation want repression to continue to increase in China and want ties to be cut off from the West? They do not, and to prove it I want to read a brief statement by Dr. Fang Lizhi, Shen Tong, Li Lu, Liu Binyan, Yu Dahai, Chai Ling Chen Yizi, Haiching Zhao, the president of the Independent Federation of Chinese Students, and Wan Runnan, president of the Federation for a Democratic China. They say that this was a letter that was written regarding the vote.

We ask you to join your House colleagues and vote yes on the Conference Report on H.R. 2212 which places reasonable, flexible conditions on continued renewal of China's MFN status.

We have intimate knowledge of China's repressive policies. Because of our convictions and our demands for respect for human rights and the rule of law in China, we have been forced to flee our homeland or face persecution. We know first-hand the scars of the intellectuals, embittered by years of suppression; feel ourselves the deep reservoir of discontent that seethes among Chinese students and workers; and cannot forget the friends that remain behind braving the rotten prisons, forced into the countryside, prevented from carrying out their work or constantly harassed.

Every Senator is aware of the magnitude of continuing human rights abuses in China. Since 1989, these travesties have been widely covered by the media in every corner of this country. We have been overwhelmed by the response of the American people to the plight of people in our country and we ask that you reflect upon their sentiments when casting your vote on the Conference Report.

President Bush's China policy has had little effect on the human rights situation in China. Rather than improving the situation, it has emboldened and strengthened the hardliners in the leadership. The President's meeting with Chinese Premier Li Peng capped the hardliners; bid for a comeback as they go into an important policy meeting next month. In the internal debates, the hardliners are bragging that even the person responsible for the massacre and continuing repression in China is acceptable to the U.S. government.

We ask that you send a different signal to the Chinese people and to freedom-seeking people everywhere. Placing conditions on China's MFN status is the strongest and most important signal you can send both to the leadership and to the people of China.

As I said, Mr. Speaker, it was signed by the leading dissidents in the United States who have had to flee for their safety to the United States from China because of their well-founded fear of persecution.

I would like to also add one more thing. In our meeting this morning with Secretary Baker in the Committee on Appropriations he mentioned two things that I think bear mentioning. He said, "You all want to cut off MFN." Some of us do; some of us do not. What most of us would like to see is a thriving political, cultural, and diplomatic relationship with China based on principle and for us to step forward and use our leverage now to cut off MFN. He also said, and the President says in his statement, that he believes that recent agreements by the Chinese to protect intellectual property rights are attributable to the President's policy. Wrong again. The President's policy had little to do with that. What we had learned from the insiders that we have in China is that the message to those negotiators was compromise, compromise, compromise. I believe and say without any hesitation that it was the action of the Congress of the United States in both the House and the Senate to give overwhelming majorities in the vote for continuing MFN that put the pressure on China to compromise at the table and not to leave that table on the discussion of copyright and intellectual property laws without some agreement. They knew that, if they did not agree, their MFN was doomed.

Mr. Speaker, MFN means money to them. It means hard currency which enables them to continue their arrogant, repressive policies with independence. MFN means also recent actions of the President to sell satellite and computer technology to China means that they get more technology, hard currency and technology. That is what enables them to maintain their position of hard-line strength and repressive tactics in China.

So, Mr. Speaker, it is with regret that I have to say that the President vetoed this bill. I think his veto was wrong. I think his veto message is out of touch. Either he does not know, or—but he certainly should—what the truth is, but, if he does not know, it is up to us to tell the American people why it is important for them.

For every billion dollars it is about 10,000 jobs, at least, of American workers that are lost. So, we are talking about at least $12 billion in a trade surplus that China enjoys, 12 times 10, 120,000 jobs that we are giving to the Chinese leadership for their intransigence.

It is also the question of the hard currency in addition to American workers, so our constituents need to care about this because it is jobs, it is hard currency, it is our technological edge, our superiority that will slip away if we continue to put in the hands of the Chinese hard-liners. It is about our democratic principles, and it is about a safer world in which nuclear proliferation is not tolerated by any country no matter how large it is.

We went to war last year. The Secretary of State said it was for jobs. The President said it was for human rights and nuclear proliferation. All three of these issues weigh in on this bill. If it was important then when the issue had run away with us, why is it not important now when we can intervene at an early enough stage to make a difference for a safer, freer, and fairer world?

Mr. Speaker, I will conclude my remarks by thanking the gentleman from Colorado [Mr. SKAGGS] again for his leadership in taking this special order. I commend him for his courage because I know it is not easy coming from the district he represents. He has always stood on principle, and, once again, he has come to the floor on this issue, and I am grateful to him for it.

□ 1545

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman from California [Ms. PELOSI], and I commend her on her fine statement. It again demonstrates her understanding of the subject and her insight into what ought to be the underpinning of the United States policy here.

The gentleman from New York [Mr. SCHEUER] has requested time, and in yielding to him I would recognize the many years that he has stood strongly for human rights around the world in many difficult circumstances in his work as a Member of this body.

It is my privilege to yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I think the President, in vetoing this bill, demeaned himself, demeaned the House and the Senate, and demeaned the American people.

What are we? What kind of people are we? We are the kind of people that cherish freedom. We have laid the lives of young men and women in America on the line to preserve freedom, not just for ourselves but freedom for others around the world. We have stuck to our last. We have not compromised on the basic principles of freedom and decency.

Mr. Speaker, for 45 years our country was engaged in a contest between two superpowers for hegemony in the world. We could have compromised with the Soviets. We could have protected their sphere of influence, with an unwritten, unspoken deal that they could carry out their horrendous practices toward their own people in their own country, but we did not do that. We stuck to our last.

Ultimately the Soviet Union collapsed. It disappeared into thin air.

Why? Because of internal weaknesses within the Soviet Union, because of lack of confidence and esteem that their own people had for their repressive government, and finally, the Soviet Union disappeared. The fact that it did and the fact that the Soviets over the period of a year or two moved swiftly toward democracy and human rights is an enormous tribute to Mr. Gorbachev. He may not have hacked it in the field of economic sanity, but he did stand as a beacon for human rights, decency, and the ability of people to live decent lives.

Since the Soviet Union in effect disappeared, the entire Warsaw Pact, people who have known nothing but repression and intimidation and the most awful, repulsive behavior from their own governments, they have not just moved toward democracy, they have rushed toward democracy.

What reason do we have to think on this floor that the Chinese people do not have the same driving urge toward human rights and democracy that people around the world do? The arrogant, ruthless dictatorships of the world are a shrinking population. It is perfectly clear that people, when they have the choice, opt for democracy and freedom and individual rights.

I am positive in my soul that the Chinese people have deep yearnings for individual rights and freedom, and the right to live their own lives out from under the fear of persecution, repression, imprisonment, torture, and death.

There is nothing in the history of the Chinese people or any other people on Earth that indicates that some people are unlike us and that they do not have a predilection for the kinds of rights and civilized standards of conduct by governments that have been generally accepted in the West.

I have been to China quite a few times. I have enjoyed my trips there. I have enormous respect for the Chinese people, all 1.2 billion of them, who have made extraordinary progress; who have been the leaders of the civilized world for the last 5,000 years, excelling in the arts and sciences and humanities and poetry, long before the West achieved those levels of creativity.

I do not admire the leaders of China who have brought the infliction of widespread imprisonment, torture, death, and suffering to the Chinese people. I cannot accept the results of June 2 a couple of years ago in Tiananmen Square. That is anathema to me, and there is not one iota of evidence that the Chinese leadership, the elderly gentlemen who now control China, that they have ever had any sober second thoughts as to the rightness of their course.

I believe President Bush's views and sensitivities on foreign policy, certainly as applied to China, are as inadequate and as insensitive and as uncaring as his total lack of understanding of the suffering that the American people are going through. It is not on the same order of magnitude, of course, as the Chinese, but there is hurt and there is pain in this country out there and the President does not seem to have the remotest understanding of what his indifference to the plight of average Americans means to their lives.

I think he has little understanding as to what motivates the Chinese leadership. We have caviled to them, we have closed our eyes to their awful, unacceptable patterns of conduct toward their own people. We have gone above and beyond the call of duty in giving them respect when they do not deserve respect. We are condoning slave labor. We are condoning child labor. We are condoning the exceptionally offensive practices of the Chinese to export nuclear technology to developing countries that may be rich in oil but are not rich in compassion and understanding and a sense of democracy.

The administration has talked to them. We sent a Secretary of State over there to talk to them. He came back empty-handed. Our overly tolerant posture toward the Chinese has met with no response whatsoever. They have not ameliorated any of these despicable practices that degrade the human spirit and torture the human body, and I think it was a painful thing to the conscience of America to see the President veto this bill.

I hope that this body and the Senate will send a message loud and clear, and I hope that message will be understood by the Chinese people as one of deep sympathetic understanding for their plight and an emotional commitment that we are going to help them, come what may, toward the inevitable day when they break out in freedom, as the Russians have done and as the Warsaw Pact countries have done and as the Baltic countries have done. Love of freedom is an uneradicable component of the human condition.

□ 1555

I respect and revere those in China who have stood up for the rights of the Chinese people to live their lives in freedom and tolerance and decency, as human beings all over this planet have come to do.

Mr. Speaker, I want to congratulate my colleague from Colorado [Mr. SKAGGS] for having shown the initiative to have brought this special order. I join with the gentleman, and only wish that we will, by whatever means available, advance and accelerate the day when the great country of China, 1.2 billion strong, joins the rest of the civilized world in adopting those standards of government those standards of living together and respecting each other, that will see these despicable practices of torture, of death, and of imprisonment without trial, banished from the mainland of China and banished from the Earth.

Mr. Speaker, I thank the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from New York [Mr. SCHEUER] for his fine statement.

Mr. Speaker, in closing let me just ask the working people of this country to stop and think about this: We are going through some difficult economic times here at home, and I have a difficult time with that in mind of seeing how any person in this country who may be fearing for their own job security or is out there looking for work in this economy, could possibly tolerate an action by the President of the United States that for all practical purposes may well jeopardize thousands of jobs in this country in order to maintain a preferred trading status that sacrifices those jobs for goods made with prison labor in the People's Republic of China.

We have a choice in this case between foreign policy based on personalities, the President's personal relationship with the repressive and aging regime in China, or a foreign policy based on principles. America's principles are people's principles.

This legislation reflects an eminently reasoned and reasonable and moderate effort to right an enormous wrong, a blight on human rights and decent government on this planet.

Mr. Speaker, I hope that this House will stand for its beliefs for the Nation's best instincts, reject the President's expediency and reject the President's veto.

Mr. FAZIO. Mr. Speaker, I rise today to express my deep dismay over President Bush's decision to veto H.R. 2212, which lays out conditions for granting most-favored-nation trade status to China. Last summer, Congress went on record to send a clear message to China that the United States will not ignore its abhorrent human rights record, advanced weapons sales to countries around the world, and unfair trading practices with the United States.

The Chinese Government's brutal suppression of political dissidents is undisputed. We all recall the graphic violence and blatant disrespect for human life that took place during the government's massacre in Tiananmen Square. China has also refused to become a responsible member of the world community with regard to trade and arms control. Granting China unconditional most-favored-nation [MFN] status will only continue to reward China for its refusal to address these issues.

To those who say that cutting off MFN benefits to China will hurt United States economic interests, I ask: Are we really hurting ourselves by conditioning special trade benefits to a country that uses prison labor to produce products for international markets, and which has virtually no respect for United States copyrights and patents?

China has exploited these factors to accumulate a massive trade surplus with the United States and amass huge foreign currency

reserves which effectively protect it from outside pressures. One analysis suggest that if the United States were to demand fair and balanced trade with China, our economy would have grown by as much as $25 billion in 1990 and created an additional 400,000 jobs. Yet, despite the unfair trade practices and human rights abuses that have been documented in China over the last several years, the President is only too willing to grant to China the same trade status that we give our best trading partners. Not only is unconditional MFN status for China a slap in the face to the American principle of respect for human rights, it is a slap in the face to American workers and businesses as well.

In adopting H.R. 2212, we give China an opportunity to take corrective action before MFN is revoked. The conditions outlined in this bill place China's MFN status in its own hands. If China makes progress on human rights, trade, and weapons proliferation, then it will be able to retain MFN status. If not, then MFN is automatically revoked. Unfortunately, the President has declined to do the right thing. Using MFN as leverage only works if the Chinese Government knows we are serious about taking this privilege away.

Mr. Speaker, I strongly urge my colleagues to join me in voting to override the President's veto of H.R. 2212 when the time comes. It is time to put some muscle behind our policies with China by conditioning MFN status on real improvements in China's trade and abusive human rights practices.

Mr. SKAGGS. Mr. Speaker, I would yield to the gentleman from Ohio [Mr. KASICH].

STATUS REPORT ON SERGEANT AT ARMS

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I just wanted to take a few minutes to let the House know that I have had the opportunity to talk to our Sergeant at Arms Jack Russ just a few minutes ago.

As you all know, Jack was robbed and assaulted—shot with a gun—on Sunday night.

In a nutshell, what happened was Jack was approached from behind. He had a gun put to his head as the robbers took a watch and a wallet from him. They then put the gun in Jack's mouth, and, as one robber referred, said to the other one, "Let's waste this guy."

By the grace of God, Jack fortunately turned his head and the bullet went through his cheek. As he said to me just a few minutes ago, while it is going to be a difficult time for him and his wife Susan and their sons, Jack expects to have a full recovery from this assault.

I just want to take a second to say something about Jack Russ, who has been a close friend of mine for a number of years. I think it has been unfortunate at times that Jack has been the target of some criticism in this House, because frankly I think Jack kind of lives in a time warp in a way.

You see, Jack was brought up working in the House of Representatives at a time when Members respected one another, at a time that whenever Members had difficulty or got out of line, a powerful committee chairman could call the Members in and rebuke him privately, at a time when the Congress was able to discipline itself.

Jack was brought up under the school of respecting Members, when Members respected one another. We did not spend so much of our time trashing one another, at times out of legitimate concern, and at times though for political reasons.

Jack was here and is here presently to serve the House. He is a courageous man, he is an honest man, a decent man. To those who have had an opportunity to have a personal friendship with him, they stand tall behind Jack.

I know that Jack got calls ranging all the way from the President of the United States, who expressed his deep concern to Jack and wanted to know the details of the incident, all the way to Arnold Schwarzenegger, who called Jack wanting to know how he was feeling.

The bottom line is Jack represents a tradition in this House that I think the House has to move toward in order for us to respect ourselves and to respect this institution, and that is what Jack has been trying to do for so many years. He has been frustrated in many of his efforts, but he is truly a courageous guy.

Mr. Speaker, I know that all of his friends, last night and throughout today, have said their prayers of thanks to God for sparing the life of our dear friend. We wish him and his family the best. We wish Jack a very speedy recovery, and we anticipate that.

Mr. Speaker, I know that Jack would like to hear from all of his friends in the House and across the country. But he also wants them to know that he is going to have this full recovery, and that he will be back coming down this center aisle again with the President of the United States and being able to escort him to the podium and continue to serve Members as he has so well throughout his career.

PROBLEM WITH MUNICIPAL LIABILITY UNDER SUPERFUND

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] will be recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, before I cover the issue that I am going to talk about today, I would like to join in the comments just made by the gentleman from Ohio [Mr. KASICH] about Jack Russ.

Mr. Speaker, I do not think there is anyone in this House that does not understand that Jack has a most dedicated commitment to this House and to this institution, and it was sorely felt by all of us that such an incident had occurred. We were all concerned about how extensive his hurt was and how soon he would recover.

It is encouraging to hear by the words from the gentleman from Ohio [Mr. KASICH] that Jack will be all right. We have all said prayers for Jack, and our prayers go out to his family, too.

With that, Mr. Speaker, I would like to talk about a situation that is occurring across this country with a great number of cities.

Many years ago, when we moved from burning to burying our municipal waste, no one would have never thought that the cities, who at that time had the responsibility of making sure the waste was properly disposed of in a safe manner, would now be facing third-party lawsuits to the tune of millions of dollars. These cities, from Connecticut to New Jersey to California, performed their duty in what was considered to be a safe manner.

Let me tell you today of just one of these sites in my district, which is now referred to by the EPA as the operating industries site. In 1948, a sanitary landfill opened, operated by the Monterey Park Disposal Co., for the purpose of providing a site for the city of Monterey Park to dispose of their municipal garbage. This was the technology of the day—sanitary landfills.

The Environmental Protection Agency has sought to force industrial polluters to pay for the cleanup of hazardous wastesites like operating industries. But increasingly, these corporations are suing cities, towns, and small businesses in an attempt to make them pay a share of the cleanup costs—just because they contributed municipal trash to the site that in and of itself was not hazardous.

Now a conglomeration of companies, who have been sued by the EPA for cleanup costs at the operating industries site, have initiated third-party lawsuits against 29 cities in the Los Angeles area because they used that site for municipal waste. Most of that municipal waste was household refuse and was not of a hazardous nature. It only developed that characteristic after millions of gallons of liquid, some of it was illegally dumped, and the rest of it dumped by that conglomeration of companies, that are now trying to recover a great fraction of their cost at the expense of taxpayers.

Currently, a couple of cities in my district are being forced to accept settlements because they cannot afford to go to court. These settlements are for outrageous amounts—amounts that will basically bankrupt these cities. For instance, a city in my district, Monterey Park, is faced with a multimillion dollar settlement. As we all

know, our local cities do not have budgets that can cover this large of a settlement. This means that valuable city services such as police and fire protection will be reduced.

We cannot afford to let our cities go bankrupt. Not at a time when we are forcing them to take on additional responsibilities through congressional mandates.

I joined several of my colleagues in introducing legislation that would address this problem. H.R. 3026, the Toxic Cleanup Equity and Acceleration Act, will fine tune the superfund law to speed cleanups by blocking these third-party suits over the generation and transportation of municipal solid waste.

But as is the custom in Congress, when the fight gets tough and somebody feels the constituent pressure is not that great, we do nothing.

There was an identical bill introduced in the Senate by Senators LAUTENBERG and WIRTH, and the Senate Environment Superfund Subcommittee held a hearing on this last summer. However, that was the last action taken on either the House or the Senate legislation to correct this problem.

There are those who are afraid to open up this law for amendments because they believe that mischiefmakers will take this opportunity to offer unsatisfactory amendments. But we must not be afraid of these amendments. We must work to oppose them, while we simultaneously take the opportunity to correct the municipal liability problem.

There are some in Congress that do not want to open up the Superfund law to correct this situation because they believe that the administration will correct the situation.

Clearly this has not happened. Although the EPA established an interim municipal settlement policy in 1989 stipulating that the Federal Government will not sue municipalities or others who merely generated or transported municipal solid waste or sewage sludge under most conditions, they have not successfully addressed the problem of third-party lawsuits.

Moreover, when cities indicated they would like to settle with EPA, EPA has taken a couple of different stands. On one hand, they are reluctant to upset the companies who are now paying for cleanup costs. On the other hand EPA has taken the stance that they can't settle because they didn't think they should sue the city in the first place.

Of course, the EPA claims that local governments could protect themselves from these suits by reaching a settlement with EPA on cleanup costs at a site. The Superfund law exempts parties that settle with EPA from liability suits by other parties that may be liable.

But they have not yet aggressively pursued this relief for cities. Last August I attempted to rally support for this legislation by providing the citizens of the affected communities with information on H.R. 3026.

Many of them followed through with my suggestion to write to President Bush in support of H.R. 3026. It is my understanding that those of you who received a response, got a letter from EPA expounding on the way they were going to handle the situation without the need of legislation.

Well, in December, EPA Assistant Administrator Don Clay suggested a trial formula for how EPA would allocate costs at Superfund sites that included municipal disposal. This formula would have resulted in shifting billions of dollars of the cleanup costs to the cities and towns because it would have been based on volume. Sure it was the volume of waste but it was the liquid and commercial waste that caused this problem.

I again joined with a number of my colleagues in Congress in writing to the EPA Administrator, William Reilly, in opposition to this formula. Since that time, I understand that the EPA has met with members of ACCE [American Communities for Cleanup Equity] and other interested groups in an attempt to draft a new formula.

EPA has still not decided precisely what to do about the formula. They are expected to come out with a preferred option sometime this month, but they have dragged their heels on this for a long time, and I question whether their "guidance" will be published this month. I am even more doubtful that it will adequately address the problems that the cities have been facing with these lawsuits.

Since the President and the EPA do not seem to see the impact that these lawsuits have had on the cities, and the problems that the cities will face if they are forced to pay for a substantial portion of the cleanup cost, I believe that it is up to Congress to pass legislation that will assist our communities and citizens in their fight against these unfair lawsuits.

Now no one, not me and not the cities are saying that cities should exempt from paying for the cleanups if they dumped hazardous waste at the sites.

But it is a fact that municipal wastes are typically of minimal toxicity—around 0.002 to 1 percent. For that small percentage, should our cities and towns be forced to pay large amounts for cleaning up the site. I do not think so. In fact, some groups have stated that by placing hazardous wastes from the corporations in with the municipal waste, the municipal waste was able to cushion the hazardous wastes from spreading more quickly into our ground. The corporations probably do not want to acknowledge this possibility, because it would lessen the impact of their lawsuits.

This year Congress is expected to work extensively on revising the Resource Conservation and Recovery Act, commonly referred to as RCRA. This is the Nation's solid and hazardous waste management law. While the primary focus of this will be on promoting recycling, reducing toxins in the waste stream, ensuring safe disposal of various solid wastes, and regulating recycling of hazardous materials, I am hopeful that the members of the responsible committees are not blind to the problems that exist in the Superfund statute.

Whereas we must address the problems that exist in our environment, we must simultaneously not allow our local government to go bankrupt. I hope that my colleagues on the Energy and Commerce Committee are listening, and that they realize the importance of this legislation so that action will be taken to address the Superfund loophole that allows third-party lawsuits against local governments at a cost to the local taxpayer.

□ 1605

THE BUDGET SUMMIT AGREEMENT

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Mr. Speaker, I take the well of this House to try and emphasize what is going on in this House as it relates to tax policy and budget policy and economic policy for the Nation.

We are seeing a repeat of 1990. We are seeing a repeat of what has been going on in this Chamber for so many years.

I think the American people need to realize and take a hard look at what is happening here.

If we go back to 1990, the so-called budget agreement of 1990, where we were promised spending reforms, if we would just raise $185 billion in taxes. We were promised a 5-year plan that would start us on a path of deficit reduction to maybe not a balanced budget in 5 years and by 1995, but certainly the deficit would be down to a controllable level.

And the whole reason for the budget summit that led to the budget agreement was that the real discipline that we had in this government under the name of Gramm-Rudman was about to impact the ability of this Congress to spend outrageous amounts of money. We were going to see across-the-board cuts happen because Gramm-Rudman dictated certain goals that we had to reach in spending. And if we did not reach those goals, there would be across-the-board cuts in spending by this Congress.

Yet no one wanted to approach that disaster, as they called it, of actually doing something and cutting spending by the Government. So we went into

the budget summit. We came out with increased taxes, a promise of a 5-year plan whereby we would get the level of the deficit to a reasonable level.

Those of us that stood in this well time and time again, day in and day out, week in and week out, warning the President and this Congress that what they were doing was disastrous in the face of the recession, that one cannot raise taxes, one cannot increase spending in the face of a recession or one would lengthen the time of the recession and the depth of the recession. It would be disastrous.

We were a little wrong in our projections. We felt like that the budget agreement would get us to around $300 billion, maybe $350 billion in deficits. We were wrong. They are at $400 billion in deficits. Spending is going through the roof and what do we see happening?

Last week, once again, this Congress controlled by the Democrats raised over $90 billion in taxes and we are not even out of this recession yet. And what is going to happen this week? They are actually going to increase spending. They will come running down to the floor and say, "No, we are not increasing spending."

But what they are going to do is they are going to abrogate or they are going to bring down to this floor a proposal to abrogate the budget agreement and the spending restraints that were in the budget agreement by eliminating the firewalls to cut defense by even more than what the President wants to cut defense and use that money to shift over into domestic spending.

□ 1615

How does that increase spending? That increases spending because that raises the baseline. The baseline, basically, in everyday language, what we do here is we look at last year's spending and increase it from last year. Last year's spending is basically the baseline from which we work. So if you take domestic programs and increase the baseline, then you are indeed increasing spending and you are making the caps on spending that were set by the budget agreement floors. They are not floors. They are supposed to be ceilings, and we can reduce spending under those ceilings.

The Republicans have time and time again come to the floor, and unfortunately we are in a minority, and we have told the American people that in the face of a recession you have to create a climate for job creation. The way you create a climate for that is you leave more money in the pockets of the American family. You do not tax productivity, you do not punish those who want to risk their money by starting a new business or investing in stocks that allows corporations to raise capital to reinvest, or you do not penalize people for saving their money so that their capital can move in the market and be invested in efficient ways. We do that by cutting spending, not by a sham of taking from one group of Americans and giving to another group of Americans for every short period of time.

I would like to get into some of the details of that, Mr. Speaker. For years the Democrats in Congress have lamented the demise of the middle class. According to their version of the 1980's, working Americans were victimized by the inequitable tax policies of Ronald Reagan and George Bush.

This week, House Democrats passed their long awaited proposal to provide tax relief to the beleaguered middle class, a temporary, 2-year tax credit. Apparently the decade of trickle down economics was not as bad as the Democrats claim if the damage to the middle class can be repaired in just 2 years.

While the Democrats' tax credit is temporary, their method of financing is not. In exchange for a 2-year tax credit, the Democrats increase the top income tax rate from 31 percent to 35 percent. They increase the alternative minimum tax from 24 percent to 25 percent. They impose a 10-percent surtax on millionaires. They extend the phase-out of personal exemptions and itemized reductions, and prohibit businesses from deducting executive salaries over $1 million. If the Democrats are successful in stopping businesses from paying their executives over $1 million, who is going to pay the millionaire's tax?

The Democrats' proposal would provide an income tax credit totaling about $46 billion in exchange for a $78 billion tax increase on the rich. Then, according to the Joint Committee on Taxation, raising taxes on the rich will bring in the revenue necessary to pay for the Democrats' tax credit. However, there is a growing body of evidence which suggests that the estimates by the Joint Committee on Taxation are inherently flawed.

The Tax Reform Act of 1986 reduced the top income tax rate from 50 percent to 28 percent. But what has been forgotten is that this law provided a transition year in 1987, during which the top income tax rate was 38½ percent. According to the projections by the Joint Committee on Taxation, this higher rate would result in the rich paying more taxes in 1987. In fact, the tax return data from the IRS shows exactly the opposite. The rich paid fewer taxes in 1987. While the tax rate on taxpayers with incomes over $100,000 rose by 11.4 percent from 1986 to 1987, their tax payments decreased by 4/10 of a percent. For taxpayers with incomes over $1 million, the change was even more dramatic. The tax rate rose 25 percent, but tax payments fell by 31 percent.

When the lower tax rates of the Tax Reform Act of 1986 finally took effect in 1988, the amount of taxes paid by taxpayers making over $100,000 rose by 28 percent, while the amount of taxes paid by taxpayers making over $1 million rose by 72 percent.

As Larry Lindsey points out in his book, "The Growth Experiment," upper income taxpayers have enormous discretion over how and when they receive income, and over whether it will be exposed to taxation. Tax cuts that prompt them to take more income in taxable form will improve Government revenues. Tax increases will have the opposite effect.

The inherent flaws of the Joint Committee on Taxation's estimates were further revealed in 1989, when Senator BOB PACKWOOD asked the Joint Committee to estimate the revenue effect of a 100-percent tax on individuals that make over $200,000. The Joint Committee on Taxation said such a tax would raise $104 billion in the first year, and $299 billion by the fifth year. As Senator PACKWOOD noted, the Joint Committee on Taxation assumes people will work if they have to pay all of their money to the Government, they will work forever and pay all the money to the Government, when clearly anyone in their right mind will not.

Another problem with the Joint Committee on Taxation's revenue estimates stems from their reliance on data from the Congressional Budget Office. When preparing revenue estimates, they use the baseline economic forecasts prepared by CBO. However, CBO has seriously overestimated capital gains realizations every year since the passage of the Tax Reform Act of 1986. As the gentleman from Texas [Mr. ARMEY] recently noted, CBO overestimated capital gains realizations by over 100 percent, over about $130 billion in 1990 alone. Thus, revenue estimates prepared by the Joint Committee on Taxation have overstated capital gains tax revenue by as much as $20 billion to $30 billion a year. Ironically, their annual error is greater than the entire 6-year cost they attribute to the President's capital gains proposal.

While the Democrats have tried to frame the political debate in terms of tax fairness, the facts prove that the income tax code is already fair. In 1977, the year generally chosen by the Democrats as a basis of comparison, the top 20 percent of families paid 68 percent of all income taxes. The bottom 20 percent of families paid a minus three-tenths of 1 percent of all income taxes. In other words, they actually got money back from the government, largely as a result of the refund amount earned income tax credit. By comparison, in 1992 the top 20 percent of families are projected to pay 75 percent of all of the income taxes while the bottom 20 percent will pay a minus 1 percent of all income taxes.

Of course, rather than looking at the share of taxes paid by the rich, the Democrats like to focus in on the tax rates of the rich. They argue that while

the rich may be paying more taxes, they are paying less as a percentage of their incomes. However, again the facts prove otherwise.

In 1977, the top 20 percent of families paid an effective income tax rate of 16 percent. In 1992 they will pay an effective income tax rate of 16.3 percent. In fact, they are the only group of families who have had an increase in their effective income tax rate.

So if the Democrats are wrong about the income tax burden, why do middle-income families feel so squeezed? The answer is Social Security taxes. While income taxes rose from 1977 to 1981, they have since declined almost back to their 1977 level.

□ 1625

Social Security taxes, however, have risen steadily from 5½ percent of gross domestic product in 1977 to 7 percent in 1992. That is an increase of almost 30 percent. Social insurance taxes have gone up by 30 to 40 percent for all families. Social insurance taxes are comprised of Social Security taxes, Medicare taxes, railroad retirement taxes, unemployment insurance tax, and Federal employee retirement contributions. By far, the largest component of these taxes is the Social Security payroll tax, representing over 70 percent of total. In 1977 the Social Security payroll tax was 9.9 percent on the first $16,500 in wages. In 1992, the tax rate is 12.4 percent on the first $55,500 in wages. That represents a 25-percent increase in tax rate and a 236-percent in the taxable wage base.

This year, 71 percent of all families will pay more Social Security taxes than income taxes. I want to repeat that: This year, 71 percent of all families will pay more Social Security taxes than their income taxes.

For the bottom 20 percent of families, that rate is 97 percent; 97 percent of the poorest Americans will pay more Social Security taxes than income tax, and despite the overwhelming evidence that Social Security payroll taxes are almost solely responsible for the rising tax burden on the middle class, the majority of this Congress is unwilling to address this issue directly.

Each party fears the other will accuse them of cutting Social Security benefits and, as a result, they engage in Social Security tax cuts by proxy.

As the Congressional Research Service has noted, increases in Social Security taxes were passed in 1977, but the following year income taxes were reduced to offset the impact of these hikes on individual taxpayers. Similarly, the earned income tax credit was enacted to offset the Social Security tax bite on low-income workers with children.

By linking their refundable income tax credit to the amount of Social Security and Medicare taxes an individual pays, the Democrats' proposal is designed to give the appearance of cutting the Social Security payroll tax. However, by capping that tax credit at $200 for individuals and $400 for couples, the potential economic benefit is reduced by 75 percent.

Thus, the Democrats' proposal is only a pale imitation of a real Social Security payroll tax cut. The belief that the income tax changes of the 1980's resulted in an inequitable distribution of the tax burden is a myth, a myth perpetuated not to justify cutting taxes on the middle class but as an excuse to raise taxes on the rich. This fact is clearly demonstrated by the House Democrats' cynical proposal to provide a temporary 2-year tax credit in exchange for a permanent tax increase.

The Democrats have, once again, revealed their true agenda, raising taxes, not providing tax relief for the beleaguered middle class that they profess to be concerned about.

As I opened my special order, I mentioned that they raised taxes last week. This week they are going to increase spending, but it is an interesting story.

I would like the gentleman from Ohio [Mr. KASICH] to relate to us what has been going on in the Committee on the Budget and what kind of proposal the Democrats are bringing to the floor of this House which is a nonbudget budget proposal in that we are getting all kinds of options.

If the gentleman would, I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. First of all, I want to commend the gentleman from Texas, and I do not want to commend him like people come to the floor to commend people in these patting-each-other-on-the-back types of deals. I want to commend him for his great work on the Republican Study Committee, and the gentleman from Texas [Mr. DELAY], in the bottom line, has guts and should be recognized for his actions and his courage. He has been that way since he got here, and when he makes people mad just because they do not agree with him, and they get mad at him, he says, "That is life." He is not up here to get a gold watch for serving. He is up here to try to make a difference, and I believe the gentleman is making a difference. I very much prize my friendship with him as well.

The gentleman does know what happened in the Committee on the Budget. We now have a concept called the budget de jour and defense de jour.

The chairman of the Committee on Armed Services came to the Committee on the Budget with four different alternatives that he said should be included in the overall budget for our country, and then what the Committee on the Budget did is they passed two different budget numbers, plan A and plan B, so you have four different possible defense-number alternatives combined with two different Budget Committee alternatives, and it truly is a very bizarre way to operate.

The reason why I say this, and I want to be clear on this, is I think the American people are very, very frustrated with the lack of leadership. They do not want us to tell them what they want to hear, and they also do not want to be confused about the direction that we ought to go. What we have emerging from the Committee on the Budget is a two-direction budget, with a four-possible-direction defense plan, and at a time when people are crying for leadership, "Please, make some strong statements, tell us what direction we ought to go, do something about the massive Federal deficit."

Unfortunately, the Committee on the Budget, because of difficulties within the Democratic conference, is trying to accommodate everyone, and it just does not send the right signal and the right message.

Now, I want to make it clear that this is not an effort on my part to trash the chairman of the committee. I believe I knew where the heart of the chairman really is, and I think the chairman of the committee, in fact, does want to control Federal spending. I think it is the schizophrenic nature of the Democrat conference that has put the chairman, the gentleman from California [Mr. PANETTA], in this position as well as the schizophrenic nature of the Democratic conference that put the gentleman from Wisconsin [Mr. ASPIN] in a position where he had to propose four different plans.

But I must say to the gentleman from Texas that if the President sent up two separate budgets, four different tax proposals, in fact, as I watched the C-SPAN debate on the Committee on Ways and Means, the President had a package that the Democrats sent up here. I think the gentleman from Missouri [Mr. GEPHARDT] proposed the President's tax program. It was not accurately presented, but he presented what he thought was the President's version.

The Republicans in the House took a look at it. We made some modifications to that proposal, and for about 3 days we heard nothing about the fact that the President could not make up his mind which tax bill he wanted, while at the same time they delivered to us a historic budget de jour document where we really do not know what the position of the Committee on the Budget is, and it just, you know, what this does, this leaves people thoughout the country who watch the Committee on the Budget debate of which I do not think there are many that would have stayed tuned for a very long period of time, just shake their heads and say, "You know, this place, this Congress, is just incapable of making any hard choices and doing what is in the best interests of the country."

Let me say one word on behalf of the President's budget. The gentleman from Texas [Mr. DELAY] and the gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Washington State [Mr. MILLER] and I put together a budget document, and we shared this budget document with the administration before the beginning of this year.

I must say, to the credit of Mr. Darman, he came to Capitol Hill, he met with us, and while he did not adopt all of the proposals that we had in our document, the administration did, in fact, incorporate a number of the proposals that the so-called Gang of Four had put together.

We are pleased with the fact that they are trying to freeze discretionary spending authority, although the gentleman from Texas and I would certainly like to see the outlay problem reined in. We must compliment the administration for at least adopting an idea that the gentleman from Texas and I offered last year, which was to freeze budget authority.

In the area of defense, the administration has made some hard choices on weapons systems, something they had not done before, and I think have put the defense numbers in a realistic posture, and, you know what is interesting, I must say to the gentleman from Texas, is the difference between what the administration proposes on defense cuts and where the administration are not significantly different in this first year.

□ 1635

So all this campaigning about this giant Defense Department slush fund out there that is going to be used to solve all our problems, the Democrats themselves have come to realize that if we cut too deep in defense, we will not only undermine national security at a time when we are making already dramatic cutbacks in defense, but beyond that we would be throwing massive amounts of people out of work in order to recognize the priorities of some liberals who would like to spend defense money on more social programs.

The interesting thing about that, I say to the gentleman, is that we could find ourselves in a position where we are cutting defense to provide more money for Head Start, while at the same time the kids who are in the Head Start Program are seeing their parents thrown out of work just for political reasons; but the administration moved in our direction on defense and also moved in our direction on entitlements where they are trying to means test Medicare part B in lower numbers that we have suggested and have adopted a number of other concepts, including doing away with the waivers on workfare programs instituted for performance-based budgeting.

But let me say clearly that we are not really fully happy with this proposal. We would have done more in the area of foreign aid and we would have had more comprehensive reform; but I think it is fair to say that we have gotten the attention of the administration in the area of foreign aid reform, and I believe that the gentleman would agree with me that the administration has made a commitment to take a look at the reform package that we have. We took it to the committee, all the Republicans in the Budget Committee supported it.

To make a long story short, for the first time since I have been in Congress and during this administration, four guys have been able to make an impact on the administration.

I think we ought to give the President great credit and I think we ought to give the Budget Director credit for having listened to us and giving us an opportunity to impact on making a better budget.

But let me make it clear, we have got a long way to go. We have a $400 billion deficit. As the gentleman from Texas knows, we are facing bankruptcy in this country if we do not get our act together.

I know the gentleman has agreed with me that we need to start almost immediately in fashioning a bold innovative plan for next year. The thinking at this point is what I think is a bold plan that we put together was listened to, but we need to go a lot longer.

I talked to the Budget Director today and told him as much and he said that he agreed that we needed to be more bold in terms of reducing deficits, and I believe him when he says he is concerned about it.

The gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Texas [Mr. DELAY] and the gentleman from Washington [Mr. MILLER] will be retiring, which is a tragedy, but he will be here in spirit, and the gentleman from Ohio [Mr. KASICH] will come next year with an even more bold and innovative approach and with even less reason to compromise.

At this point, though, I think we have made great progress, I say to the gentleman from Texas. It is not perfect, but you have got to start somewhere. At least we have the attention of some people.

When we debate this whole budget business, Republicans ought to be able—nobody should be supporting this budget de jure policy. This is an absolute terrible way to be budgeting in this House, but the signal it sends is just business as usual and more of the same, more confusion, more catering to different interest groups and more politics, and it is terrible.

Mr. Speaker, I appreciate the gentleman taking this special order. I appreciate him being patient with my remarks, and again I want to commend him for his leadership.

Mr. DELAY. Well, Mr. Speaker, at the risk of sounding like a mutual admiration society, I have to tell, through the Speaker, the constituents of the gentleman from Ohio that if it were not for the gentleman from Ohio, we would not be progressing toward a budget that actually would freeze domestic spending, cut defense spending, and bring reforms to the entitlements of this country, where the real spending is happening.

The gentleman from Ohio [Mr. KASICH] on his own by himself fashioned several budgets over the years.

Last year he got more votes than anybody else except for the budget that actually passed.

The gentleman has stood up to criticism, not only from Democrats, but criticism by his own colleagues on the Republican side of the aisle and he stood up for what he believed and he is starting to see the fruits of those labors.

The gentleman has real courage and the man, Mr. Speaker, is driving to force the Congress as well as the administration toward a meaningful reduction in the deficit and hopefully creating a future for our children and our grandchildren.

Mr. KASICH. Mr. Speaker, will the gentleman yield further?

Mr. DELAY. I am glad to yield to the gentleman from Ohio.

Mr. KASICH. I do, of course, appreciate the gentleman's comments, but let me say that the gentleman mentions the entitlement programs which are the big cost driver in the budget, not that the other items are not cost drivers as well, but if we are ever going to solve the problems of entitlements, we have got to control those factors that dramatically increase the cost of entitlements, and those are generally located in the area of medical reform.

We got about 30 bills that the Democrats have introduced, including pay-or-play and their national health insurance Canadian system and all that.

We have the President's document as well as the task force.

I must tell the gentleman that while I think the President's bill is a step in the right direction, much more cost containment must be done.

I want to say to the gentleman that this year we kind of put off our work in the area of medical care reform.

We have, as the gentleman knows, our own IRA plan, what we call the Medisave plan, to try to bring down the costs of medical care, but I will tell the gentleman, I personally believe that we have got to take on physicians, insurance companies, lawyers, and we have got to demand more out of patience in terms of copayments and their own ability to keep themselves happy.

We have got to tackle this problem, I say to the gentleman, because if we do not tackle the problems of the dramatically increasing costs of medical care, we cannot solve the problem of dramatically increasing Medicare and

Medicaid and the tremendous problems that we are all experiencing with the rising costs of medical care.

But let me say to the gentleman, it is going to take guts and I think we are going to have to provide that leadership and introduce our own package, if we do not see more in the area of cost containment.

It means that everybody is going to have to bite the bullet a little bit, but I think everybody is willing to as long as it is a fair package. That is ultimately the way we are going to get at the problem of dramatically increasing entitlement programs is to remove those cost drivers. It is going to take guts, but I cannot think of a better man to do it than the gentleman from Texas to get a handle on this problem.

Mr. DELAY. Well, Mr. Speaker, this gentleman is committed to follow the gentleman from Ohio in making those tough decisions and trying to provide the leadership, leadership that is totally absent in this House and over in the Senate.

I mean, the very idea, and I think it is the first time, I cannot remember, I have not been here very long, this is my eighth budget debate that I will be going through, I cannot remember the Budget Committee not coming down with one product, one budget to debate on this floor. Now, there have been substitutes, but as a product of the leadership of the Democrat side of this House to be a hodgepodge, as the gentleman says, the budget de jure, of coming with two different plans to pick from and four different plans for defense posturing of this country, is just outrageous. It is a perfect example of the lack of leadership in this House. This House is being led by consensus. It is amazing to me how they hold a Democrat caucus meeting and they come out with two different proposals, or they hold a Budget Committee hearing and they come out with two different proposals.

Where is the Speaker of the House? Where is the majority leader of the House? Where is the chairman of the Rules Committee? Where is the chairman of the Budget Committee? Those are the people who are supposed to be leading the majority party of this House, yet before they leave they always check the temperature of certain groups within their caucus. That is not the way to lead. The way to lead is to stand up for something and then follow through with that proposal. That is not what we are getting out of the budget.

I cannot wait for them to bring down this plan A and plan B budget that they passed out of the Budget Committee. I cannot wait for the American people, Mr. Speaker, to see what is going to happen in this Chamber this week, the majority of the House bringing down two plans saying, "We don't know. We don't know what we need to be doing in 1993. We don't know how we should be spending all the taxes that we are increasing and raising on the American people."

□ 1645

"We are just going to give you several options. It will be the 'cafeteria of budgets,' and we will give you several options and see what will happen."

I will tell you what will happen, probably: No budget will pass. And I hope one does not pass, so that the American people will see the lack of leadership in this House. But what is the ultimate outcome of this incredible lack of leadership? The American people are going to be hurt by the lack of leadership of this Congress. I hate to sound like a doomsday sayer, but you have got to look at the facts.

Mr. Speaker, the debt of this country is almost $4 trillion, and if you add all the liabilities of this Federal Government, pension plans and so forth, it amounts to almost $12 trillion.

Now, I read an illustration the other day by Larry Burkett of what $1 trillion is. I do not think the American people understand what $1 trillion is. But this is so illustrative of what $1 trillion is: If you take $1 million of thousand-dollar bills and tightly pack them together, they measure 4 inches high. If you take $1 billion of thousand-dollar bills tightly packed together, it measures 300 feet high. If you take $1 trillion of thousand-dollar bills tightly packed together, it measures 60 miles high, $1 trillion.

And we are $12 trillion in debt.

In fact, it takes all the taxes raised from all the Americans living west of the Mississippi just to pay the interest on our debt today, today. If we continue down this route that we are going, by 1995 it will take all the taxes collected from all the Americans in the United States just to pay the interest on the debt of the United States.

Now, what is the result of that? What can we do about it? We have, in my opinion, a window of 2 years that we have got to show some political stability and backbone in this Congress and out of the administration to come.

We have got to realize that the future of my daughter, who is going to college right now and who will be getting out by the that time, 1995, as it comes around, and she—and if she gets married—she and her husband will be looking for a job, and there will be no jobs because by that time the only way that the U.S. Government will be able to pay off the debts and pay the interest on the debt, and then we are looking in a very short period of time to the baby-boomers retiring and we are going to have to come up with an incredible amount of Social Security taxes, the only way we can pay those debts is to print more money—monetizing the debt they call it.

If you print more money to monetize the debt, what do you get? You get hyperinflation. When you get inflation in the realms of 20 percent, 30 percent, and it could go as high as 100 percent inflation, there are no jobs out there, friends. Your children will not be able to find a job. Your grandchildren will be paying the debts of this generation.

I think it is terribly immoral, and that is what we are talking about, that there does not seem to be a change in direction, for the climate to change so that jobs can be created, so people can keep more of their money in their own accounts rather than send it to an inefficient Government to spend on inefficient programs that have a very low success rate.

We are in the position today this year and next year to make a real difference if we can find some real leadership. We have got to cut spending. We do not need to raise taxes. We cannot raise taxes. It does not matter if it is on the richest of the rich or the poorest of the poor, you cannot take more money out of the private sector for inefficient government and expect things to change.

We have got to stop raising taxes, we have got to cut spending and bring more efficiency to Government so that we are not wasting good taxpayer dollars. We have got to put this country on the road to lower deficits and less spending and less taxing so that the American people can realize their dreams, they can get their job, they can make money, they can invest it, they can save it, they can provide for their own retirement, and they will not have to rely on Medicare or Medicaid or Social Security for their retirement.

These people that live in this country deserve better than what they are getting out of this House, and the only way they are going to be able to change things is to bring about a peaceful revolution and send a real message, not just a message to George Bush—that is all we hear about—the elected officials of this House of Representatives in a message from the American people. I hope they will get it.

Mr. Speaker, I was getting really overwhelmed here. But I just want to thank the gentleman from Ohio [Mr. KASICH] for coming down and helping me with this special order, and I hope the American people will finally realize what is going on in this Chamber, and I hope the American people understand that we cannot continue business as usual, we cannot continue to raise taxes, increase spending, and increase the debt on the children of America.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

THOUGHTS ON THE POSSIBLE TURNOVER OF LIBYAN TERRORISTS TO THE AFFECTED COUNTRIES

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

Mr. KASICH. I thank the Speaker.

Mr. Speaker, I do not intend to take the whole 5 minutes. This is something that I have been wanting to talk about since before we got out of session.

Basically, it revolves around the actions of the country of Egypt. I was dismayed today to read in the paper the controversy that now has cropped up with regard to the Libyan situation versus the British and the United States, our position on the terrorists, the turning over of these killers to the countries that are affected. I hope that the Egyptians will be consistent, with the courage they have shown in the past, as they work through this issue.

The purpose of my comments, though, is to step back just a little bit in time and to take just a moment to praise the country of Egypt, which has been a great ally of the United States. I would like to refer to two specific incidents in particular.

One was the courage of President Mubarak and the country of Egypt as they rallied with the United States in the gulf war behind the great actions of our President in an effort to stop Saddam Hussein.

President Mubarak exercised great courage and great commitment to his friendship with the United States in his efforts to support us.

Furthermore, the Egyptians also showed very great leadership in regard to the Arab-Israeli negotiations, the ongoing negotiations.

You might recall, at the beginning of those negotiations there were a number of stumbling blocks that had to be crossed. It was because of the actions of President Mubarak and the Egyptian Government that we were able to overcome those obstacles and to get what is going to be a very delicate, very difficult peace process under way.

Mr. Speaker, I look forward to the Egyptians continuing to play a role as a country interested in the long-term solution. I would hope they can in fact find the will to be able to work with us on resolving this most difficult problem regarding the Libyans and the terrorists who were responsible for the killing of innocent people. I hope they will work with us on that.

There is no reason that they will not ultimately support us, because the actions of President Mubarak and his Government have been beyond reproach. The President deserves to be praised. The Egyptian people deserve to be praised because of very difficult times when we reached forks in the road about where the world was going to go, whether they were going to follow the leadership of President Bush and the United States or whether they would run, hide in the weeds, follow the, what I think is, terrible policies of King Hussein of Jordan and basically walk away from responsibility. They did not do that.

□ 1655

They stood up strong and have provided great leadership, and I want to let it be known that I greatly appreciate the help of the Egyptian Government in being able to resolve many of the problems that the world has faced in very difficult times in a region that requires great patience and great courage.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. BACCHUS). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Yesterday, Mr. Speaker, I reported on the Commodity Credit Corporation export promotion program that inured to the benefit of Iraq, and its arms buildup and its ability to wage war in the Middle East. I also illustrated, and I placed in the RECORD, which was printed and delivered to the Members, or accessible to the Members, today, the documentation that reflects these transactions and illustrated how the Bush administration used the CCC Program as a foreign policy tool, as well as the Export-Import Bank. I showed how the Banco Nacionale della Vordo, the Italian bank agency in Georgia, or, for brevity's sake, and BNL scandal, affected that program and, as well, the United States national policy, at least under this administration, toward Iraq. I also shed light on Secretary Baker and Deputy Secretary Eagleburger; that is, Deputy Secretary of State Eagleburger, in his role in prodding the National Advisory Council to approve the $1 billion in CCC Programs for Iraq in November 1989, and I revealed that, prior to the NAC decision, Secretary Baker met with the Iraqi Ambassador, Tariq Aziz, in October of that year to discuss the BNL scandal and the BCC Program.

Now we talk here about budget imbalances and the like. How in the world can we justify the parsimony with which the same administration and a good segment of the Congress, I must admit quite regrettably, deals with the domestic needs and our own ability to endure as a viable nation, let alone as a leader of the world when, so cavalierly, not thousands, or hundreds of thousands, or millions, but billions of dollars are paid for by the taxpayers, because all of these credit guarantees mean that, guaranteed by whom—the U.S. Government.

Well, what does that mean, the U.S. Government? The taxpayers. There is only one source of money for any government, and that is taxes, taxpayers.

So, Mr. Speaker, today I want to follow through and report on some of the events that occurred immediately after the NAC decision of November 6, 1989.

I also mentioned yesterday that we have learned nothing, apparently, through the years. As I said last week, we are like the old Bourbon kings. We learn nothing and forget nothing. But we are supposed to be a democracy, and the fact is that we have not learned anything because even today as I am speaking, not only on a Middle East level, but in far distant regions of the world, in the Far East, we are getting involved in the same kind of transaction in which directly and indirectly we are funding nations and activities that can very well imperil our national security tomorrow. Not next year, but tomorrow.

Now, as I said in yesterday's report, in November 1989, after intense lobbying by the State Department—and I have those documentations in today's RECORD—the NAC decided to approve a $1 billion CCC Program for Iraq.

It was decided at that time to offer the Iraqis in two tranches of $500 million each these guarantees, and under the protest this is the reason why Secretary Baker met with the ambassador, Aziz, who was saying, "Hey, look. We thought we were friends. What do you mean you're just going to let us have $500 million? We thought the deal was for a billion."

Actually it was more than that. The total amount of guaranteed credits just through the CCC alone, not including the Export-Import Bank, the RECORD will show amounted to $5 billion, of which the taxpayer has ended up holding the bag for over $2 billion. That is incredible, and yet it is true.

Now one reason is that our banking laws are of such a nature, and have been, that the national interest is not protected. The people, as in other areas, for instance interest rates, and I will not go into that now, but I am just using that as an illustration of how the American people are stripped naked from any defense in the very basic things such as the allocation of credit. Allocation of credit has been from the beginning of our nationhood the prime issue. It was the issue in the First Continental Congress, in the Second Continental Congress, and then after the adoption of the Constitution in 1789, and under the impulse of the Secretary of the Treasury, Alexander Hamilton, the formation of the first U.S. bank, that was a big issue.

Mr. Speaker, I say to my colleagues, "If you think mean things are being said about bankers as a class today, you ought to read what Thomas Jefferson said and a few of the other leaders of that day," and what was the issue? It was exactly that. Who is going to wield the power of allocation of credit

to the Nation, to the people? And of course all through mankind's history that has been decided in a diverse manner and way.

But if we are talking about the greatest national interest, the greatest interest of the greatest number, then we have to go back to our roots, and we have to see how men like Jefferson did not capitulate as tragically as other leaders in the 20th century have particularly, and certainly since the adoption of the Federal Reserve Act of 1913, and more certainly in the latter two or three decades and when we emerged from the hot-shooting phase of World War II.

Mr. Speaker, I used to say, and we at the end of World War II used to say, "Well, there is no peace treaty," and there still is not, but we had other things happen. We had the emergence of some of the defeated and conquered nations who today financially are in positions of tremendous strength.

□ 1705

All through history when an individual, as well as the collective body known as a nation, forsakes its beginnings, forgets its hard beginnings, and it then sells or trades its inheritance "for a mess of pottage" in the words of the Scriptures, there is only one thing happening, and that is to the detriment of that nation's interest.

When we add to that the lack of vision, and again, in the words of the Testament, where a nation has no vision or where there is no vision, "a nation perishes."

We have gone down a dangerous road to the point where at this particular time, and with little incidents such as these Iraqi transactions, guaranteed by taxpayers, incredibly, and still going on, in fact, more than ever.

Let us look at the commitments the Export-Import Bank has made just within the last 6 or 7 months with Kuwait, with the tremendous wealth that Kuwait is supposed to have, and we will see that we have learned nothing.

But the banking laws, who would think, as so many of my citizens did not want to think just a few years ago, when they would ask me and say, "How come we have prime interest rates of 20 percent and 21 percent? We thought there was a law against usury." I would say, "No, there is not. On the national level, the limitation we had from the beginning of the Nation was done away with in 1865 with the National Currency Act of that year."

That was right after Lincoln died. When Lincoln died, that problem was the one that was uppermost in his mind, because he knew what the forces were and what was shaping up.

Nevertheless, be that as it might, it surprised many of my fellow citizens to discover that there was no such thing. In fact, it is the other way around. The States that had anti-usury or interest rate controls have, all with the exception of about two or three at the most, have been done in because of the Federal Government and its policies in removing any kind of interest rates.

Going back to the origins, and that big, big argument, who allocates credit, today who does allocate credit? Is it the Congress? Is it the President or the elected people who are supposed to be the agents of the people en masse? No, not at all. Those forces are now what they call, in fancy parlance, exogenous. They are not within the control of the people. Therefore, we do not have to be prophets to know we are in deep trouble.

To continue with this specific case, because it is revelatory of the malaise and of the illness, and at the bottom of it, the failure of the Congress, and rightly or wrongly, of the committees, such as the Committee on Banking, Finance and Urban Affairs that I have the honor to chair. It has been an anguishing at least 30 years that I have been here in the Congress, that I have belonged to the committee, and I cannot begin to tell the anguish over the almost demoralizing things that I could see palpably happening.

Fortunately, I had the sense of accountability to record that over the years in the record known as our CONGRESSIONAL RECORD. What I say now is in hindsight. It is what was obvious to anybody sitting on this committee charged with the sense of trust.

In law, down through the years in the American corpus of law we have the phrase known as "Cestui que trust." That is considered as the trust that one who has the power of making and manufacturing money, which under our fractional system the bankers do. A bank can manufacture through the issuance of credit 10 times the amount of money it actually has in deposits. It always has, through our fractional currency system or reserve system, fractional reserve system.

In our tradition that is known as a trust. It used to be, and the law is still there and that phrase is still there, that banks were chartered. If one wanted to form a national bank, one then applied to the Comptroller of the Currency, who incidentally is not appropriated for by the Congress. The Comptroller of the Currency operates on the fees and monies he derived from the examination of the banks under his jurisdiction, so they have tended to be quite independent all through the years. I have had a series of Comptrollers come before the committee. If we lose the control, it is not there. The reason I am particularly sensitive to the need for adequate legislation is that despite the amendments we tacked onto the banking bill last November in this area known as the international banking law area, the reason I am continuing this is because I do not think it is still sufficient to provide that oversight and that accountability that ought to be on the part of our regulatory authorities acting in the name of the national interest of over $800 billion of this kind of international moneys in our country, high-velocity money.

As I said yesterday, just a small chunk of it has high leverage, and it is at the bottom of the substantial drug money laundering, noxious and abomination that our country is flagellated with, and which sooner or later is going to have to be plugged if we want to have any real control on that kind of crime.

In fact, it was this type of a bank that was able to get its charters in an area that, as a result of the first International Banking Act in 1978, which followed the hearings in my city and my district in 1975 that I caused. In fact, they were the only ones. They were so regulatory in the practices then, which incidentally, now, have been so much publicized in the last 2 or 3 years, that were evident with this high-velocity money coming across the border at will, with no accountability or anything.

It took 3 years. It was not until 1978, 3 years after the 1975 hearings in San Antonio, that we finally got the first smithereen of an international banking law.

□ 1715

Can you believe that? It was not until 1978. Then I wanted to amend the law further. Because when we finally got it in 1978, I was not chairman, and I was not chairman of the subcommittee that had jurisdiction. I had a hard time persuading them to go to hearings in San Antonio, so I did not have much of what they call around here clout in shaping the final outcome, which was a watered down version of what I had first proposed.

Through the years since 1978, I have been bringing to the attention of the subsequent chairmen of the committees we need to reinforce that act. The only reason we got the modicum of amendments last year was because of in November the BCCI scandals. I doubt seriously if we could have gotten anything absent BCCI scandals.

But has it been adequately addressed? No. You still have agency banks like this Atlanta BNL. What is an agency bank? An agency bank is really a branch of an otherwise foreign headquartered bank. In this case, the BNL, the headquarters for the U.S. operation was in New York, where they had been operating for a few years. But then they obtained agency charters from the States of Georgia, Florida, Illinois, and California.

In the meanwhile, I was focusing on trying to get the Federal Reserve Board to give me some statistics on the flow of cash transactions, because I knew they were tied in to the illicit narcotics business. I could not get any-

thing as an individual member of the Banking Committee.

It was not until the chairman in 1981, that finally, in the name of the committee, we got some information. And it was highly revelatory. Even though it was fragmentary, it was not as complete as it should have been, it was very revealing.

But even then we could not get the law amended to take care of what was obviously an intimate transaction between banking activities and particularly those that were not supervised by either the Federal Reserve, which is supposed to have prime responsibility, or the State chartering commissions.

In the case of the BNL in Georgia, the State commissioner, after the scandal, came to us and said, "Well, we did what we could, but we had no idea because they cooked the books."

When I said, "Well, what responsibility do you have toward dovetailing your auditing and examination with the Federal Reserve Board?"

"Well, it all depends," was the answer. And I get the same answer from the Federal Reserve Board.

But the net result is that even today there is no agency, State or Federal, that can give the American people the accounting that they ought to have, much less the committees that are charged with the responsibility of either the substantive legislative responsibility, such as the Banking Committee of the House of Representatives, and the one in the Senate. It is a responsibility that is inescapable, because in our case it is our cestui que trust.

It is a trust. It is not a job, it is a trust we hold in trust temporarily during the period of time in which our constituents say we choose you to represent us, and that is all.

Of course, we are going to rise and we are going to speak forth. I say with a great deal of sadness have we been helped? No. We started 2 years ago almost and could not get much attention, even on the committee level.

Then when the thing got hot after the newspaper started getting on the scandal, and then the Italian Government, because the other thing I brought out consistently, and what is ignored even here in our country, and that is these banks known as foreign banks, the overwhelming majority of them are owned by their respective governments. They are not like theirs. So the BNL is really owned by the Italian Government.

It was not until it hit home in Rome that the Italian Government was going to be exposed to an equal loss of around $2 billion, like the taxpayer in the United States, that then the Senate, to its glory in Italy, the Italian National Senate, with the distinguished chairman, Senator Carta, then contacted me.

But in the meanwhile, the Committee on Banking, which to its great honor and sense of responsibility acceded to my request and issued over 100 subpoenas, to the Federal Reserve Board, the State Department, MX Bank, the Agriculture Department, CIA, and what do we get? We get a letter, after I refused to meet privately with the Attorney General of the United States, saying, "Stop your investigation. We don't think you ought to continue these investigatory hearings."

I wrote him a letter and set forth the constitutional applicability in this case. This is our Attorney General. Thornburgh. Were we helped? No. Are we still obstructed? Yes. We still cannot get some of the subpoenaed documents.

Now, some of us, this great independent Federal Reserve Board, independent from everybody, from Congress, the President, all of a sudden says, as meek as a moaning kitten, "Oh, we cannot give you these documents, because the Attorney General says we shouldn't."

Well, to his everlasting glory, Senator Carta gave them to us. But we still have some that have been denied the Italians and been denied us, right now, as I speak.

So where are we? After all this great publicity, and outcry, and scandal, what? We still have the challenge of doing something about it.

I am proud to say that the Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives is committed to doing that, and will persist, and will continue. This is, of course, with the help and union of the majority, overwhelmingly, of the committee. In fact, the votes were unanimous. We got the required majority to issue the subpoenaes with no dissent. So that is our big comforting ray of hope.

But it seems to me that there should be no resistance, whether it is out of fear of embarrassment because of what happened 2 years ago. We understand that 2 years ago you had a different diplomatic format. We do not understand why anybody—Iraq or anybody else—would have the taxpayer exposed to billions of dollars worth of tax responsibility. That I do not understand now or at any time.

But I do understand the diplomatic dilemmas then. But what about now? You have the same dilemmas in other countries.

We are doing the same thing now with Iran, that just recently released the last hostages. The reason they did was again based on a banking matter, which was at the bottom of the whole trouble when the first hostages were taken in 1979. That was the $10 billion involving one of our biggest banks in our country, where the former Secretary of State went back on a stipend as a consultant, and naturally it involved the moneys that Iran and the revolutionary government of Iran felt was theirs and ought to go back.

So they did something that had not happened since the Middle Ages, they took hostages.

But has the American people ever been told? No. I did my best to get the chairman then to have an investigating committee. In fact, I was the first one after the hostage taking to recommend such things as a freezing of assets.

But even that was done through conniving on the part of that large bank that had this $10 billion exposure, even though that $10 billion exposure was really a syndicated exposure. That is a financial word meaning they had partners, foreign banks, all the way from Britain to France and everywhere else that were involved.

□ 1725

But the freezing of those assets was done in such a way that it was done to perpetuate not only the hostage difficulties but everything else going with it. And it was not until one of the last payments was made just recently and other yet to be determined goodies, such as arms, that the last hostages were released, but not until then.

As I said, at the bottom of everything is banking and finance, everything. So we had Secretary Baker hearing this Ambassador from Iraq saying, "How dare you do this to your buddies." And the Secretary said, "No, no, no, no, you are going to get this whole billion dollars this time."

Of course, the exposure turned out to be twice, over twice that amount. But on that particular occasion, the Iraqis were afraid of the revelations that were beginning to come out and which caused our attention.

How do my colleagues think I started the interest of the committee staff to look into this? Because in 1989, in the Wall Street Journal there was a little article saying about a letter of credit, $2 billion, Atlanta Bank. And I said, $2 billion, Atlanta. And I could not get any answers. But shortly after that the FBI suddenly decides that something has gone wrong and amiss in that Atlanta branch. And that is why I want to kind of regurgitate that a bit.

All we know is that we had high-ranking Iraqi officials making repeated trips to the U.S. Embassy in Baghdad and even to the United States to visit key administration policymakers. We had, once President Reagan took Iraq off of the list of terrorist nations in 1983, the sluice gates were open for what, American interests trade promotion with Iraq. And then with the very agile help of Mr. Kissinger and associates, we had over 80 of our leading corporations doing substantial business, forgetting that again, as in the case of government ownership of these banks, in these countries the minister of trade, or foment, or the economy, is also the minister of our equivalent of defense. In one particular instance there, for a couple of years, that hap-

pened to be Saddam Hussein's son-in-law. So that the credit base of the CCC and Eximbank credit guarantees were used to promote everything else, including the acquisition of chemicals used for atomic weaponry, nuclear weaponry, the Big Gun—the giant gun—the fellow that was developing that was assassinated in Belgium. He had gone a long way in assembling it, and a lot of that money came from the association of banks and consortiums that resulted from these guarantees of the BNL.

Lobbying by the U.S. agriculture community was also very intense. With a $500 million tranche in U.S. agricultural sales at stake, the members of the Committee on Agriculture bombarded the administration policymakers to ensure the release of the second installment of the $500 million of the CCC programs.

As the documents obtained by the committee indicate, and I include those in this day's speech, the Iraqis had a powerful ally in the State Department. At the end of 1989 and into 1990, indications that Saddam Hussein was becoming increasingly unstable were growing stronger. Among some of the other complaints, Saddam feared that Israel, the United States and several of the Arab emirates were engaged in a scheme to cripple Iraq financially.

Now, there is another thing we must keep in mind, sort of an overarching fact behind this whole thing. Iran, which at the time was at war with Iraq, is a non-Arabic country. Israel has been in a state of war with Iraq since before 1950, and is still in a state of war. These things should have made a difference while all of this scurrying and running about was going on, but it did not.

But Saddam Hussein says, "Wait a while, I think I am getting ganged up on."

Most of the major industrial nations had suspended their credit programs with Iraq, some of them because of Iraq's questionable ability to pay. Our law governing the Export-Import Bank, which our Committee on Banking, Finance and Urban Affairs had jurisdiction of, mandates that that is the key feature in extending these guarantees, the ability of that nation to repay. Unlike the Commodity Credit Corporation dictates a program, and this is the only thing that halfway saved the Export-Import Bank from getting a greater exposure.

As it was, even there on that level the taxpayers will be out, because of these guarantees to Iraq, on the Export-Import level, about $200 million.

Now, $200 million, some people do not think that is much. Well, I am old-fashioned enough to think it is a tremendous amount, horrendous amount. I still find it very difficult to accept the concept of a trillion dollars.

I used to think it was kind of mind-boggling to think of a billion dollars, but today it seems like, well, $200 million, more or less.

But I am chairman of the subcommittee on Housing and Community Development, and how do my colleagues think I feel when we cannot get this administration or even the leadership of our Congress to say, all right, we will provide what we should have provided in 1980, a reasonable modicum of help, which would be less than the taxpayers' exposures on the letter of credit to Iraq. For what? For community development. To once again pay attention to our crumbling infrastructures, our water systems, sewage systems.

The city of New York, for instance—alone—cannot attend the fact that it loses and wastes more water each day than it consumes because it has a delivery system that dates back 110 to 115 years ago, wooden pipes.

Now, the city of New York—and even with the help of the State of New York—does not have the resources. This is a national dilemma. We have taken this committee, in the name of the committee and the subcommittee this year, beginning on January 7, we started in Bridgeport, CT, where last year an effort was made by the city governors then to declare bankruptcy.

Can my colleagues imagine that? Today over 65 percent of our cities are in financial distress. And is this where the administration, the President and the Congress is targeting? No. We are having to fight, as if we are asking for the blood money that was so easily shed for countries like Iraq. Not to mention others, like believe it or not, China.

What are we going to do there, where the Chinese have just thumbed their nose at our distinguished leaders who go there. Secretary Baker was there just last November saying,

> Now, boys, you are not supposed to be selling those arms that we licensed you to make like the Silkworm missile, which was the one that Iraq and Iran got.

□ 1735

And incidentally, now that Syria is supposed to be a reformed nation, as of about 6 or 7 months ago Syria got 300 new, improved Scuds. From whom? North Korea. North Korea or China?

What about the Silkworm? How could China produce that? We gave them the license. We have had three Secretaries of Defense and three different Presidents go over there. I think what Secretary Baker thinks is that maybe they can get a more gentler and kinder Communist out of China.

I think it is tragic. I think it is a terrible travesty. I think it is almost criminal negligence, as I think these loan guarantees to Iraq should be considered. Just look where it has ended us up, in the loss of lives, war, an affront that is still there. We have not withdrawn totally from those sands, treacherous as they have been through the centuries. We still have considerable armament and personnel.

In Panama. We have forgotten about that. We have two-thirds of the troops in Panama that we had at the height of the invasion, and we had better not remove them. Drugs, we have had twice the volume of illicit drug trading through Panama than when old General Noriega was in charge. Why? Because we installed the President, and the First Vice President, and the Second Vice president, all of whom have been bankers in Panama involved in drug money laundering. We put them in charge of those people. We installed that government, and the reason we have over 15,000 soldiers there is that the moment we remove them, they are gone, and also no American life will be safe.

What about the Middle East? How much armament do we still have there in those sands? I ask my colleagues, if they want to know, call the research service and they will tell you. Substantial. How many forces do we still have there, active duty? I think quite a bit. Compared to the 540,000, more or less that we had at the peak, maybe not. But what does that mean? It means we are embedded in that dry quicksand of the Middle East, and at a cost to us. All of this cavalier nonsense that these other countries have saved and defrayed the cost is nonsense. I will remind my colleagues that in the last dire supplemental appropriation, emergency supplemental appropriation you voted for $300 billion plus for Desert Storm. That is just an installment. That is American taxpayers. That did not come from Germany and Japan and the other countries that are supposed to have contributed.

We are still mired. This time it is not wet quicksand, it is dry quicksand. But it is those sands that have buried empires before, hundreds, and hundreds of years through, and will likely bury us if we do not stop.

At the end of 1989 and late 1990 indications that Saddam Hussein had become increasingly unstable, because he was shaky there, were clear. Iraq's financial condition had deteriorated to the point where it started to accumulate arrears in its paybacks, and in particular the CCC program. The Eximbank, to its credit, suspended at that point in late 1989 for a temporary default on its obligations at the bank. But Iraq was also in arrears with other creditor nations, some of whom we had involved in helping Iraq. Iraq had driven itself to the brink of bankruptcy, and the second $500 million installment of the CCC program offered Iraq a financial oasis in that desert of angered creditors.

As the United States-Iraq relations deteriorated in 1990, remember that finally on August 2, I do not see how we could ever have thought that Saddam

Hussein would not think that his long protested claim to especially those areas in Kuwait were not going to be exerted if we had done everything to show that we are for him. The bad part is that on the other hand President Reagan was also lending assistance to its enemy, Iran. Remember Iran-Contra? And the TOW missiles we sent over? What cupidity could have governed the minds of our leaders to think either one of these contestants would not be cynical and knowledgeable of the fact we were aiding both sides?

The State Department and White House zeal to assist Saddam Hussein was clearly being accelerated during 1990. That is before August 2. I will report more on this at a later time because there is more documentation that needs to be placed in the RECORD, as I have done all along.

I would like to now discuss the important issue of the pending $350 million CCC payment to BNL and whether or not the taxpayer should be stuck with this bill. BNL was the largest participant in the CCC program, because for letters of credit you need your bank. Everybody needs a bank. As I pointed out, even at the beginning of our country, the first Continental Congress they had to charter the North American banks. The big issue was that the bankers did not want to come into Philadelphia unless they could charge interest rates that Jefferson said you are not going to get, and it was not until Jefferson said you are not going to get any more than 6 percent that they finally said all right, we will come in.

There is another, modern day sequel to that. All during World War II Franklin Roosevelt, waging world war, utilizing over 46 percent of our total gross national product for the conduct and the waging of the war and the winning of it, on the Federal level never paid more than 2 percent interest. How could that be done? Why is it the Government pays as much as, and it has reached the point where it was paying as much as 17 percent on long-term bills and notes? Preposterous. But why? There is a reason. It was not accidental, it was not happenstance. It is because at least Franklin Roosevelt had the leadership ability to surround himself with a Secretary of the Treasury who knew what to do. So when the first borrowing started with the bonds and the bankers said no, we are not going to get into that, you do not pay enough, what did Morganthau do? The President got excited and worried and said, "Secretary, what do we do?" He said that the Federal Reserve Board Act at that time provided what it said at the beginning of the Federal Reserve Board Act, which says that the Federal Reserve Board is to be the fiscal agent of the U.S. Treasury. Of course, it is no longer the fiscal agent of the U.S. Treasury. It is the other way around. Take any dollar you have got, or $5, or $10 and see what it says. It says, "Federal Reserve note." It used to be, "U.S. Treasury note." There is a big difference in that, and this is why we are now sunk in what a predecessor speaker said earlier today was this monstrous interest payback. Of course, our Government is paying compound interest.

In our history we had more noble, dedicated and truly loyal to the public interest leaders like Franklin Roosevelt. And I just want to make this note for my colleagues who will see in the RECORD what was said here previously about this egregious interest burden, that all during World War II in fact it did not even average 2 percent, it was below 2 percent, and there were reasons. That is they stood up to those who no matter how much they had will always want more.

□ 1745

Because the name of the game is always power, and when you deposit power to allocate credit to a certain segment of the country and that segment has to be the one that is in that business of making money, and then turn over the manufacturing of the money to them, because the Federal Reserve Board is not a Federal agency, it is not a Federal agency, I repeat, it is the creature of the commercial banking system of the United States. That is what it is pure and simple. That is the one that is making the decisions directly and indirectly.

So here we have BNL, the bank, through its agency. And what is an agency? An agency bank, unlike the definition of a branch, is that it does not do regular banking business. It does not take any deposits, thank God it does not. The Federal Reserve Board did not give full banking facilities to the BCCI. Other less fortunate countries, including England, which incidentally had not had a big, major bank failure in 100 years until BCCI, because once you part with that power and you remove it from the control of the people through its elected representatives and agents who, in a cestui que trust, hold that power.

None of us in our system has a quitclaim deed on our job, thank God. But do the people still remain? Well, I think that is what our big, and it used to be the $64 question, but that was during the Depression. That was before inflation. But that phrase is still good. That is the question. Well, that will be determined by us, maybe not individually, but certainly the majority here and now, right at the time that we are asked to reaffirm the basis upon which this country was founded 200 years ago.

The answer will be written as we go along, not in the year 2000. Year 2000 is today. What happens in 2000 and anytime after that depends on what we do or do not do now and tomorrow and the day after before 2000.

In February 1991, the Department of Justice, acting through the U.S. attorney's office for the Northern District of Georgia, indicted 10 defendants. Now, for months they were saying, "Look, give us time, but in the meantime, do not do anything. Do not dare have hearings. Do not do this. Do not do that. Above all, stop." And then I had to read Supreme Court decisions after Supreme Court decisions, because the Congress has abdicated its constitutional grants of power except one, maybe two, still remaining, and one of them is the power to know, and so Supreme Court decisions after Supreme Court decisions had hailed that notwithstanding a pending criminal investigation or criminal law procedure or another investigation elsewhere, the Congress has unimpeded and supreme right to know. It is investigatory power, in other words.

But the investigatory power is not unrestrained. We do not have the right, as some tried in the 1950's, to run roughshod just because we have the right to investigate.

We have rules now that we obey rigorously in the Committee on Banking and Urban Affairs to govern that, that we do not abuse anybody's right.

But the power to seek and obtain information is supreme, but information for what purpose, to legislate. You must have a legislative purpose, and that is what we are trying to do.

Mr. Speaker, with that, and noticing the arrival of our distinguished colleague, the ranking member of the Committee on Rules, I am including in the RECORD the documentation in support of the statements made here today, and will announce that these documents are at the end of this special order.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, January 31, 1992.

Hon. EDWARD MADIGAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: I am writing to you concerning Iraq's participation in the Department of Agriculture's Export Credit Guarantee Program and Intermediate Export Credit Guarantee Program, referred to as the GSM-102 and GSM-103 programs, respectively.

Specifically, I am interested in the status of the payment of the guarantees to the Banca Nazionale Del Lavoro (BNL) or its agency operation in Atlanta known as BNL-Atlanta, by the Agriculture Department's Commodity Credit Corporation (CCC).

Please provide the Committee with the following information:

1. A summary of all claims filed under the CCC guarantee programs for Iraq including the total U.S. exposure;

2. The total amount of all payments that have been made to date on claims that were filed under the CCC program for Iraq;

3. The total amount of all claims filed by BNL under the CCC program, including the original principal amount owed to BNL and the amount of accrued interest and the rate used to calculate the interest;

4. The total amount of all payments that have been made on claims under the CCC program that were filed by BNL; and

5. Any and all additional documents the Department of Agriculture has that are relevant to this matter.

Additionally, it has come to my attention that the Agriculture Department recently solicited opinions from various agencies regarding the payment of these guarantees. Please provide the Committee with all documents, including those generated by the other agencies, related to the Department of Agriculture's consideration of BNL claims.

Finally, please provide the Committee with the Agriculture Department's position concerning the payment of these guarantees.

Thank you for your prompt attention to this matter. If you have any questions, please call Ms. Debra Carr at 225-2924.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

OCT 89.

FM AMEMBASSY ROME.
TO SECSTATE WASHDC. TREAS DEPT WASHDC.
Subject: Banca Nazionale del Lavoro Concerns re Atlanta Branch.
Ref: Rome.

1. Confidential—entire text.

2. Summary: The chairman and the director general of Banca Nazionale del Lavoro (BLN) called on Ambassador to express their concerns about developments in the BNL-Atlanta affair. They suggested that the matter should be raised to a political level, and indicated their desire to cooperate fully with USG authorities while at the same time making it fairly clear they want to achieve some kind of damage control.

Ambassador said he would pass on their concerns but could not otherwise be helpful with or comment on a matter under criminal investigation. Separately, Treasury minister Carli has blocked an effort by opposition senators to conduct an investigation into the BNL-Atlanta affair. End summary.

3. The chairman of Banca Nazionale del Lavoro, Giampiero Cantoni, and the director general, Paolo Savona, called on the Ambassador on October 19. The meeting was at Cantoni's request, made during the return flight from the U.S. with President Cossiga. Both Cantoni and Savona had been in the U.S. with President Cossiga's delegation.

4. Cantoni expressed concerns about prospective developments in the BNL-Atlanta affair. He said BNL's U.S. lawyers were uring hime to raise the issue to a "political" level. He said that his U.S. lawyers thought that charges would be filed under the Rico Act and that BNL and/or Iraqi assets could be frozen. Savona was concerned about losing the CCC guarantee on roughly one billion dollars of BNL Atlanta's three billion dollar exposure. The men alluded to legislation under consideration in Congress providing for USG credits to Iraq being affected by the investigation/charges. Cantoni said FBI agents remained in the Atlanta branch, or had sealed the books. He also maintained that the ex-Atlanta branch manager Drogoul was available and willing to testify to appropriate officials.

5. Cantoni and Savona both made the point that they were willing and anxious to cooperate with USG authorities. They also said their U.S. lawyers would be in Rome on October 25.

6. The Ambassador said he would pass on the concerns of BNL and their willingness to cooperate to Washington, but that he was unable to comment or otherwise be helpful on a matter under criminal investigation.

7. On a separate note, Treasury Minister Carli responded negatively on October 24 to a request by opposition senators to conduct an investigation into the BNL-Atlanta affair. Carli said that a number of investigations by Italian and U.S. officials were underway. He also noted that bank secrecy laws impeded the bank of Italy from providing information to the Senate.

8. Comment:

The remarks on the need to raise this to a political level are interesting as the case has already become a political issue in Italy. The President has become involved as witnessed by the inclusion of Cantoni and Savona in his party in the U.S. Cantoni and Savona, while new to BNL, have close political connections, Cantoni to Craxi and the Socialists, and Savona to Cossiga (a fellow Sardinian) and to Carli, his mentor at the Bank of Italy and later at confindustria. The Treasury is the majority shareholder of BNL.

BNL is an upstart bank by Italian standards, dating only to 1913 and owing its growth to its role as the key bank for the Government in the 1920s and 30s. It continued to grow in the post-war period, but has been having problems in the past few years. The recently sacked chairman, Nerio Nesi, has been engaged in an effort to pare down the staff of the bank and separate out some functions while at the same time increase the bank's capital. To achieve the latter, he worked out a deal where by the state-owned insurance agency, ANA and the state pension system INPS would take the proceeds from the sale of shares in Crediop and invest them in BNL. The result will be a capital increase that will reduce the Treasury's ownership from 75 percent to 56 percent. INA's also making a subordinated loan. The capital increase was approved by the BNL board in mid-October, and is to be presented to the shareholders (Treasury, INA, INPS plus a scattering of other, mostly public, institutions) on December 13.

BNL's reputation within the Italian banking community and even among its own staff has been suffering for some time. The BNL-Atlanta affairs, even if contained, will aggravate BNL's problems. Not the least of these are loans to Latin American countries. BNL is said to be one of the two largest lenders to Mexico and has been active in South America as well.

SECCHIA.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC. February 25, 1992.

Hon. CHARLES BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR COMPTROLLER GENERAL BOWSHER: The Committee on Banking, Finance and Urban Affairs is conducting an investigation into the operations of the Banca Nazionale del Lavoro (BNL). Part of this investigation involves BNL participation in the Export-Import Bank (Eximbank) program for Iraq. The Committee requests your assistance with this investigation.

The Banking Committee has obtained numerous documents during its investigation that demonstrate that Iraq was not creditworthy, yet, was able to obtain Eximbank financing. The Export-Import Bank Act states that all transactions supported by the Bank shall ". . . in the judgment of the Board of Directors, offer reasonable assurance of repayment. . . The Committee is concerned that Eximbank extensions of credit to Iraq were approved in violation of this particular provision of its charter.

Accordingly, the Committee requests that the GAO investigate whether or not Eximbank extensions of credit to Iraq were property given the above mentioned provision in its charter. Please make sure to examine the decision-making process used by the Eximbank to grant credit to Iraq. In addition, please determine the role the State Department and other "outside factors" played in the decision to grant credit to Iraq.

Thank you for your time and consideration. The Committee looks forward to the results of your investigation.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 287, CONGRESSIONAL BUDGET FOR U.S. GOVERNMENT FOR FISCAL YEARS 1993, 1994, 1995, 1996, AND 1997

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102-451) on the resolution (H. Res. 386) providing for the consideration of the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, which was referred to the House Calendar and ordered to be printed.

REPORT ON PROHIBITION OF TUNA PRODUCTS SHIPMENTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-198)

The SPEAKER pro tempore (Mr. BACCHUS) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

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.*

THE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BATEMAN] is recognized for 5 minutes.

Mr. BATEMAN. Mr. Speaker, that the world is changing is axiomatic, but the changes of the last several years have been monumental in every sense of the word. The bipolar world divided between the democratic West and the Soviet bloc provided a certain sense of stability in international relations and gave people on both sides an identifiable threat against which to shape their national security structures. With the fall of the Berlin Wall, dissolution of the Warsaw Pact and the subsequent transformations in the Soviet Union—especially the aborted coup attempt of August 1991—the world as most of us have known it no longer exists.

Today, the world is no longer composed of two diametrically opposed blocs led respectively by Washington and Moscow. It is a world of crumbling empires and newly formed or independent countries. Relationships among old allies are marked by economic competition rather than the convergence of interests predicated upon a common threat. What this has meant for the United States is the disappearance of an old adversary against which its Armed Forces have been structured. Now we face threats which we cannot readily identify or quantify. These threats range from large-scale conventional conflict similar to last year's war in the Persian Gulf to the ongoing effort to stem the flow of narcotics across our borders. Given the turbulence and instability that are the norm we can safely proceed only on the basis of future threats that are varied and significant.

The Bush administration has responded to changes around the world by proposing to reduce defense spending by 30 percent. The number of soldiers, ships, planes, and tanks would be reduced by roughly this amount and the remaining forces restructured to better respond to the new world order. Such reductions would take into account changing international conditions and permit the maintenance of forces large and capable enough to respond to the myriad potential dangers that will always exist in a turbulent world.

Unfortunately, many voices in Washington are calling for defense cuts as much as 50 percent. Presidential candidates who have given little or no thought to the issue are reiterating what has become the slogan of the left—cut defense. Such reductions, I believe, would not be in the country's best interest. Defense spending as a percentage of total Federal spending is already decreasing to the lowest level since the 1930's. The notion that our country cannot support a military of 1.6 million is born of the excess of negative thinking about this country that permeates a society which has good reason to take pride in the enormous success it has achieved.

Cuts in defense spending already implemented and the reductions proposed by the administration for fiscal years 1993–97 will reduce active duty personnel from 2.4 million to 1.6 million. There has been a freeze on civilian personnel by the Department of Defense since early 1990, and this plus the reduction planned by the administration will reduce Defense Department civilian personnel by 100,000. The cancellation, reduction, and stretch out of procurement programs because of past and current administration recommendations will cost close to a million jobs in defense industries and endanger the Nation's defense industrial base. The latter has enormous significance for our long-term national security.

Deeper cuts driven by immediate budget considerations implemented immediately will result in the loss of hundreds of thousands of defense related jobs and indirectly to nondefense related jobs. These cuts will decimate our defense industrial base and halt or reverse a recovery from the present recession, which has been significantly worsened by the defense spending reductions already implemented. Any such cuts can be achieved only at the expense of much larger reductions in the number of active duty personnel which will force large-scale, involuntary separations of our superb volunteer career military personnel. This will destroy the opportunity for a career in the military for the hundreds of thousands of young people and deny to minorities the upward mobility that our Armed Forces have made available. The social consequence of this is of major importance.

Clearly, the circumstances affecting our country today indicate an urgent need to focus more attention on domestic matters. This is something we can and should do. However, the degree to which an already reduced defense budget is being advocated as a cash cow to transfer spending but not to reduce it, is poor economic policy and even worse national security policy. Some seem to think that we can close our doors to the world and tend only to problems at home. These neo-isolationists ignore that our security and economic well-being are tied to our relations with other countries. When conflict breaks out abroad, it is likely that U.S. interests may be threatened even if hostile troops are not storming our shores.

Under the administration's proposed defense budget, defense spending will drop to its lowest level since the 1930's, in terms of percentages of Federal spending and gross national product. While a reduction in the size of the military is an appropriate response to changes abroad, I am concerned that a floodgate has been opened that won't be closed until the next crisis catches us unprepared. Defense spending is not the drain on the economy many portray it to be. In fact, the layoffs associated with defense cuts will far surpass those being implemented by General Motors, IBM, and the other consumer-oriented companies experiencing difficulties. I do not contend that defense spending should be used as a jobs program. I am stating that defense spending serves a function unmatched by any other Federal programs. It is the bulwark of our freedom and world peace. It does not deserve the constant denigration it receives by many in Congress.

Certainly, the defense budget should be reduced from its cold war level. That reduction, however, is already proceeding. Defense spending peaked in 1985 and has declined steadily ever since. The price of continuing this decline, I suspect, will be high if and when the next crisis abroad occurs. We are foolish if we act as if there will be none. The price of this folly would be paid in blood and money.

What does this mean for the U.S. defense budget? It means that the United States can and should maintain a military strong enough to respond to crises that threaten our interests. Naval and air forces and the Marine Corps should not be decreased as low as the 50 percenters want to go. They are the forces that are called upon to respond on short notice and in order to be effective must be deployable on a global basis. The quality of training and equipment, the technology of their weapons, and the industrial base essential to sustaining our forces over the long term must be safeguarded. Continued maritime superiority must remain a bedrock of our national security policy. Without the ability to control the seas, this maritime Nation cannot control its destiny. This should be unthinkable.

In conclusion, those who argue for defense reductions as a source of higher levels of spending elsewhere and the

majority of those urging deeper cuts in defense do nothing to reduce the Federal deficit. All they do is guarantee the loss of jobs, cause greater turbulence in our economy, undermine vital elements of our defense industrial base, shatter the morale of our service men and women and destroy the confidence of our friends abroad and encourage those hostile to American interests.

□ 1755

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 233, ON POW/MIA AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CAMP] is recognized for 5 minutes.

Mr. CAMP. Mr. Speaker, I rise today to call upon my colleagues for action on an important resolution. This bill sends to the President, and the American people, the message that Congress believes the POW/MIA issue is of the highest priority. It will display strong congressional support for current U.S. policy which includes the full resolution of the POW/MIA issue as one of the steps toward the suspension of the trade embargo and normalization of diplomatic relations with Vietnam. I am speaking of House Concurrent Resolution 233, a resolution that I introduced in November along with Mr. UPTON, Mr. MILLER of Washington, Mr. GOSS, and Mr. DORNAN.

This resolution makes a simple and reasonable request. It calls upon the President not to lift or modify the United States trade embargo currently in place against Vietnam, nor move toward the normalization of diplomatic relations with Vietnam, until the Select Committee on POW/MIA Affairs of the other body reports its findings. This committee is scheduled to conclude its work at the end of this year.

There are those who believe we should lift the economic embargo against the Socialist Republic of Vietnam before the other body has completed its work. I believe that is unfair to the people who served our Nation, and unfair to their families. We owe it to ourselves to get the answers before we resume a relationship with a nation that has never satisfactorily answered the question about missing Americans.

As the hearings by the committee of the other body have progressed, more allegations have surfaced that present more leads and, most importantly, more questions. Russian Gen. Oleg Kalugin's claims that United States prisoners of war were interrogated by KGB agents inside the Soviet Union years after Hanoi claims all living prisoners were returned is a startling example. Yes, the general's story has questions relating to credibility, but it does warrant careful examination. This is why the Select Committee must be allowed to complete its work.

Although the resolution suggests no direct linkage to human rights issues in Vietnam, we must not forget that the Socialist Republic of Vietnam remains one of the most repressive regimes in the world. There is no freedom of speech, freedom of the press, or freedom of association. The reeducation camps still hold many prisoners, and the vast majority of these are detained because they fought beside the United States during U.S. military involvements in Southeast Asia. It is important that, in accordance to the principles of freedom that our country represents, that we also use leverage to push the Government of Vietnam in the direction of providing greater freedom and human rights for its own people.

For far too long Mr. Speaker, we have been haunted by doubts over the fates of the 2,273 American servicemen who are unaccounted for in Southeast Asia. We owe it to these men who so bravely served their country, as we owe it to their families, to get the answers.

I invite my colleagues to join me, and the additional 70 Members who have already done so, as a cosponsor of House Concurrent Resolution 233. This bill enjoys the support of members of the National Vietnam Veterans Coalition, the American Legion, and the Vietnam Veterans of America. At this time, I would like to thank Tom Burch and Bonny Stilwell from the National Vietnam Veterans Coalition. Their assistance and support regarding this legislation has been invaluable. In closing, I ask that this important resolution be brought before the full House for action as soon as possible—our missing Americans, and their families, deserve nothing less.

SPECIAL ORDERS GRANTED

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

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

Mr. INHOFE, for 5 minutes, today.

Mr. THOMAS of Wyoming, for 5 minutes, today.

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

Mr. PICKLE, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SMITH of Florida, for 5 minutes, today.

Mr. SKAGGS, for 60 minutes, today.

(The following Member (at the request of Mr. SKAGGS) to revise and extend his remarks and include extraneous material:)

Mr. BROOKS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BATEMAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CAMP, for 5 minutes, today.

EXTENSION OF REMARKS

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

Mr. HUGHES, on H.R. 2475 in the House today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous material:)

Mr. BAKER.
Ms. ROS-LEHTINEN.
Mr. BROOMFIELD.
Mr. GREEN of New York.
Mr. GINGRICH.
Mr. KOLBE.
Mr. SOLOMON.
Mr. MICHEL.
Mr. MCEWEN.

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

Mr. YATRON.
Mr. NOWAK.
Mr. KILDEE.
Mr. STARK in three instances.
Mr. EDWARDS of California.
Mr. FASCELL in two instances.
Mr. OBERSTAR.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 479. An act to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

S.J. Res. 139. Joint resolution to designate October 1992 as "National Lock-in-Safety Month; to the Committee on Post Office and Civil Service.

S.J. Res. 214. Joint resolution to designate May 16, 1992, through May 22, 1992 as "National Awareness Week for Life-Saving Techniques"; to the Committee on Post Office and Civil Service.

S.J. Res. 218. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; to the Committee on Post Office and Civil Service.

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 240. Joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on Post Office and Civil Service.

S.J. Res. 244. Joint resolution to recognize and honor the National Conference of Commissioners on Uniform State laws on its centennial for its contribution to a strong Federal system of government; to the Committee on Post Office and Civil Service.

S.J. Res. 246. Joint resolution to designate April 15, 1992 as "National Recycling Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. CAMP. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 4, 1992, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

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

2971. A letter from the Assistant Secretary, Department of Defense, transmitting the National Defense Stockpile Requirements Report for 1992, pursuant to 50 U.S.C. 98h-5; to the Committee on Armed Services.

2972. A letter from the Secretary, Department of Defense, transmitting the Defense Reserve Forces Policy Board's Annual Report for Fiscal Year 1991, pursuant to 10 U.S.C. 115(a); to the Committee on Armed Services.

2973. A letter from the General Counsel, Thrift Depositor Protection Oversight Board, transmitting the Board's report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act, as added by section 102(a)(3) of the Resolution Trust Corporation Funding Act of 1991; to the Committee on Banking, Finance and Urban Affairs.

2974. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination regarding certification of the 27 major illicit narcotics producing and transit countries, pursuant to 22 U.S.C. 2291; to the Committee on Foreign Affairs.

2975. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2976. A letter from the Secretary of Health and Human Services, transmitting a report of surplus real property transferred or leased for public health purposes in fiscal year 1991, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2977. A letter from the Comptroller General, General Accounting Office, transmitting a report entitled "Financial Audit—Pension Benefit Guaranty Corporation's 1991 and 1990 Financial Statement," pursuant to 31 U.S.C. 9105; to the Committee on Government Operations.

2978. A letter from the Director of Public Affairs and Press Secretary, Department of Agriculture, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C 552; to the Committee on Government Operations.

2979. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2980. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the report under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2981. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2982. A letter from the Chairman, Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

2983. A letter from the Chairman, Federal Reserve System, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2984. A letter from the National Endowment for the Arts, transmitting a copy of the Endowment's Special Review No. I-A-SR-92-2, results of its consulting services activities during fiscal year 1991; to the Committee on Government Operations.

2985. A letter from the Chairman, National Endowment for the Humanities, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2986. A letter from the Executive Secretary, National Security Council, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2987. A letter from the Railroad Retirement Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2988. A letter from the Secretary, Resolution Trust Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2989. A letter from the President, Thrift Depositor Protection Oversight Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2990. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2991. A letter from the U.S. Attorney General, transmitting notification of a delay in the effective date of the notice-related provisions contained in subsections (a), (b), (c), and (e)(1) of section 2428 of the Immigration and Nationality Act, as amended (8 U.S.C. 12528); to the Committee on the Judiciary.

2992. A letter from the Acting Secretary of Transportation, transmitting a 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 recommendation as to how shipyards may compete for work on an equalized basis; to the Committee on Merchant Marine and Fisheries.

2993. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report for fiscal year 1991 listing the number of appeals submitted, the number processed to completion, and the number not completed by the originally announced date, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Post Office and Civil Service.

2994. A letter from the Chairman, Barry Goldwater Scholarship and Excellence in Education Foundation, transmitting the annual report of the activities of the Goldwater Foundation, pursuant to 20 U.S.C. 4711; to the Committee on Science, Space, and Technology.

2995. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, "Comprehensive Child Welfare Services Amendments of 1992" to the Committee on Ways and Means.

2996. A letter from the Foreign Agricultural Service, Department of Agriculture, transmitting modifications to the Secretary's September 30, 1991, determination of the agricultural commodities and quantities programming during fiscal year 1992; jointly, to the Committees on Agriculture and Foreign Affairs.

2997. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of his determination that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency, pursuant to Public Law 99-88, chapter V (99 Stat. 323); Public Law 100-461, title I (102 Stat. 2268-3); jointly, to the Committees on Appropriations and Foreign Affairs.

2998. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of waiver and justification by the Secretary of State pursuant to section 502 of Public Law 102-140; jointly, to the Committees on Appropriations and Foreign Affairs.

2999. A letter from the Director, Office of Management and Budget, transmitting the 11th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

3000. A letter from the Assistant Secretary for Environmental Restoration and Waste Management, Department of Energy, transmitting notice that the report detailing the expenditure of fiscal year 1991 Environmental Restoration and Waste Management Funds will be delayed until June 10, 1992, pursuant to Public Law 101-189, section 3141(c)(1), (2) (103 Stat. 1680); jointly, to the Committees on Armed Services, Energy and Commerce, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

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

Mr. DERRICK: Committee on Rules. House Resolution 386. A resolution providing for

the consideration of House Concurrent Resolution 287, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997 (Rept. 102-451). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

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

By Ms. HORN:

H.R. 4359. A bill to amend title 11 of the United States Code with respect to executory contracts and unexpired leases involving airport terminals, aircraft gates, and related facilities, and to permit governmental units to serve on committees of creditors and equity security holders with respect to certain claims; to the Committee on the Judiciary.

By Mr. ENGLISH (for himself and Mr. DE LA GARZA):

H.R. 4360. A bill to amend the Soil Conservation and Domestic Allotment Act to require the Secretary of Agriculture to carry out a program to help ensure the safe and effective use of sludge to improve soil fertility; and for other purposes; to the Committee on Agriculture.

By Mr. ANDREWS of Texas:

H.R. 4361. A bill to create "Healthy American Schools" where children learn lifelong health and fitness skills vital to developing a smart body and smart mind and to empower every school with the ability to become a healthy school built on a firm foundation of "healthy mind and healthy body" curricula; to the Committee on Education and Labor.

By Mr. BENNETT:

H.R. 4362. A bill to direct the Secretary of the Navy to develop a second homeport on the East Coast of the United States for nuclear-powered aircraft carriers; to the Committee on Armed Services.

By Mr. BROOKS:

H.R. 4363. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; to the Committee on the Judiciary.

By Mr. BROWN (by request):

H.R. 4364. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; research and program management; and inspector general; and for other purposes; to the Committee on Science, Space, and Technology.

By Mrs. COLLINS of Michigan (for herself, Mr. ROE, Mr. TOWNS, Mr. PAYNE of New Jersey, and Mr. LIPINSKI:)

H.R. 4365. A bill to provide for a temporary matching fund waiver for certain mass transit projects; to the Committee on Public Works and Transportation.

By Mr. CONYERS:

H.R. 4366. A bill to establish national voter registration procedures for Federal elections, and for other purposes; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. JONES of North Carolina, Mr. SABO, Mrs. SCHROEDER, Mr. CARDIN, Mr. EDWARDS of California, Mr. TOWNS, Mr. KOSTMAYER, Mr. OWENS of New York, and Mr. LIPINSKI):

H.R. 4367. A bill to amend the Military Selective Service Act to prohibit registration and to halt the activities of civilian local boards, civilian appeal boards and similar local agencies of the Selective Service System; to the Committee on Armed Services.

By Mr. HARRIS:

H.R. 4368. A bill to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HUBBARD (for himself, Mr. DELAY, Mr. ARMEY, Mr. ROBERTS, Mr. ROWLAND, Mr. CONDIT, and Mr. CAMPBELL of Colorado):

H.R. 4369. A bill to require the imposition of the death penalty or life imprisonment without parole for individuals convicted of first degree murder in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEHMAN of California (for himself and Mr. MILLER of California):

H.R. 4370. A bill to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MINK:

H.R. 4371. A bill to authorize the National Park Service to undertake the necessary feasibility studies to establish certain new units of the National Park System in the State of Hawaii; to the Committee on Interior and Insular Affairs.

By Mr. MURTHA (for himself, Mr. REGULA, and Mr. SCHULZE):

H.R. 4372. A bill to extend the provisions of the Steel Import Stabliziation Act for speciality steel and other purposes; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (by request):

H.R. 4373. A bill to amend the Internal Revenue Code of 1986 to impose a penalty on a trustee of a retirement savings plan which permits trustee-to-trustee transfers of funds to another such plan if the trustee fails to make the transfer within 60 days; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4374. A bill to amend the Internal Revenue Code of 1986 to accelerate the implementation of the existing tax on ozone-depleting chemicals and to provide that such tax shall apply to certain hydrochloroflurocarbons; to the Committee on Ways and Means.

By Mr. VOLKMER (for himself, Mr. MORRISON, Mr. OLIN, and Mr. MARLENEE):

H.R. 4375. A bill to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; to the Committee on Agriculture.

By Mr. GLICKMAN (for himself, Mr. MILLER of California, Mr. DURBIN, Mr. WOLPE. Mr. SLATTERY, Mr. HUGHES, Mr. MAZZOLI, and Mr. ENGLISH):

H.Res. 387. Resolution to create an Office of the Administration of the House of Representatives; to the Committee on Rules.

MEMORIALS

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

334. By the SPEAKER: Memorial of the House of Representatives of the State of Maine, relative to honoring women in military service; to the Committee on House Administration.

335. Also, memorial of the House of Representatives of the State of Maine, relative to compensation for service-connected disabilities; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

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

H.R. 23: Mr. CONDIT, Mr. LEWIS of Florida, Mr. NOWAK, Mr. RAY, Mr. SPRATT, and Mr. MCMILLAN of North Carolina.

H.R. 78: Mr. ALLEN.

H.R. 187: Mr. NOWAK and Mr. SIKORSKI.

H.R. 461: Mr. PACKARD and Ms. HORN.

H.R. 608: Mr. COLEMAN of Texas, Mr. JENKINS, Mr. UPTON, Mr. BROWDER, Mr. MAVROULES, Mr. HERTEL, Mrs. MINK, Mr. HOYER, Mr. TOWNS, Mr. DYMALLY, and Mr. LIVINGSTON.

H.R. 609: Mr. NEAL of Massachusetts, Mr. GEJDENSON, Mr. FLAKE, Mr. HOCHBRUECKNER, Mr. DE LUGO, Mr. HORTON, Mr. AUCOIN, Mr. DYMALLY, Ms. SLAUGHTER, and Mr. HAYES of Louisiana.

H.R. 617: Mr. LANCASTER, Mrs. PATTERSON, Mr. LUKEN, and Mr. ENGLISH.

H.R. 786: Mr. HOAGLAND, Mr. ROSE, and Mr. WILLIAMS.

H.R. 793: Mr. MCHUGH, Mr. HAYES of Illinois, Mr. WOLPE, and Mr. MORAN.

H.R. 815: Ms. NORTON.

H.R. 840: Mr. HORTON and Mr. SARPALIUS.

H.R. 1145: Mr. ROYBAL and Mrs. BOXER.

H.R. 1186: Mr. HENRY, Mr. CHAPMAN, Mr. CONYERS, Mr. OXLEY, Mr. HERGER, Mrs. COLLINS of Michigan, Mr. LIGHTFOOT, Mr. PICKETT, and Mr. PASTOR.

H.R. 1348: Mr. DOOLITTLE, Mr. FOGLIETTA, Mr. ROE, Mr. HEFNER, Mr. MORRISON, and Mr. QUILLEN.

H.R. 1411: Mr. GEREN of Texas, Mr. DORNAN of California, Mr. PETERSON of Minnesota, Ms. KAPTUR, Mr. ZELIFF, Mr. CARPER, Mrs. ROUKEMA, and Mr. TAYLOR of North Carolina.

H.R. 1450: Mr. OWENS of Utah.

H.R. 1572: Mr. ALLEN and Mr. TRAFICANT.

H.R. 1652: Mr. MCMILLEN of Maryland.

H.R. 1791: Mr. ROE.

H.R. 2083: Mr. DORGAN of North Dakota.

H.R. 2338: Mr. OLVER.

H.R. 2766: Mr. SIKORSKI.

H.R. 2806: Mr. SWETT, Mr. CAMPBELL of California, Mr. KOLTER, and Mr. JEFFERSON.

H.R. 2808: Mr. LIVINGSTON.

H.R. 2838: Mr. COX of Illinois, Mr. KOLTER, Mr. KOPETSKI, Ms. KAPTUR, Mr. SCHEUER, Mr. AUCOIN, Mr. SPENCE, and Mr. VOLKMER.

H.R. 2946: Mr. MARLENEE.

H.R. 2966: Mr. PRICE and Mr. ATKINS.

H.R. 3035: Mrs. VUCANOVICH.

H.R. 3042: Mr. BEVILL.

H.R. 3204: Mr. CAMPBELL of California, Mr. HYDE, Mr. SCHUMER, Mr. BEVILL, Mr. CLAY, Mr. DERRICK, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FROST, Mr. HALL of Texas, Mrs. LLOYD, Ms. NORTON, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. SCHAEFER, Mr. SOLARZ, Mr. SPENCE, Mr. UPTON, and Mr. MARTINEZ.

H.R. 3216: Mr. ALLEN and Mr. UPTON.

H.R. 3217: Mr. PACKARD.

H.R. 3236: Mr. ANDREWS of Maine.

H.R. 3253: Mr. MOLLOHAN and Mr. DIXON.

H.R. 3344: Mr. RUSSO.

H.R. 3425: Mr. KILDEE, Mr. STEARNS, Mr. COSTELLO, and Mr. MCGRATH.

H.R. 3438: Mr. RANGEL.

H.R. 3439: Mr. RANGEL.

H.R. 3440: Mr. RANGEL.
H.R. 3441: Mr. RANGEL.
H.R. 3442: Mr. RANGEL.
H.R. 3472: Mr. SANTORUM.
H.R. 3516: Mr. LIVINGSTON.
H.R. 3544: Mr. GUARINI, Mr. LIPINSKI, and Mr. LANTOS.
H.R. 3592: Mr. LIVINGSTON.
H.R. 3605: Mr. RANGEL.
H.R. 3636: Mr. VOLKMER.
H.R. 3662: Mr. GILMAN, Mr. TAYLOR of North Carolina, Mr. OWENS of Utah, and Mr. DUNCAN.
H.R. 3702: Mrs. BOXER.
H.R. 3732: Mr. MANTON.
H.R. 3748: Mr. COLEMAN of Texas and Mr. WALSH.
H.R. 3781: Mr. PICKETT.
H.R. 3816: Mr. ROE.
H.R. 3825: Mr. KLUG, Mr. GINGRICH, Mr. HASTERT, Mr. MOLLOHAN, Mr. SAVAGE, and Mr. KOLBE.
H.R. 3826: Mr. FROST, Mr. LEHMAN of Florida, Mrs. LOWEY of New York, and Mr. MCDERMOTT.
H.R. 3849: Mr. COX of Illinois, Mr. LIPINSKI, Mr. DELLUMS, Mr. MCGRATH, and Mr. ROE.
H.R. 3918: Mr. HOCHBRUECKNER, Mr. SYNAR, and Mr. ANDERSON.
H.R. 3953: Mr. WOLPE, Mr. KOLTER, Mr. BACCHUS, Mr. OWENS of New York, Mr. MCMILLEN of Maryland, Mr. ATKINS, Mrs. BOXER, Mr. MARKEY, Mr. GILMAN, Mr. WELDON, Mr. MARTINEZ, Mr. ANDREWS of Maine, and Mrs. MORELLA.
H.R. 3961: Mr. HALL of Ohio and Mrs. SCHROEDER.
H.R. 4013: Mr. CRAMER and Mr. YATRON.
H.R. 4023: Mr. TORRICELLI and Mr. HAYES of Illinois.
H.R. 4100: Mr. DEFAZIO, Mr. OLVER, Mr. EVANS, Mr. ECKART, and Mr. PERKINS.
H.R. 4127: Mr. DORNAN of California, Mr. MCCANDLESS, and Mr. MOORHEAD.
H.R. 4130: Mr. LIVINGSTON, Mr. RAMSTAD, and Mr. LAGOMARSINO.
H.R. 4151: Mr. TOWNS.
H.R. 4161: Mr. JONTZ and Mr. JEFFERSON.
H.R. 4169: Mr. HUCKABY and Mr. RAVENEL.
H.R. 4178: Mr. LEVINE of California and Mr. ROE.
H.R. 4196: Mr. JAMES, Mr. LANTOS, Mr. GORDON, Mr. LAGOMARSINO, Mr. JENKINS, Mr. FROST, Mr. RITTER, Mr. HOCHBRUECKNER, Mr. ROGERS, Mr. HOYER, Mr. NEAL of North Carolina, Mr. TAUZIN, and Mr. ANDREWS of New Jersey.
H.R. 4207: Mr. BRUCE, Mr. PENNY, Mr. WEBER, Mr. INHOFE, Mr. SWETT, and Mr. KOPETSKI.
H.R. 4227: Mr. RANGEL, Mr. MATSUI, Mr. STARK, Mr. LEVINE of California, Mr. FAZIO, Ms. PELOSI, Mr. MILLER of California, Mr. BILBRAY, Mr. LANTOS, Mr. TORRES, Mr. DELLUMS, Mrs. MINK, Mr. TOWNS, and Mr. CONDIT.
H.R. 4271: Mr. MCDERMOTT, Mr. CARDIN, Mr. PASTOR, Mr. LENT, Mr. COLEMAN of Texas, Mr. TRAXLER, and Mr. SANDERS.
H.R. 4277: Mr. ROEMER, Mr. BROWN, and Mr. BONIOR.
H.R. 4280: Mr. EWING, Mr. BALLENGER, and Mr. MCCRERY.
H.R. 4285: Mr. ANDERSON, Mr. GALLEGLY, and Mr. FROST.
H.R. 4286: Mr. GORDON and Mr. LAFALCE.
H.R. 4293: Mr. HOCHBRUECKNER, Mr. LENT, Mr. TRAFICANT, Mr. RANGEL, Mr. SCHIFF, and Mr. ROE.
H.R. 4304: Mr. SABO and Ms. HORN.
H.R. 4319: Mr. BEREUTER and Mrs. JOHNSON of Connecticut.
H.J. Res. 143: Mr. BLILEY.
H.J. Res. 272: Mr. YATRON, Mr. ROGERS, Mr. LEWIS of Florida, Mr. HENRY, Mr. FISH, Mr. MCDADE, Mr. MRAZEK, Mrs. MORELLA, Mr. HORTON, Mr. HAMILTON, Mr. RAVENEL, Mr. NATCHER, Mrs. PATTERSON, Mr. WOLPE, Mr. NICHOLS, Mr. THOMAS of Wyoming, Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. WEBER, Mr. MURPHY, Mr. LAFALCE, Mr. STOKES, Mr. HUTTO, Mr. TAUZIN, Mr. DE LUGO, Mr. DIXON, Mr. MCCOLLUM, Mr. HYDE, Mr. DOOLEY, Mr. DARDEN, Mr. HUBBARD, Mr. DYMALLY, Mr. KILDEE, Mr. APPLEGATE, Mr. BOEHLERT, Mr. SUNDQUIST, Mr. MCDERMOTT, Mr. DICKS, Mrs. UNSOELD, Mr. SWIFT, Mr. TOWNS, Mr. MURTHA, Mr. HOUGHTON, Mr. BONIOR, and Mr. LEWIS of Georgia.
H.J. Res. 357: Mr. RANGEL.
H.J. Res. 371: Mr. NATCHER, Mr. OWENS of Utah, Mr. PAXON, Mr. TALLON, Mr. TRAFICANT, Mr. TAUZIN, Mr. TRAXLER, and Mr. YOUNG of Alaska.
H.J. Res. 388: Mrs. UNSOELD, Mr. DORGAN of North Dakota, Mrs. MEYERS of Kansas, and Mr. WEBER.
H.J. Res. 402: Mr. DOOLITTLE, Mr. MARTINEZ, Mr. BOUCHER, and Mr. SISISKY.
H.J. Res. 403: Mr. WEISS, Mr. HUGHES, Mr. ATKINS, Mr. TRAFICANT, Mr. BARRETT, Mr. MOORHEAD, Ms. MOLINARI, Mr. SOLOMON, Ms. NORTON, Mr. KLUG, Mr. FROST, Mr. LEWIS of California, Mr. GILMAN, Mr. SCHUMER, Mr. SISISKY, Mr. EVANS, Mr. KOPETSKI, Mr. ESPY, Mr. CAMP, Mr. DWYER of New Jersey, Mrs. VUCANOVICH, Mr. FASCELL, Mr. MCCLOSKEY, Mr. MARTIN, Mr. HOBSON, and Mr. LANTOS.
H.J. Res. 411: Mr. DWYER of New Jersey, Mr. MCGRATH, Mr. FROST, and Mr. SOLOMON.
H.J. Res. 423: Mr. MILLER of Washington.
H. Con. Res. 224: Mr. DINGELL.
H. Con. Res. 248: Mr. HERTEL and Mr. TAUZIN.
H. Con. Res. 271: Mr. OWENS of Utah, Mr. KOLTER, Mr. FROST, and Mr. JONTZ.
H. Con. Res. 277: Mr. WILSON, Mrs. VUCANOVICH, and Mr. MOORHEAD.
H. Con. Res. 281: Mr. ATKINS, Mr. WEBER, Mr. ACKERMAN, Ms. MOLINARI, Mr. SMITH of Florida, and Mrs. MORELLA.
H. Res. 234: Mr. DURBIN.
H. Res. 322: Mr. GORDON, Mr. KYL, and Mr. LAGOMARSINO.
H. Res. 331: Mr. DURBIN, Ms. HORN, Mrs. PATTERSON, Mr. MARTINEZ, Mrs. LLOYD, Mr. SARPALIUS, Mr. PAYNE of Virginia, Mr. WILSON, Mr. FROST, Mr. OWENS of New York, Mr. LIPINSKI, Mr. EVANS, and Mr. DWYER of New Jersey.
H. Res. 332: Mr. BEREUTER and Mrs. ROUKEMA.
H. Res. 376: Mr. GOSS, Mr. BOEHNER , and Mrs. ROUKEMA.
H. Res. 384: Mr. NUSSLE, Mr. EMERSON, and Mr. SPRATT.

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.

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.

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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.
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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.
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"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:

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"§ 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".

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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...
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GARY L. OSTENDORF, xxx-xx-x...
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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.

EXTENSIONS OF REMARKS

BOYD CRAWFORD: A DISTINGUISHED STAFFER, AN AMERICAN PATRIOT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BROOMFIELD. Mr. Speaker, 60 years ago, a young Washingtonian, Boyd Crawford, began his career in this great institution as a secretary for a Michigan Republican, Representative Clarence J. McLeod.

When he retired 38 years later in 1970, Boyd left behind a legacy of dedicated service to the institution and the Nation he loved.

Boyd spent 31 of his 38 years in Congress as leader of the Foreign Affairs Committee staff, a record that I am confident will not soon be broken. His continuous service as leader of the committee staff under seven consecutive committee chairmen, two Republicans and five Democrats, reveals more than I could ever say about his professionalism and his administrative ability.

Boyd joined the committee in 1939, and thus was among those who helped shape our foreign policy during World War II. He was also among those present at the creation of America's post-war foreign policy, including the Marshall plan, which Boyd helped guide through the committee and the House.

His service was inspired by the same sense of bipartisanship that characterized our foreign policy during the war years and for the first two decades of the cold war.

Those of us who worked with Boyd during those years were saddened to hear of Boyd's recent death at 85 years of age. Boyd lived long enough to see the collapse of the Soviet Union and the end of the cold war, an outcome that he had worked mightily to achieve.

His wife of 64 years, Gertrude Galloway Crawford of Annandale, and his family should know that many of us in Congress have lost a good friend and that America has lost a great patriot.

CONGRESSIONAL SALUTE FOR GEORGE TROUTMAN

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. OBERSTAR. Mr. Speaker, as chairman of the Aviation Subcommittee of our Public Works and Transportation Committee I have had the opportunity to work with many fine individuals in both the public and private sector. One of the most outstanding has been George Troutman, vice president of Bell Helicopter Textron, Inc. He is a man of rare energy, ingenuity, and achievement.

In 1943, at age 17, George enlisted as a private in the U.S. Army Air corps. He completed flying school, serving as a B'OM003*0924 pilot during World War II and a B-29 pilot during the Korean war. He then became a research and development officer, worked in our guided missile and space programs and retired in 1965 from the USAF. Following that, George represented General Dynamics and, later, General Electric in Washington before joining Bell Helicopter 1981.

George retired from Bell on December 31, 1991, and on January 1, 1992 the Fort Worth Star Telegram published a most interesting article regarding his remarkable achievements. I would like to share that with the many Members of Congress who know and respect my friend George Troutman.

[From the Fort Worth Star-Telegram, Jan. 1, 1992]

LOBBYIST COMES IN FOR LANDING—TOP PROPONENT OF BELL HELICOPTER'S V-22 RETIRES

(By Ron Hutcheson)

WASHINGTON.—In the summer of 1980, George Troutman came to Fort Worth to learn about a strange aircraft that flies like an airplane and hovers like a helicopter.

Nearly 12 years later, the outcome of that trip is one reason the V-22 Osprey has survived repeated Pentagon attempts to cancel the $1.8 billion development project.

Troutman said he was so impressed by Bell Helicopter Textron's plans for the tilt-rotor aircraft that he signed on as the company's chief Washington lobbyist. The Georgia native, who retires today at age 66, has played a major role in persuading Congress to keep the V-22 alive despite objections from Defense Secretary Dick Cheney.

After a quarter of a century as a lobbyist for various defense contractors, Troutman is leaving an industry in turmoil with plans for a more tranquil life on his 204-acre farm in Maryland. He will be replaced by John Zugschwert, former executive director of the American Helicopter Society.

In an era of declining Pentagon budgets, when most defense companies are cutting spending and staff, Troutman is a living reminder that times were not always so tough for the military-industrial complex.

As a lobbyist, he was a master of the grand gesture, the kind of splashy event that requires money and imagination.

In 1986, he persuaded his company to throw a massive party in the Smithsonian Air and Space Museum that drew scores of top-ranking military and government officials.

In 1987, when then-House Speaker Jim Wright led a congressional delegation to the Soviet Union, he popped up in Madrid, Spain, for an impressive display of trans-Atlantic lobbying. Greeting the lawmakers on a stopover, Troutman treated the delegation to front-row seats at a bullfight and a four-course dinner with Flamenco dancers.

But his biggest coup came in 1990, when Troutman staged one of the most unusual publicity stunts in congressional history. Overcoming naynayers within his own company and stubborn resistance from federal bureaucrats, Troutman arranged to land one of Bell Helicopter Textron's experimental aircraft on the parking plaza in front of the U.S. Capitol.

The XV-15, a tilt-rotor aircraft that helped pave the way for the more sophisticated V-22, awed lawmakers and tourists with a noontime flight demonstration. The attention-getting event required three months of planning and approval from at least eight federal offices or agencies, including the Secret Service and the Federal Aviation Administration.

Despite his flamboyance, Troutman has carefully avoided personal publicity, refusing almost all requests for on-the-record interviews.

"The last thing any good Washington guy wants is high visibility," he explained yesterday, after agreeing to talk on his last day at the office.

Troutman, who previously lobbied for General Dynamics and General Electric, said he expects even tougher times ahead for the industry.

"The defense industry, in my view, is going to have an enormous shakeout. All the companies are going to be working very hard to get pieces of whatever business is still coming," he said. "The state of the industry in general is going to go down, and it will keep on going down. There will be a bottom somewhere."

Troutman, who carried the title of vice president of Washington operations for Bell, said he always viewed his job in more simple terms.

"Lobbying is no more and no less than being a salesman," he said. "If you sell yourself first and your idea has merit, you can probably sell it."

The former Air Force pilot started selling defense products in 1965, when he joined General Dynamics after retiring from a 22-year military career. His primary task in that first job was to keep government money flowing to the Fort Worth-built F-111 long after the Pentagon had soured on the troubled fighter.

The F-111 was the mainstay of the Fort Worth plant until General Dynamics developed the F-16 fighter.

"It was tough," Troutman said. "If we hadn't been able to persuade the Congress of the value of the F-111 to the military, the GD plant would have closed. I doubt that we would ever have seen the F-16."

In 1975, Troutman left General Dynamics for General Electric, where he helped promote the company's aircraft engines. He joined Bell Helicopter Textron in January 1981.

"I came really, I think, because of the tilt-rotor, because it was so fascinating," he said. "You can see the potential for the thing."

Troutman said he is virtually certain that Cheney will again call for canceling the V-22 in the 1993 defense budget. He said he is equally certain that Congress will reject Cheney's proposal and support the project.

"No question about it—it will go ahead," he said. "The V-22 has a life of its own."

As for his own plans, Troutman said he is considering consulting work, other job offers

and the possibility of raising fish and exotic game on his farm. He said he is particularly interested in tilapia, a perchlike fish that is served in some restaurants.

"Legend has it, it's St. Peter's fish," he said. "It's on the menu at the Carriage House in Fort Worth."

But as he cleaned out his desk yesterday, Troutman seemed in no hurry to make up his mind.

"I've never really known what I wanted to do when I grow up," he said. "I'm grown up, and I'm still not sure."

DOCTOR'S COLUMN MAKES GREAT CASE FOR HEALTH CARE REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, the March 1 Tri-Valley Herald of Pleasanton, CA, contained an excellent guest column by Dr. Edward B. Clark. The doctor has served the Tri-Valley area for over 25 years in the private practice of obstetrics and gynecology. His editorial is worth reprinting here.

I would especially note the growing recognition by many physicians that a national single payor system with capitated or budgeted payments would reduce the interference of paraprofessionals in the practice of medicine and give doctors greater clinical freedom to practice medicine, rather than practice bureaucracy:

WE NEED TO REFORM HEALTH CARE

(By Edward B. Clark, M.D.)

Choice and opportunity have been available in the development of good health care in this country. Currently, many have no access to health care. Most of us are becoming distressed over the ever-increasing costs of care and decreasing choice of providers. There has definitely been a shift from health care being a right into being a privilege.

Members of my family have now lost both the choice and the opportunity for health care. My son and brother have lost both through loss of employment and changing employment, respectively. Our daughter, in the latter part of her second pregnancy, can no longer have her current physicians because of an employer decision to change to a more affordable insurance plan.

A comprehensive plan that incorporates universal coverage and controls costs at an affordable price needs to be considered now. It needs to fit our social values and behavioral patterns.

We all need to examine and prioritize what we think are the most necessary elements for promoting good health. Preventing disease (sanitation, environmental safety, immunization), early recognition of disease (screening programs) as well as treating acute and chronic conditions should be considered in providing those components to everyone. Activities which are self destructive or demonstrate poor health habits should cost each individual through higher premiums or greater deductibles.

Financing a health care program should be budget neutral. The increased costs of universal coverage could come from decreasing administrative costs. All funds could flow through a single payer, which would markedly reduce the paperwork. Capitation of payments to provider groups would reduce "managed care" by paraprofessionals, which physicians resent, and simultaneously limit expenditures. Limitation of medical options are also resented especially in view of the liabilities involved. However, the physician actually has more freedom to prioritize in his best medical judgment which cases need more attention.

* * * * *

Currently, patients, physicians and hospitals that are insulated by health insurance act as though they have a blank check through a bank with infinite resources. Doctors and hospitals are paid more when more procedures or tests are carried out. Patients in turn have come to expect that any treatment or test that is available is theirs for the asking. No thought is given to costs or relevance to decision making for better care.

Limits on capitation should be established that allow certain basic care to take place and when it is exceeded the consumer would pay more and the provider receive less. Those providers that are most cost efficient would be rewarded with greater income and patients that utilize less would have lower personal costs.

A great concern is that quality of care would diminish. There are many examples of medical care actually improving through better use of medications, better utilization of capital equipment and less unnecessary hospitalizations and surgery. Of course, there would have to be increased emphasis on the definition of quality and then assurance of its attainment.

Most authorities in medical economics state that any change in health-care legislation will be incremental at best. They also state that comprehensive reform is needed but during an election year our politicians are fearful of alienating a group that might prevent their election. Hopefully enough people will consider the needs of our entire society and be creative enough to entice the majority of us to establish this much needed reform.

Only bold leadership, thoughtful consideration and painful decisions can overcome the powerful influence of the status quo. Comprehensive reform in health care can only be accomplished through serious commitment by us all.

FREDERICA WILSON, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Frederica Wilson, who has been honored by the Dade County Public School System as being one of its best administrators. She was one of seven candidates chosen to compete for an award.

As principal of Skyway Elementary, Ms. Wilson has developed several award winning programs which brought the school up to a national fifth in attendance. She was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Skyway Principal's Philosophy—Reach Out and Hug Someone" by Ana Acle reveals why she is so admired and loved by students and colleagues. The article follows:

Frederica Wilson walks out of her office at Skyway Elementary and is almost instantly surrounded by her students.

Tiny arms stretch around her waist or legs—depending on the size of the child—and squeeze her. "That's a daily ritual," she said. "Every child receives a hug first thing in the morning and last thing before they leave home."

For 12 years Wilson has been principal of Skyway in Carol City. She has won numerous awards in the past, but this is the first time she is nominated for principal of the year. "I'm honored," she said.

When Wilson began her first year as principal, attendance at the school was one of the lowest in the county. Within a few years, Wilson's programs brought the school up to fifth in attendance.

Wilson has managed to turn Skyway into a world where children are encouraged to dream about achieving their goals. "College, drug-free and bilingualism are our main goals," said Wilson, who talks to the children in Spanish when she enters a classroom. The children answer in Spanish.

Upstairs in the fourth and fifth grade classrooms, students attend "college." Wilson calls it Skyway University. Like college, teachers are addressed as "professor" and each subject is taught in a different room.

Mr. Speaker, I commend Frederica Wilson for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

UNDERMINING THE RIGHT TO COUNSEL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. EDWARDS of California. Mr. Speaker, this editorial, the fifth in a series that appeared in the Atlanta Constitution, indicates that, "most of the ground rules of criminal and civil procedure laid out in the sixth and seventh amendments are straightforward and uncontested." However, one of the most important rights in the sixth amendment, the right to counsel in criminal cases, is being dramatically eroded. Providing competent counsel in these cases will eliminate unnecessary delays at all stages of criminal litigation, and particularly in the Federal habeas corpus cases that this body recently addressed. I hope that this editorial will explain and highlight the need for competent counsel as well as further informing us about the sixth and seventh amendments.

Article VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII: In suits at common law, where the value of controversy shall exceed $20, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

[From the Atlanta Constitution, Dec. 12, 1991]

UNDERMINING THE RIGHT TO COUNSEL

(This is the fifth in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.)

Most of the ground rules of criminal and civil procedure laid out in the Sixth and Seventh amendments are straightforward and uncontested. Of course juries must be impartial and defendants must be informed of the charges against them. The Seventh Amendment's guarantee of jury trials in civil cases may be anachronistic, but it's here to stay.

One current Sixth Amendment conundrum involves squaring a defendant's right to be "confronted with the witnesses against him" with the desire to protect children in child-abuse cases from being intimidated or traumatized by having to testify against their alleged abusers. The U.S. Supreme Court has yet to establish clear guidelines here.

A milestone in Sixth Amendment jurisprudence was Gideon v. Wainwright (1963), which established the right to counsel in all state felony cases. Indigent defendants in such cases now had to be provided with lawyers at public expense.

In the decade following Gideon, the right to counsel was extended to an array of legal proceedings. Since then, unfortunately, the court has reversed field.

In 1989, the court denied defendants the right to counsel after direct appeal: when petitions for habeas corpus are filed alleging constitutional violations. The implications of this were dramatically demonstrated last session, when the court denied a writ of habeas corpus to a man sentenced to death because his lawyer had filed the petition three days late.

Since there was no right to counsel at this stage of appeal, the court found the claim of inadequate representation to be without merit. In dissent, Justice Harry Blackmun accused the court of creating "a Byzantine morass of arbitrary, unnecessary and unjustifiable impediments to the vindication of federal rights."

Indeed, the court has erected so many procedural barriers to filing habeas petitions as to require defense lawyers to possess an encylopedic grasp of a rapidly shifting body of law. Yet most petitioners are represented by appointed counsel with little experience in death-penalty litigation. They are made to pay the price for inadequate representation by ill-equipped lawyers they had no part in hiring.

The worst betrayal of Gideon is the willingness of courts to allow indigents, who constitute upwards of two-thirds of all felony defendants, to be so badly represented. Public defenders in places like Fulton County are so overburdened they can do little more than "meet 'em and plead 'em." In rural areas, counties press civil practitioners into criminal work and pay them a pittance.

A right to counsel cannot entitle poor people to the best lawyering money can buy. But certain minimum standards of representation ought to be enforceable. Nothing so undermines the Sixth Amendment's right to counsel as inadequate funding for indigent defense.

EDUCATIONAL GUIDELINES COULD WORK, WITH STATE, LOCAL INPUT

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MORAN. Mr. Speaker, the congressionally mandated National Council on Education Standards and Testing recently released their report stating that a national system of student assessments is a goal toward which the educational community should work. I agree. Challenging our students to attain an acceptable level of academic achievement is not an unrealistic proposition.

For the past decade we have recognized that American schools are in need of a renewed commitment by those involved at every level. The Federal Government must invest more money, the States must review their priorities, local educators must closely examine their current methods and consider reform, and students must be held to world class standards.

Mr. Mel Bergheim of the Alexandria Gazette-Packet points out that the debate over these achievement levels is often misplaced. The Federal Government does not, and should not, put itself in a position of dictating a specific curriculum or test. However, as I stated above, there is a serious need for national standards that should be adhered to by local school systems regardless of how they choose to measure their students performance.

I submit Mr. Bergheim's article dated January 23, 1992 for the RECORD.

[From the Gazette Packet, Jan. 23, 1992]

EDUCATIONAL GUIDELINES COULD WORK, WITH STATE, LOCAL INPUT

(By Mel Begrheim)

Should we have national standards for public schools and related tests of student achievement?

Those who answer "yes" argue that we need a common basis for setting curriculum content and comparing progress, or lack of it, from place to place and over time.

Those who answer "no" worry that the disparities in resources available to school systems and the diversity of student populations—such as the high proportion of minorities in cities like Alexandria compared to the relative homogeneity of suburban counties like Loudoun—defy setting uniformly applicable standards.

And still to be answered is a question that especially bothers opponents of national standards: Who will set them? People who agree with Sen. Jesse Helms? Those who belong to People for the American Way?

Evidence that the country is closely divided on the issue surfaced Jan. 6 when PBS telecast a debate, in the form of a courtroom trial, on the question, "Do we need a national report card?"

After the "trial," viewers were invited to vote on the question by dialing one of two toll-free numbers. Of 15,528 respondents, 47.5 percent voted "yes", 52.5 percent, "no."

The format of the program, the first of three in a weekly series called "Education on Trial," was adversarial, implying that the answer had to be yes or no, guilty or not guilty.

This approach left no room for charting a middle course between prescribing uniform national standards with little room for local variation, and setting disparate state and local standards disparate state and local students with little commonality from one place to another.

Instead, why not take a middle course that would encourage developing educational guidelines at the national level in a format permitting state and local people to set their own goals and priorities?

There is actually a model in place for such an approach, which was developed and refined over the last 15 years in the field of public health.

The Centers for Disease Control, in close collaboration with other agencies of the U.S. Public Health Service, the American Public Health Association, and state and local public health officials, developed model standards for the attainment of local objectives related to the promotion and protection of health.

The singular feature of these standards is that they are presented in workbook form, enabling each community to set its own principles and timetable for achieving its objectives within carefully defined, specific national goals. Communities are urged, but not required, to try to achieve their objectives by the year 2000.

Here are two more or less randomly selected examples of the format:

"By——[year] reduce deaths caused by alcohol-related motor vehicle crashes to no more than—[number] per 100,000 people. . . . Note: the community may wish to develop specific population targets, for example, by age, race, sex, income, disabling conditions, etc. for community-relevant populations."

"By——[year] the community will be served by a system that assures access to health care services for control of chronic diseases and conditions, e.g. hypertension, diabetes, arthritis."

The emphasis in the standards is on applying the resources needed to improve health or on measuring the health status outcomes of community effort.

Note that though the standards are set nationally, each community is free to work out its own scenario and to add to, or choose among, the guidelines it will work on. Further, each community must decide for itself who should set the goals and how to achieve them.

Note also that though a federal agency, in this instance the Centers for Disease Control, took the lead in developing the standards, state and local public health officials were significant partners, as was the American Public Health Association, a national, private, professional organization, which promulgates the standards.

As one who was deeply involved in developing the public health standards in the 1970s and has observed the local education scene since the 1960s, I believe this approach can be adapted to public schools.

To the National Council on Standards and Testing, established by Congress to address this important issue in the so-called crisis in public education, I say:

Why not try the medicine that has been prescribed for public health?

THE CREATION OF A HOUSE ADMINISTRATOR

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GLICKMAN. Mr. Speaker, the House of Representatives has recently experienced an

intolerable rash of management problems. While the specific problems may seem unrelated, they all stem from a lack of professional management at the top. I am not criticizing the performance of the current officers of the House, but the lack of a professional manager responsible for running a tight ship around here.

Today we are introducing a resolution to amend the House rules to create a House Administrator. This person would be the manager of the House, appointed by the Speaker, in consultation with the minority leader, and approved by the House, on the basis of his or her experience in running a major institution, whether public or private, according to modern business practices. The Administrator's task will be to plan, coordinate and direct all the administrative support operations of the House.

The Administrator will report to the Committee on House Administration, which will put many aspects of running the House in bipartisan hands, thus avoiding allegations of one party concealing something from the other. Since both parties are held accountable for the actions of the House, both should share in the oversight and management functions.

The resolution also establishes an auditor of the House, who will be appointed by the chairman of the House Administration Committee, with the approval of the Speaker and the minority leader. The auditor will conduct financial audits to see whether financial systems are working and will also pursue allegations of fraud, waste, or abuse, in much the same manner as the Inspectors General in Federal agencies. The Inspectors General have proven their worth time and time again in various agencies and the same concept could work here in the House.

Running the Capitol complex has become a huge operation. We are a city within a city. We have dozens of buildings, a police force, restaurants, shops, mass transit system, library and research service, television station, car wash, post office, first aid stations, doctors office, ambulance service, hair salons, credit union, printer, paint shop, furniture factory, moving company, and more.

Unfortunately, the House is managed the same way it was run decades ago, and all Members, as a group, end up paying the price for our failure to bring operations into the modern world. Without effective management controls, the House could be spending millions of dollars unnecessarily. The current system is accountable to no one, yet every one of us is held accountable when something goes wrong.

We are responsible for how tax dollars are spent. We are held accountable for any aspect of this operation that does not pass the test of public scrutiny.

The recent revelations over the House bank, restaurants, the Post Office, and services viewed as perks have focused scrutiny on practices that would not stand up to normal business standards and do not meet the professional and ethical standards of the overwhelming majority of House Members. These unfortunate events reflect the fact there is no one professional administrator overseeing the operation of an enterprise with about 25,000 employees and a budget of almost $1.8 billion.

Why perpetuate this system just because that is the way it has always been done? Many of these practices make no sense in 1992, much less in the 20th century. For example, the Sergeant-at-Arms pays the salaries of Members, while the Clerk of the House pays the salaries of all other House employees. Why the division? Because serving in Congress used to be a part time job, and Members were paid on the per diem basis. In order to get their $8 a day back in the 1800's, Members would sign a chit to draw from the now-defunct House bank. The Speaker, who was the payroll agent for Members, requested the Sergeant-at-Arms assist him, and the Sergeant-at-Arms has paid Members' salaries ever since.

Almost every person I asked, when trying to find out why this was the case, replied, "Oh, that's the way it has always been done," as if that was the response I was looking for. This kind of an attitude is unacceptable if the House as an institution is to operate with any kind of responsibility.

Now is the time to take action to create effective, modern systems of congressional management and delegate management authority to a professional, not a politician. We should be able to focus our attention on important issues of policy, such as health care and creating jobs, not on whether the barber shop is charging enough for a haircut or if there is favoratism in the assignment of parking spaces.

We are introducing this proposal to prevent future problems in the House and to ensure that tax dollars are being spent in a prudent manner. However, the main purpose for this proposal is to liberate us, to free up Members of Congress from the day to day operational details and professionalize their handling so we can do what we were elected to do and focus our efforts on providing health care to Americans, to improve our country's educational system, to get Americans working again, and to get this economy back on its feet.

INTRODUCTION OF THE PROTECTION OF THE BODIE BOWL AREA IN CALIFORNIA

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. LEHMAN of California. Mr. Speaker, today I am introducing a piece of legislation which will protect the integrity of a very important landmark in the State of California and my congressional district: the Bodie State Historic Park and its surrounding lands.

Bodie, a former gold mine district and preserved authentic ghosttown, was designated a National Historic Landmark in 1961 and a California State Historic Park in 1962. It is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey. The National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area.

The legislation that I am introducing today at the recommendation of a resolution passed by the California State Legislature on September 4, 1990, will attempt to preserve the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie by withdrawing the public lands around the historic park from further mineral entry or patent.

Bodie was settled around 1859, when William Bodey discovered gold at Bodie Bluff. Seeking their fortune, many followed him to Bodie and established a mining town which in the form of the ghosttown as it stands today, gives an outlook to the history of old time mining towns and offers reminders of the vibrant characters who made it unique.

The town of Bodie rose to prominence with the decline of mining along the western slope of the Sierra Nevada. Prospectors crossing the eastern slope in 1859 to "see the Elephant"—that is, to search for gold—discovered what was to be the Comstock Lode at Virginia City, and started a wild rush to the surrounding high desert country.

By 1879 Bodie boasted a population of about 10,000 and was second to none for wickedness, badmen and the "the worst climate out of doors." Killings occurred with monotonous regularity, sometimes becoming almost daily events. Robberies, stage holdups, and street fights provided variety, and the town's 65 saloons offered many opportunities for relaxation after hard days of work in the mines. One little girl, whose family was taking her to the remote and infamous town, wrote in her diary: "Goodbye God, I'm going to Bodie." The phrase came to be known throughout the West.

Only about 5 percent of the buildings Bodie contained during its 1880 heyday still remain. Today, it stands just as time, fire, and the elements have left it—a genuine California gold mining ghosttown in a state of "arrested decay" which courts over 200,000 visitors per year. It is my hope that this legislation will continue to promote, protect and preserve the integrity of this area and its rich history for generations to come.

BIOGRAPHY OF JOHN ROSS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues

a short biography of John Ross, Principal Chief of the Cherokee Nation, who is known for his efforts in defending the rights of Cherokees to their ancestral lands, and who led the Cherokees to Oklahoma in the Trail of Tears in 1838. This biography publication entitled "Famous Indians, A Collection of Short Biographies."

JOHN ROSS (CHEROKEE)

In October of 1828, a blue-eyed, fair-skinned man stood before the General Council of the Cherokee Indian tribe, raised his right hand, and pledged: "I do solemnly swear that I will faithfully execute the office of Principal Chief of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend the Constitution of the Cherokee Nation."

John Ross, the man who took the oath of office so much like that of incoming Presidents of the United States, had much white ancestry. But his Scottish immigrant father, while having the boy educated by white teachers, had brought up "Tsan-Usdi" (Little John) as an Indian among Indians. John Ross considered himself a Cherokee, grew up to marry a Cherokee girl, and was to devote his life to leadership of the people he loved.

By the time Ross took his oath as President Chief of the new Cherokee Government, the tribe had gone far toward civilization. They were accomplished farmers, cattlemen, and weavers; had built roads, schools, and churches, and, through the invention by their great tribesman Sequoya of a Cherokee alphabet, were largely literate. In 1926 the Cherokee Nation formed a government patterned after that of the United States, its capital at New Echota, Ga.

John Ross was the logical choice as Principal Chief, for he had been a tribal leader since 1813, when he had fought under General Jackson and his men against the Creeks. As president of the Cherokee National Committee from 1819 to 1826 he had promoted the education and mechanical training of the Indians, and worked in development of the new government.

But the Cherokees' "golden age" was to be a brief one, for as early as 1802 the Federal Government had promised the State of Georgia that Indians would, in time, be removed from their lands. In 1822 the House of Representatives voted to take away Cherokee land titles. To this move the Cherokee Council responded by voting to make no more treaties with the United States. Neither persuasion, threats, nor the bribery attempts of two commissioners, sent to the tribe from Washington, could change Cherokee resistance.

But Georgia continued to maintain that the Indians were only tenants on their lands, and between 1828 and 1831 the Georgia legislature ruthlessly stripped the Cherokees of all their civil rights. When gold was discovered on tribal lands, Cherokee fate was sealed: answering demands of the Georgia legislature, the U.S. Congress appropriated $50,000 for removal of the tribe.

John Ross worked tirelessly in defending the right of Cherokees to their ancestral lands, and headed several delegations to Washington, but without success. His own home was confiscated, and for a time he was imprisoned. The tribal newspaper, the Cherokee Phoenix, was suppressed.

In 1835, under the Treaty of New Echota, all Cherokee lands east of the Mississippi were ceded and the tribe was given 2 years to move to Indian Territory (Oklahoma). No official of the Cherokee Nation had been a party to the removal agreement, and some 16,000 Cherokees signed a petition to Washington declaring that their tribesmen had been tricked by white negotiators at New Echota. The petition and all Ross's pleas were ignored by President Jackson.

Although about 2,000 Cherokees had gone west after 1836, the remaining 15,000 stayed on, hopeful that Ross would succeed in his fight. In May, 1838, Gen. Winfield Scott and 7,000 men arrived in Cherokee country and herded the Indians into stockades in preparation for forced removal. The following October they were released, and to Ross fell the sad task of leading his people from their homes.

More than 4,000 Cherokees died of exposure, hunger, and sickness during the terrible 6-month-long trip west. Ross's wife was among them, and the Cherokee leader buried her in Little Rock, Ark. The journey to the West became known among the Cherokees as Nuna-da-ut-sun'y—"The Trial Were They Cried." History records it as "The Trail of Tears."

In Indian Territory the new migrants, joining Cherokee "old Settlers," eventually marshaled their forces, formed a new constitution, and at a national Cherokee convention elected John Ross, Principal Chief of the United Cherokee Nation in its new capital at Tahlequah, Okla. Although dissensions caused by the Civil War led the Federal Government to depose him for a time, he was returned to office. The Cherokee chief—statesman to the end—continued to lead his people until he died in 1866, while in Washington working on a treaty to continue the Cherokee Government.

PRESCRIPTION DRUG COSTS CAUSE CONSTITUENTS HEART ACHES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, there is hardly a day when I don't hear from a constituent about skyrocketing costs of needed pharmaceutical drugs. Whether it's in a personal letter, a phone message, or running into someone at the grocery store back in my congressional district, this is the No. 1 issue for many Americans.

The magazine "Consumer Reports" recently reported that for 75 percent of senior citizens, prescription medications are the highest health care costs in their daily lives. I can believe it. When outrageous price increases in pharmaceutical drugs become a primary barrier to access to health care, the Congress and the administration must take steps to address the problem. I've noted in recent weeks many of the major pharmaceutical drug companies have taken the pledge, committing to hold their price increases to below the consumer price index [CPI]. Merck, Dupont, Dupont-Merck, and Hoffmann-LaRoche are some of the companies taking the pledge. I applaud these steps, and call for others in the industry to follow suit.

The enclosed letter from a constituent in San Lorenzo, CA, makes a clear case for further reform. I recommend it to my colleagues:

SAN LORENZO, CA.

I feel you should check out Marion Laboratories and their drug Cardizem, 60 milligrams, 100 tablets. I paid the following:

Kaiser:
12/90—$41.00.
8/1/91—$41.00.
9/7/91—$55.05 ($14.00 increase in 1 month).
12/24/91—$56.70 ($15.70 increase in 4 months).
10/91—$61.25 ($20.25 increase in 6 months).

This increase started just about the time the company started advertising (a lot) on television—offering a free quarterly magazine called "Cardisense"—to anyone who called their 800 number. We are paying for their advertising. It's not fair! It's excessive!

C.F.

DR. RUTH DOUGLAS OF SOUTH GRANVILLE, NY: A CULTURAL TREASURE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. SOLOMON. Mr. Speaker, there are a great number of enormously talented people in the 24th Congressional District, and I'd like to tell you about one of them.

A friend of mine, James N. Ayres of Granville, NY, wrote to me and said "We think of Dr. Ruth (Douglas) as being a community treasure." And so she is. After retiring in 1967 as chairman of the music department of Mount Holyoke College in Massachusetts, she has been a voice teacher, musical director, and conductor in the South Granville area, enriching the entire community in incalculable ways.

Ruth Douglas graduated from Mount Holyoke in 1923, and immediately jointed the college's music department. She eventually rose to head the department, and continued to study voice and piano and perform as a soloist with the choir and glee club. She also studied in Berlin.

The glee club she directed gave numerous performances in New York City, occasionally in joint concerts with other schools.

Her sabbatical leaves and summers were spent increasing her musical knowledge. She visited Manila, Japan, India, England, Germany, Switzerland, Moscow, and many Iron Curtain countries, where she learned that music was an international language transcending differences in culture and political systems.

In 1987, she was awarded the De Witt Clinton Distinguished Service Award from Grand Lodge, Free and Accepted Masons of New York. The award was in recognition of her "outstanding service to the community which exemplifies the ancient Masonic teaching of concern for the well-being of Mankind and of belief in the worldwide brotherhood of Man." Specifically, the award was for her long contribution to the cultural life of her community. It was characteristic of her to give credit instead to the members of her chorus.

Dr. Douglas is active in other areas as well. She has been a regent of the Captain Israel Harris Chapter of the Daughters of the American Revolution. And everyone who knows her agrees that she is very well-informed about current affairs.

Her 90th birthday will be March 19. On March 22 her many friends and admirers will hold a community celebration in her honor.

Mr. Speaker, I would ask this body to rise today to pay its own tribute to a very special

person, Dr. Ruth Douglas of South Granville, NY.

LAURA SIMS AND THE COBBS CREEK SKATE HOUSE IN THE PARK A WINNING COMBINATION

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to a truly unique woman who is the very definition of persistence and dedication. In 1971, Mrs. Laura Sims had a vision of a neighborhood ice skating rink, because she wanted a place for her children and their friends to skate. Some 14 years later, Mrs. Sims saw her dreams turn into reality with the opening of the Cobbs Creek Skate House in the Park. I would like to take a moment to reflect on this truly remarkable woman, and demonstrate to my colleagues that one concerned citizen can certainly make a difference.

The 200- by 85-foot-rink at Cobbs Creek Parkway and Walnut Street was initially proposed in 1971 by Mrs. Sims and other west Philadelphia parents who were tired of taking their children out of the neighborhood for ice skating. Needless to say, as in a great many of our Nation's neighborhoods, interest in ice skating was very high, and parents began driving caravans of west Philadelphia children to other city and suburban skating rinks. Soon the carloads became busloads, and the idea of opening a neighborhood ice rink was brought before the Fairmount Park Commission. After years of negotiations and appropriations, the Cobbs Creek Skate House in the Park opened in February 1985. I enjoyed the great pleasure of attending this joyous occasion with Mrs. Sims.

Some would think that after the years of hard work it took to open the ice rink, Laura Sims might have relaxed, but this could not be further from the truth. Laura Sims has worked exceedingly hard over the last 7 years in a new capacity—to see that the Cobbs Creek Skate House is utilized, year round, to its fullest potential. Her hard work has paid off, and the rink has become one of Philadelphia's finest recreation centers. Her many activities range from the initiation of the public school skating program in which 10 area schools have utilized the rink since its construction, to the establishment of arts and crafts programs for seniors. Under the guidance of Laura Sims, the Cobbs Creek Skate House in the Park has become the pulse of the Cobbs Creek community.

In addition to her multitude of duties at the ice rink, Laura Sims has helped revitalize the Cobbs Creek neighborhood through a variety of beautification projects.

I firmly believe that it is people like Laura Sims that still make our cities pleasant places to live. Her pride in her neighborhood, her city, and her country are clearly seen through the fruits of her labor. One need look no further than the smile on her face to see a woman who is happiest when others are happy. I ask my colleagues to rise and join me in paying our greatest tributes to this wonderful woman. God Bless Laura Sims.

GLORIA FISHER, HONORED PRINCIPAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Gloria Fisher, who has been honored by the Dade County public school system as being one of its best administrators. She was one of seven candidates chosen to compete for an award.

As principal of Seminole Elementary, a school where one-third of the students do not speak English as a first language, she began an extensive reading program to help students advance to their level by fourth grade. Ms. Fisher was recently featured in the Miami Herald for her extraordinary dedication and commitment to education. The article "Seminole Elementary is Run by 'Angel of God'" by Jon O'Neill reveals why she is so admired and loved by students and colleagues. The article follows:

At Seminole Elementary, Gloria Fisher runs a "no-frills" school.

But she runs it well enough to be tapped as one of seven nominees for this year's Principal of the Year Award. Fisher is the nominee from Dade Schools Region III.

"I'm very flattered by this," Fisher said. "It's always an honor to be selected for an award by your peers."

Those who work for Fisher, and those she works for, have no doubt she deserves the accolade.

"She's an angel from God," said Jo Lynn Reinertson, who teaches prekindergarten at Seminole, 121 SW 78th PL. "She cares about the kids and the teachers and she always supports us. She's fantastic."

Fisher is "a strong leader," said Julia Menendez, director of operations for Region III. "She gets people motivated and gets things done. She knows how to overcome difficulties."

For Fisher, the main job as a principal is to get children to understand they must be responsible for their own actions. She sees it as the best way to build a foundation for their future.

"They have to know they have choices," she said. "They know there are rules and consequences when they break the rules. When they make a bad decision, they are punishing themselves."

Fisher is also committed to reading. At Seminole, more than one-third of the school's 600 students don't speak English as a native language. So Fisher and the teachers began an intensive three-year reading program, focusing on the primary grades.

"If the kids aren't reading up to their level by fourth grade, we're in deep trouble," she said. "We have to prepare them to go into the world, and that starts with reading."

Fisher, 60, was born in New York City and got her degree in fine arts from the University of Havana. She studied in New York and Cuba, finally moving to Miami with her first husband in 1960.

She started as a substitute teacher at North Beach Elementary, then moved to Riverside for five years and to the old Merrick Elementary as a visiting teacher. Her next job was as part of the human relations group at a region office. She has also worked as school psychologist and a personnel coordinator.

But her heart was in the schools and in 1975 she became principal of Banyan Elementary, where she stayed for 13 years and presided over the opening of a gifted center there. She moved to Seminole in 1988 and set about her first task: more parent participation.

"There was no parental involvement,"she said. "Now, I have a great PTA. We don't have a lot of money here, but they're always pitching in to help and back me up."

Fisher loves being a principal.

"This is where it's at for me," she said. 'Out here, with the kids, the teachers and the parents, is where you can really make a difference."

Mr. Speaker, I commend Gloria Fisher for her outstanding achievements as teacher and administrator. Her devotion to education is an inspiration to all teachers and principals in Dade County and around the Nation.

CONGRATULATIONS TO WESTINGHOUSE SCIENCE WINNERS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. HOCHBRUECKNER, Mr. Speaker, I am honored to have this opportunity to extend my heartiest congratulations to two young men in my congressional district who were recently named finalists in the 50th annual "Westinghouse Science Talent Search." They were among 12 young people in the district who had been named semifinalists. The people of the First Congressional District of New York are very proud of this dazzling dozen.

Kurt Steven Thorn, 16, of Wading River selected a project in marine biology/geochemistry in the Science Talent Search. He theorized that the history of water pollution is detectable in the growth lines in hard clam shells. using a synchrotron x ray fluorescence microprobe at the Brookhaven National Laboratory, Kurt measured trace element concentrations and found a correlation.

The son of Dr. and Mrs. Craig E. Thorn, he is first in his class at Shoreham Wading River High School and plans to study molecular biology at Princeton. He was also a finalist at the 1991 International Science and Engineering Fair.

Edward John Newman, 17, of Nesconset entered a physics project in the Science Talent Search. His objective was to design, build, and test a bicycle wheel with better aerodynamic characteristics than those of wheels now on the market. He developed a four-spoke composite wheel with adjustable, asymmetrical, airfoil-shaped spokes and through extensive testing showed it to outperform more standard wheels.

The son of Mr. and Mrs. Edward Newman, Edward is a student at St. Anthony's High School in South Huntington and plans to study engineering at Virginia Polytechnic Institute. For the past 3 years he has designed the highest rated bridge in the Brookhaven National Bridge Building contest.

In addition to these two outstanding young men, 10 others made it to the rank of semifinalist, 8 of them from 1 high school. The eight students from Ward Melville High School

in East Setauket are Stephen Kao, John Tyler Lopez, Matthew Aaron Mausner, Gabriel Louis Rozengarten, Kenneth Thomas Shelden, Joshua Benjamin Silverman, Tessa Cartwright Warren, and Virginia Yvonne Youngblood. Also semifinalists were Jonathan Craig Spier of Comsewogue High School and John Joseph Emmel of Westhampton Beach High School.

OPPOSITION TO THE OMNIBUS CRIME CONTROL ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GINGRICH. Mr. Speaker, I believe that crime is running rampant in America. It's destroying our families, our neighborhoods, and our cities. This crime crisis deeply effects all levels of our society. It is imperative that we support our law enforcement agencies and personnel in their battle against crime in our communities.

Moreover, we must listen carefully to the opinions of law enforcement personnel concerning the laws which we, as Members of Congress, debate and enact. It is for this reason I consider a letter by Alvin Arrowood, III, president of the Kermit C. Sanders Lodge No. 13 of the Fraternal Order of Police so important.

His letter expresses not only his own personal feelings, but also the convictions of the more than 300 fellow law enforcement officers he represents, regarding the serious concerns which they have with H.R. 3371 in its present form. I urge my colleagues to take these views into consideration and enact a true crime control bill.

FRATERNAL ORDER OF POLICE,
Marietta, GA, February 12, 1992.

Hon. NEWT GINGRICH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN GINGRICH: I am writing you as the representative of over 300 law enforcement officers of the Kermit C. Sanders Lodge #13, to voice our concerns over a bill now before the Senate. That being Cong. Rec. H11691, Nov. 26, 1991, or HR 3371.

First, it is our understanding that this legislation is supported by Mr. Dewey Stokes, the President of the National Fraternal Order of Police, and that he has purported to speak for the national law enforcement community. The fact is that he does support the bill but that he speaks only for Dewey Stokes and not for the entire law enforcement community nor for the entire membership of the Fraternal Order of Police. I believe that if polled the vast majority of the law enforcement community would state that he does not speak for them. He has asked for no input from our community on this legislation and has apparently aligned himself with Senators that have historically been enemies of the law enforcement community and preservation of the judicial system as it was intended, those being Senators Ted Kennedy and Joseph Biden. They are using Mr. Stokes' endorsement as a blanket approval of this putrid and disgusting piece of legislation by the law enforcement community in order to get it through. It gives more rights to the criminals and takes rights and enforcement tools away from law enforcement. This does not cause just one segment of law enforcement to suffer but reaches into every aspect, from the patrol officer on the street to the prosecutor who tries the case to the corrections officer who maintains control in the prisons.

Please allow me to discuss some of the bad aspects of the bill. It eliminates the death penalty for attempted assassination of top executives of the government, there is increased abuse of habeas corpus, it broadens the exclusionary rule, it allows the overturning of convictions on the basis of harmless error, it repudiates antiterrorism treaties, it narrows laws against counterfeiting, it prohibits cooperation among federal agencies in administering federal grant programs, it limits consideration of relevant factors and promotion of prisoner litigation relating to prison assignments, it repeals rules requiring revocation of release for criminals who illegally possess drugs, it allows early release from prison of drug abusing offenders, it mandates reduction of prison terms for drug abusing offenders, it establishes a partisan commission to promote racial politics and de-incarceration policies, and it facilitates trafficking in stolen motor vehicles and motor vehicle parts.

These are just a few of the areas that attack the gains that have been made by the law enforcement community to combat crime and criminals over the past few years. This bill completely negates any rights of victims and gives those added rights to the criminals. Our system has become so bogged down in technicalities that are in favor of the criminals that officers almost have to have an attorney with them on patrol in order to make an arrest. It is time we treated criminals like what they are, criminals. When a person commits a crime and the officer makes a harmless error in the investigation does that make the criminal any less guilty? Of course not, but he usually gets off. If he doesn't he spends a minimum amount of time in a country club existence. He has more opportunities in prison than most persons on the outside.

I fully understand that this bill commits a large sum of money to state and local law enforcement agencies. However, those monies are yet to be funded and even if they were the problems that the bill itself would cause would negate those funds because we would have to be using it to find ways to make up for the new inadequacies in the system.

As I sit and read the information on the bill I am completely amazed that this "thing" has actually made it this far through the process. I am appalled that it has come to this. Most of all I am frightened that if this bill actually passes and becomes law that I will have to deal with it on a daily basis. Our jobs are made most difficult by what has transpired in the past similar to this. Please don't make our jobs more difficult and your family's security more threatened by supporting this bill. I and my organization would be more than willing to discuss this matter with you at any time. We request that you please reply to this correspondence.

Fraternally,

ALVIN L. ARROWOOD III,
President.

IN MEMORY OF PHYLLIS JEAN GRAHAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. McEWEN. Mr. Speaker, I rise today to say a few words in honor of Phyllis Jean Graham of Columbus, OH.

During the past district work period, while we were all back home and this Chamber was quiet, Mrs. Graham passed away after a valiant battle with lung cancer that lasted over 4 years. She was a dedicated and successful mother, grandmother, legal secretary, businesswoman, wife, and Godly woman. She truly touched and brightened the life of every person who knew her.

Her husband of over 32 years, the Honorable District Court Judge James L. Graham, recently delivered remarks in remembrance of her passing. Mr. Speaker, I would like to take this opportunity to enter his remarks in the RECORD, as they are truly a testimony to the spiritual beauty and lifetime of achievement of Phyllis Jean Graham:

TRIBUTE TO PHYLLIS JEAN GRAHAM

JANUARY 10, 1941–DECEMBER 22, 1991

We have come here this afternoon to celebrate the life of a remarkable woman who touched the lives of many people. At first it didn't seem possible that I could speak here, but as the days passed and things came into better focus, it didn't seem possible not to. Yes, the pain of saying goodbye is sometimes overwhelming but most of the time I have been sustained by a sense of peace and gratitude, even joy, which I think you'll understand better when I have finished, so if I have a problem just bear with me—it will be temporary.

Phyllis Jean Bryant was born on January 10, 1941 in northeastern Kentucky—a part of Appalachia—near the little town of Louisa. She was the first of four children born to the marriage of Monville Bryant and Emagene Davis. Her father worked in the coal mines when there was work. Times were hard and money was scarce. She attended a little four room school. Sometimes her mother had to sew her school dresses out of flower sack material. Her aunt was the schoolteacher. But Phyllis said she never got any breaks from Aunt Ollie, she expected more from Phyllis than the other children and she got it. Notwithstanding the financial hardships, Phyllis remembered her childhood in Kentucky as a happy time, playing with her sisters Dianna and Carolyn and her brother Jarold and her many cousins. She loved to tell stories of their adventures on her Grandpa Davis's farm—material that Mark Twain could have put to good use. And if there was a Tom Sawyer among them, it was Phyllis. Yes, Phyllis was a tomboy, but she was respected for it. For instance, at school there was a girls softball team, but the boys played baseball. Guess who the boys chose as their pitcher?

The family moved to Ohio when Phyllis was about 10 years old and finally settled on a small farm in Madison County near West Jefferson. Both parents worked, and Phyllis, as the oldest child, was expected to help with the farm work, the house work and the care of the younger children. In her early teens, it was not unusual for Phyllis to arise at 5:00 a.m. to fix breakfast for her father, get the other children ready for school, then catch

the bus herself. After school she would do house work, farm chores, and watch the younger children until their bedtime and then turn to her homework. Nevertheless, she was an outstanding student, loved and respected by her classmates and teachers at West Jefferson High School.

In June of 1956, Phyllis applied for her first job—a summer job as a waitress at George's Drive-In, a popular drive-in restaurant on the west side of Columbus. She was only 15 so I think she may not have been entirely truthful about her age—but she was hired. Now in those days waitresses in drive in restaurants were called "car-hops" because they took the food out to the customers' cars on trays and they usually wore snappy uniforms. Well, the first day she started work, this car-hop attracted the intense interest of a 17 year old counter boy named Jim. I didn't waste any time asking her for a date but she turned me down—several times—but I persisted and finally she agreed and thus began a relationship that lasted 35 years.

Within a few months we were going steady and before a year had passed we were sure we loved each other and planned to marry as soon as Phyllis graduated. As you might imagine, our parents viewed all of this with some alarm, thinking this was a teenage infatuation. But it was much more than that. In the meantime, I graduated and started college, and sure enough on June 18, 1959, a week after Phyllis graduated from high school, we were married. Phyllis was 18 and I had just turned 20. We had a beautiful church wedding which we planned and paid for ourselves, but we underestimated the cost and slept in the car on the third night of our honeymoon. We arrived home with $3.50 to buy our first groceries—bologna and bread as I recall.

Phyllis went to work to support us and I finished up college that summer and started law school that fall. The next spring we decided that Phyllis should begin looking for a job as a legal secretary. As a first year law student, I didn't know much about the Columbus legal community but I immediately recognized the name of one of the lawyers who called her in for an interview. His name was Paul Herbert, a renowned trial lawyer who had also served as Lt. Governor of Ohio. As I drove her downtown to the interview, I told her what I knew about Mr. Herbert and by the time we got there, she refused to get out of the car, convinced that this great and powerful man would give short shrift to a teenager with a Kentucky accent and no experience as a legal secretary. Well, she finally did get out and she got the job and she soon won her way into Paul's heart. In fact the Herberts more or less adopted us while I was a law student. I will never forget the times we spent sitting at the bridge table in their wonderful house on the Olentangy with a fire crackling in the fireplace and the little girl from Louisa, Kentucky matching wits in cards and conversation with the master trial lawyer 40 years her senior.

Phyllis became an outstanding legal secretary. I doubt that she had an equal in this city. Two years later, Paul was elected to the Supreme Court of Ohio. Phyllis stayed with the law firm and later worked for Tom Herbert and Bob Holmes and it was the same story all over again—they all came to love her like a daughter and Bob and Tom both went on to become justices of the Supreme Court of Ohio where Bob Holmes continues to serve with distinction. So in her career as a legal secretary Phyllis worked for three justices of the Supreme Court of Ohio.

When I left the fine law firm I was with and began my own practice in 1969, Phyllis was my secretary, bookkeeper, paralegal—actually she was my partner—probably the senior partner. In fact, throughout our marriage, she has been the family business and financial manager. From her little office in the back of our home, she ran everything, including the farming of 400 acres. When we bought our farm on Roberts Road, which she loved, I told her I was too busy to build a house—so she did it herself. Phyllis was a competent businesswoman. She made wise decisions, she dealt with others with fairness and integrity, her accounts were always in order. For Phyllis, money was to be used to feed, clothe and educate her children, pay for the work of the church, to share with loved ones who needed it and invested wisely for the future security of her children and grandchildren. She rarely, if ever, spent anything on herself.

The 1960's were child bearing years; the 1970's were child rearing years; and the 1980's were grandchild bearing years. The challenges, the jobs, the adventures and accomplishments and, yes, the occasional setbacks and heartbreaks of those years would fill many chapters of a book. Our first daughter, Lisa, was born in September, 1961 while we were still in law school. Karen entered our lives in 1964; our son, Jim, in 1967 and our lovely little surprise, Laura, was born almost 8 years later in October, 1974. Lisa and our wonderful son-in-law, Greg Miller, began presenting us with grandchildren in 1985; first Rachel, then Sarah in 1988, Kristen in 1989, and Deborah in 1990. If you asked Phyllis what her most precious possessions were, those eight names—Lisa, Karen, Jim, Laura, Rachel, Sarah, Kristen and Deborah would be her instant reply.

The first priority in Phyllis' life was her role as a mother. She gave herself to it completely, she was a devoted and tireless mother. I would say that she was specially gifted in this area, and that her gifting enabled her to nurture not only her own children, but many others as well, children and adults. Her sister, Dianna, told me yesterday that she was a mother to her and Carolyn when they were growing up and then smiled and said, "and of course she never stopped."

When we look at Phyllis' ability to nurture other people, her capacity to love them unconditionally, to encourage them and bring out the best in them, we are approaching very near to the thing which was at the center of her being—the hub from which everything else radiated like the spokes of a wheel. That center, that hub, was her relationship with God and her faith in His Son, Jesus Christ.

Phyllis' faith had its roots in her early childhood in Kentucky. She became a Christian when she was still a little girl. She knew she was a Christian not because she was born into a Christian family, not because she attended a church, but because even at that early age she made a decision to accept God's gift of salvation and eternal life, by inviting Jesus Christ into her heart and committing herself to follow Him. That was a commitment she kept for the rest of her life.

There may be some here who did not know of the spiritual dimension of Phyllis' life—I think not many. But if that be the case and if you have perhaps felt that there was something special about her, something that drew you to her, the feeling that she really cared about you—it was her relationship with the Creator of the universe and the love of His son, Jesus Christ, that streamed out from her heart and energized her very being.

Phyllis was a child of God. She was a devoted student of the Bible. She was diligent in prayer. She was a leader of a home fellowship group, within the church. She was a spiritual mentor and counselor to many. She had the radiant beauty of a Godly woman. She had a burden for people who were hurting: the lonely, the bereaved, those suffering as a result of failed relationships. And God used her effectively as the instrument of His love to heal such people.

Eight and one-half years ago it finally sank into my thick skull what it was that was so special about this woman I loved. I had spent twenty-five years looking for significance and fulfillment in my career, in success, recognition, money, power, possessions, and yet feeling very empty in the midst of great success—as the world measures success. Yet here was Phyllis quietly and steadily accomplishing things of real and lasting significance and finding great fulfillment. When you're pursuing the agenda I was pursuing, you always think just a little more is what it will take to make you truly happy, and I had pushed my agenda to the point that it threatened our relationship. This began my own search, a search for answers to the most important questions in life—questions I had effectively swept under the rug twenty-five years before while I was in college. Questions like: Is there a God? What is the purpose of life? If God is good, why is there pain and suffering and death? Who is Jesus Christ? I found convincing answers to these questions in the same place Phyllis had been finding them all along, right here in this book: the Bible.

So eight and one-half years ago our relationship took on a radical new dimension as we became partners in a spiritual sense, completing the missing link in God's design for marriage. I wouldn't trade those last eight and one-half years for anything.

Phyllis was faithful to God and God was gracious to Phyllis, even in her death. As most of you know, four and one-half years ago we learned that Phyllis had lung cancer. She had surgery and radiation treatments. The doctors gave her only a few months to live—a 6% chance of surviving one year. But she beat the odds and while she had some limitations, she did reasonably well. In many ways, these past four years have been the most productive and most fulfilling years of her life. We now know that the radiation treatments caused irreversible damage to her heart.

Saturday night Phyllis was with the people she loved best, her mother, her sisters, her children and her grandchildren. She died peacefully, painlessly and unexpectedly Sunday morning in the house she built on the land she loved. The work she did here will go on and on, like the ripples on the surface of a pond, in the many lives she touched and in the role she modeled for others to follow. And we know that at this very moment she is with the Lord happily awaiting our arrival.

Sometime before 700 B.C. God inspired one of the Hebrew authors of the Book of Proverbs to record a description of a Godly woman. I think it describes in an uncanny way the lady we honor today and I would like to conclude by reading it as a tribute to her.

If you can find a truly good wife, she is worth more than precious gems!
Her husband can trust her, and she will richly satisfy his needs.
She will not hinder him, but help him all her life.
She finds wool and flax and busily spins it.
She buys imported foods, brought by ship from distant ports.

She gets up before dawn to prepare breakfast for her household, and plans the day's work for her servant girls.
She goes out to inspect a field, and buys it; with her own hands she plants a vineyard.
She is energetic, a hard worker,
And watches for bargains. She works far into the night!
She sews for the poor, and generously gives to the needy.
She has no fear of winter for her household, for she has made warm clothes for all of them.
Her husband is well known, for he sits in the council chamber with the other civic leaders.
She is a woman of strength and dignity, and has no fear of old age.
When she speaks, her words are wise, and kindness is the rule for everything she says.
She watches carefully all that goes on throughout her household, and is never lazy.
Her children stand and bless her; so does her husband. He praises her with these words:
"There are many fine women in the world, but you are the best of them all!"
Charm can be deceptive and beauty doesn't last, but a woman who fears and reverences God shall be greatly praised.
Amen.

JAMES L. GRAHAM,

DECEMBER 29, 1991.

HAPPY 84TH BIRTHDAY TO PETER DESIBIO

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. McGRATH. Mr. Speaker, I would like to take this opportunity to wish a very happy 84th birthday to one of my closest friends and advisers, Peter DeSibio of Inwood, NY.

Uncle Peter as he is well known to his friends and family, is a well respected leader in his community. He has worked tirelessly for numerous charities and neighborhood events. Early in my political career, he took me under his wing and his advice and counsel has proved invaluable.

Among Uncle Pete's accomplishments have been his long-time support and involvement with his parish, Our Lady of Good Council in Inwood; he has also been active with Yeshiva South Shore. His work with youth groups and child care led to the naming of a local day-care center as the Peter J. DeSibio Five Towns Child Care Center. He has also been active with events to maintain Franklin Hospital. This work and countless other projects have made Uncle Pete a respected community leader for over 50 years.

I am proud of my relationship with Peter DeSibio. I wish him my very best and remain confident that Uncle Pete will continue making contributions to his community in the years to come. Congratulations, my friend.

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM: A NATIONAL EXAMPLE FOR COST CONTAINMENT AND QUALITY CARE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. KOLBE. Mr. Speaker, it's become a cliche by now, but it's no less true: the American health care system is in crisis. This year, health care costs will consume 14 percent of the U.S. gross national product. The average American family will spend $4,300 of family income on health care this year. Despite this enormous expenditure, nearly 36 million Americans were uninsured in 1991. And even more startling—10 million of those uninsured are children.

I am convinced we must once again marry health care to the market system if we are ever going to find a rational system. And so, I applaud the President's reform proposal outlined just a few weeks ago. President Bush's Comprehensive Health Reform Program is headed in the right direction and contains the essential elements for a successful solution to this Gordian knot.

In his plan the President specifically addressed how we can make public health care programs more efficient. As an example of this efficiency at work, President Bush pointed to Arizona's Medicaid program, known as the Arizona Health Care Cost Containment System [AHCCCS, pronounced access]. The President's plan states:

Until 1982, Arizona was the only State that did not participate in Medicaid. County governments provided acute and long-term care for the poor. In 1982, Arizona established a Medicaid program and obtained a waiver to operate this through the Arizona Health Care Cost Containment System [AHCCCS].

AHCCCS is unique in that all care is provided through coordinated care arrangements. There is no fee-for-service option. Arizona contracts with participating health care organizations [HCOs] through a bidding/negotiation process. Modest savings have been achieved—estimated by HCFA at 5.7 percent in the fourth year of the program compared to fee-for-service alternatives.

Arizona's AHCCCS program provides service to nearly 420,000 Arizonans needing health care. There are 14 provider organizations that contract with the State and 70 percent of all doctors in Arizona are registered providers with AHCCCS.

A 1989 study conducted for HCFA found that AHCCCS was less expensive, provided higher quality of care for children and had better access to routine care than traditional Medicaid. Over the program's first 5 years, the average per capita costs for AHCCCS increased at a rate of 23 percent while those for traditional Medicaid increased 37 percent. As for consumer confidence, according to 1991 Gallup Poll, 85 percent—nearly 9 out of 10 Arizonans—believe increased AHCCCS funding should be a high or medium State priority.

Mr. Speaker, as Congress examines the proposed solutions for national health care reform, progress already made at the State level needs to be closely examined. Successful, innovative programs like AHCCCS are shining examples for Federal reform. AHCCCS is living proof that Federal mandates and socialized medicine are not necessary to achieve affordable, quality, government-sponsored health care. I urge my colleagues to study the Arizona AHCCCS program and support the President's proposal to allow States more flexibility to experiment with similar cost containment systems.

TRIBUTE TO CLARK DONATELLI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MACHTLEY. Mr. Speaker, it is my distinct honor and privilege to rise today in recognition of a young man that I, along with many Rhode Islanders, have come to greatly admire and respect. This man participated in the Winter Olympic Games as a member of the U.S. Hockey Teams of 1988 and 1992. His name is Clark Donatelli of North Providence, RI.

At a very young age, Clark had a dream and dedicated himself to being the best hockey player possible. As a member of the hockey teams of Moses Brown and then following at Boston University, Clark distinguished himself as an outstanding player and as a team leader.

Most recently, this young man had the unique opportunity to represent the United States for a second time as a member of the Olympic Hockey Team in the 1992 Winter Games. As team captain, Clark's impressive performance on the ice truly served as an inspiraiton to his teammates, as each individual player under his leadership, tirelessy displayed their unyielding effort for our country.

But Clark's accomplishments transcend athletics. He is a young man with strong personal character and integrity. I am truly impressed by his dedication and loyalty to being the best he can be both on and off the ice. Certainly Clark, who has accomplished so much in such a short period of time, represents excellence in every sense of the word. For his excellence as an American Olympian and as someone who represented the United States and Rhode Island with great pride and enthusiasm, I am truly honored to have the opportunity to join with Clark's family, friends, and fellow Rhode Islanders in recognizing his outstanding personal achievements.

INTRODUCTION OF LEGISLATION REGARDING BANKRUPTCY PROCEEDINGS

HON. JOAN KELLY HORN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. HORN. Mr. Speaker, Lambert St. Louis International Airport, TWA's hub airport, is located in my district. Lambert employs 52,900 directly and indirectly in the metropolitan re-

gion, generating $3.9 billion annually. TWA controls 74 percent of the gates at Lambert.

This past January, TWA filed for bankruptcy protection under chapter 11. While we remain optimistic about the chances of TWA under reorganization, we are also realistic that current law would allow nearly three-quarters of the airport's gates to be tied up in bankruptcy court.

Today I am introducing legislation to address issues of great importance to the St. Louis metropolitan area, as well as any community which may face a major bankruptcy proceeding.

We have seen what happens when a carrier fails. Today, at Atlanta's airport, once hub to Eastern Airlines, concourse C is dark. It has been closed down for the past 14 months while the Eastern bankruptcy proceedings continue. Until that is finalized, these valuable gates serve only as paper assets in the negotiations.

My legislation amends the Bankruptcy Code to prevent this from happening in St. Louis or other hub airports affected by bankruptcies. The goal of my bill is to allow airports to continue to operate and serve the public with full transportation services in the case of a major airline shutdown. At the same time, it allows communities in the vicinity of an affected airport to protect against a major economic impact.

This goal is supported by the second section of my bill. Currently, government entities, including State and local governments and pension guarantors, are prohibited from sitting on creditor committees in bankruptcy cases. My bill simply provides that these civic entities are no less deserving of a voice than any other major debtholder.

Mr. Speaker, I ask my colleagues to support this legislation and hope that we can move forward with these and other bankruptcy reforms this year.

TRIBUTE TO CHARLES MILHEM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. TRAXLER. Mr. Speaker, I rise to pay special tribute to Charles Milhem who is being honored by the American Amusement Machine Charitable Foundation as the Coin-Operator Man of the Year, on March 15, 1992 at its annual appreciation dinner in San Antonio, TX. Chuck is a good friend, a successful businessman, and a person of outstanding integrity and honesty.

Chuck's career in recreational products began when Larson Boats, a division of the Brunswick Corp. offered him a job, he jumped at the chance and thus began his 30-year love affair with the world of recreational games. At Brunswick, he was soon promoted to their international division on bowling. The game was a growing phenomenon and Chuck represented Brunswick around the world, introducing the sport. And, when the corporation combined its bowling and billiards division, Chuck returned to an early love, the game of pool. He was there when air-hockey was born and he was tapped to market the new concept.

Chuck's work ethic was instilled early in life. His father, a carpenter, took a lot of pride in his work and it left an impression on young Chuck. His long-standing career in the marketing and promotion of recreational products gives credence to his motto, You have to feel good about what you're doing.

Chuck's career was destined for yet another change. In 1979, he was named president of Valley Recreation in Bay City. His experience and expertise in organizing and working with people and his enthusiasm for billiards eventually brought about the Valley National Eight Ball Association which today has close to 50,000 sanctioned players. VNEA is also concentrating on junior leagues in Boys and Girls Clubs across the country.

Chuck was naturally drawn to the Boys and Girls Clubs of Bay County because of his early and fond association with a neighborhood Boys Club where the values he learned at home were reinforced. He credits his early experience with the Boys Club for much of his success in life. It's been my pleasure to present Chuck with awards in 1988 and 1990 from the Boys and Girls Clubs in appreciation of his love and friendship. Needless to say, recreational games are in abundance at the local club.

Chuck's distinguished awards are many and include the 1991 Industry Service Award from the Bowling and Billiard Institute of America, [BBIA] as well as awards of appreciation in 1984 and 1990 for service as a director and in 1989 for faithful and progressive leadership as president. In 1990, the Billiard Congress of America presented him with the president's award for outstanding contributions to the billiard industry.

Chuck is devoted to his lovely family—Florence, his wife of 35 years and their daughters, Laurel and Janice, who credit Chuck's teaching of strength, dignity, and love for their successful careers.

Please join me in congratulating Charles Milhem as Man of the Year and in recognizing his leadership and very significant contributions to the recreation industry and his community.

A TAXING SOLUTION TO THE OZONE HOLE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. STARK. Mr. Speaker, the ozone hole has again forced itself to the front pages as one of the leading environmental dangers confronting us. The need to accelerate getting rid of chlorofluorocarbons or CFC's has even been recognized by President Bush who called for a faster phaseout of CFC's.

The Congress enacted a tax on CFC's in 1989 to help switch industries off of CFC's and spur development of alternatives. The Wall Street Journal on February 12 attributed much of the 42-percent drop below 1986 production levels to the tax on CFC's. Taxes have clearly worked to move companies away from CFC's to other products or production methods.

We can and must do more. I am introducing legislation today which advances the scheduled phase-in for the CFC tax. If we can move the time frame ahead on the ban, we must also advance the time frame on the tax.

Additionally, the legislation imposes a tax on hydrochlorofluorocarbons of HCFC's. HCFC's should not be counted on as a solution by industry to the CFC problem. They should be seen as a temporary substitute that must pay a price for being an ozone destroyer as well. HCFC's have always been known to damage the ozone. However, their destructive power has been underestimated in the past. Recent studies show HCFC's to be much more damaging than originally expected. The Washington Post on February 23 discussed a report by the Institute for Energy and Environmental Research showing HCFC's to be three to five times more damaging than previously suspected. To protect the ozone, tough action must be taken on HCFC's.

Using taxes to speed up the switch from CFC's and HCFC's to alternatives is an approach that is strongly supported by environmental organizations. These include Friends of the Earth, National Resources Defense Council, Environmental Defense Fund, National Wildlife Federation, and the Center for International Environmental Law—U.S.

It is clearly the policy of the Federal Government to act on CFC's. We must use all tools available. Let us strengthen a proven tax to get rid of these destructive chemicals as fast as possible.

H.R. —

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

SECTION 1. MODIFICATIONS TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) ACCELERATION OF IMPLEMENTATION OF EXISTING TAX.—

(1) IN GENERAL.—Paragraph (1) of section 4681 of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) BASE TAX AMOUNT.—For purposes of subparagraph (A), the base tax amount is—

"(i) $3.10 plus

"(ii) in the case of any sale or use of an ozone-depleting chemical in a calendar year after 1992, $1 for each year after 1992 (including the year in which such sale or use occurs)."

(2) REPEAL OF PHASE-IN FOR CERTAIN CHEMICALS.—Subsection (g) of section 4682 of such Code is hereby repealed.

(b) CERTAIN HCFCs MADE SUBJECT TO TAX.—

(1) IN GENERAL.—Subsection (a) of section 4682 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN HCFCs.—For purposes of paragraph (1)(A), a substance is described in this paragraph if—

"(A) such substance is listed in section 602(b) of the Clean Air Act (as in effect on the date of the enactment of this paragraph), or

"(B) such substance is an isomer of a substance so listed."

(2) TAXED AT 50 PERCENT OF BASE RATE.—Subparagraph (A) of section 4681(b)(1) of such Code is amended by adding at the end thereof the following new sentence:

"Notwithstanding the preceding sentence, in the case of a substance described in section 4682(a)(3), the tax imposed by subsection (a) per pound shall be 50 percent of the base tax amount."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 4682(a)(1) of such Code is amended by inserting "or is described in paragraph (3)" after "paragraph (2)".

(B) Paragraph (3) of section 4682(d) is amended—

(i) by striking "and subsection (g)" in subparagraph (B)(i)(I),

(ii) by striking "and other chemicals" in subparagraph (C)(i) and inserting ", chemicals described in subsection (a)(3), and other chemicals",

(iii) by redesignating clause (iii) of subparagraph (C) as clause (iv) and by inserting after clause (ii) the following new clause:

"(iii) APPLICATION TO CHEMICALS DESCRIBED IN SUBSECTION (a)(3).—In applying subparagraph (B) to chemicals described in subsection (a)(3)—

"(I) subparagraph (B) shall be applied by substituting '1991' for '1986' each place it appears, and

"(II) rules similar to the rules of clause (ii)(II) shall apply."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) FLOOR STOCKS TAXES.—

(A) IN GENERAL.—If any ozone-depleting chemical is held on the date of the enactment of this Act by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax on such chemical in an amount equal to the excess of—

(i) the amount of the tax which would be imposed by section 4681 of the Internal Revenue Code of 1986 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the day after the date of the enactment of this Act, over

(ii) the tax (if any) previously imposed by such section 4681 on such chemical.

(B) DUE DATE.—The taxes imposed by this paragraph shall be paid on or before the date 6 months after the date of the enactment of this Act.

(C) APPLICATION OF OTHER LAWS.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this paragraph.

(D) OZONE DEPLETING CHEMICAL.—For purposes of this paragraph, the term 'ozone-depleting chemical' has the meaning given to such term by section 4682(a) of such Code (as amended by this section).

(E) REPEAL OF EXISTING FLOOR STOCKS TAXES.—Subsection (h) of section 4682 of such Code is hereby repealed.

PARADISE CAN BE LOST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mrs. MINK. Mr. Speaker, paradise is more than an abstraction to the people of Hawaii, because we sincerely believe it describes our beautiful islands. But as we all know too well, paradise can be lost. Lost through lack of foresight. Lost through greed. Lost through simple human weakness.

And unfortunately, we have lost too much of Hawaii's beaches, waters, mountains, and verdant valleys to reckless development and pollution. We have seen overgrazing, nonnative species, runoff, and other fallout of our own neglect strip away centuries of God's handiwork and leave in its place eroded hillsides, barren reefs, and unforgiving pavement.

Mr. Speaker, I have today introduced a bill to authorize the National Park Service to undertake necessary feasibility studies to establish certain new units of the National Park system in the State of Hawaii.

I ask the Congress to authorize such studies for areas on the islands of Maui, Lanai, Molokai, and Kauai, because these areas have environmental, cultural, or historical significance of national importance that deserve preservation.

All are under present or potential jeopardy because of encroaching development.

Each represents a unique resource to the community and Nation that I consider irreplaceable.

And together as park units in Hawaii they would reiterate to the citizens across this country that the National Park system continues to be a vital and attentive guardian of the best of our natural treasures.

My bill describes the specific areas I have in mind for the National Park Service to investigate: The shoreline area on Maui Island known as North Beach; the mountaintop of central-Lanai Island; Anini Beach and the north shoreline of Kauai Island, and Molokai Island's northern coastline from the present National Historic Park boundary at Kalaupapa Settlement to Halawa Valley.

I know these are just names of unknown places today in these halls of Congress, Mr. Speaker. But like each and every one of our National Park units now in existence, they have special relevance and meaning to the surrounding community disquieted by their possible loss from public use, enjoyment, and contemplation.

It is my fervent hope that the feasibility studies this bill authorizes lead to further evaluation by the National Park Service, and that these areas then satisfy all appropriate criteria for National Park status.

I ask my House colleagues to join in this effort, and thank you Mr. Speaker for the courtesy of this time to speak.

A CONGRESSIONAL SALUTE TO GROVER CLEVELAND ELEMENTARY SCHOOL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the Grover Cleveland Elementary School, its principal, Lue Dean Magee, the staff, teachers, students, and parents of this excellent educational institution. Grover Cleveland Elementary is the first elementary school of the Long Beach Unified School District to qualify for the Blue Ribbon School Award. This award program recognizes the outstanding performance of students in the 1989–90 school year with respect to the California Achievement Performance Tests [CAPS]. Although funding for the Blue Ribbon School Program has been discontinued, I feel that the accomplishments of Grover Cleveland Elementary warrant this congressional salute.

Cleveland School is located in the beautiful city of Lakewood. It enrolls approximately 800 students in its prekindergarten through fifth grade. The Cleveland School's motto is "Learning for Success—A Commitment to Excellence." Their mission is to ensure the educational success of all students by stressing high expectations, a commitment to excellence, and a comprehensive and innovative academic program, demonstrating the belief that all students can learn and become responsible and productive members of our society.

An example of Cleveland School's innovative curriculum is the Aerospace Technology Magnet Program, which enables third, fourth, and fifth grade students to study state-of-the-art computers and other high-tech equipment in science labs. Cleveland also initiated an Olympics magnet, where students compete in Olympic games representing the nations of the world. In addition, Cleveland is the home of one of the LBUSD's [Long Beach Unified School District] Deaf and Hard of Hearing Centers.

Parents in the community have played an important role in the implementation of the school's instructional programs and are supportive of the school's disciplinary procedures. Cleveland's PTA is responsible for a multitude of parental activities, including the school carnival, the talent show, book fairs, and Grandparent's Day.

My wife, Lee, joins me in commending the Grover Cleveland Elementary School for its stellar performance. We wish Ms. Magee, her staff, the teachers, students, and parents all the best in the years to come.

TRIBUTE TO OLLA M. PARREOTT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. PALLONE. Mr. Speaker, this Thursday, March 5, 1992, a retirement dinner is planned for a very special lady who has been a vitally important part of our community for more than a quarter of a century. Mrs. Olla M. Parreott of Asbury Park, NJ, is being honored for her 27 years of service as a primary school teacher in the Asbury Park School District.

Olla M. Parreott, (nee Stradford), was born in Lancaster, SC, and graduated from the North Carolina Central University. After her marriage to the Reverend Brother David J. Parreott—himself a major figure in the community—she moved to Asbury Park. After several years working as a homemaker and doing part-part work for the Internal Revenue Service and with a local law firm, Mrs. Parreott decided to get into teaching. She began at the

Bangs Avenue School, then went to the Bond Street School and finally to the Bradley School where she has taught third grade for many years. After 27 years and 5 months working with the young people of her community, Mr. Parreott has decided to retire.

Mr. and Mrs. Parreott have been married for 34 years. Their two sons, David Parreott III and Derrick B. Parreott have both entered the clergy. Olla Parreott has always managed to find the time to serve her church and her community. She is a member of St. Stephen A.M.E. Zion Church, Asbury Park, the president of the Local Laity Council at St. Stephen, a member of the Goodwin choraleers, and a teacher at the Sunday school. She is also a member of the alliance for a drug free Asbury Park, a past member of Pop Warner and little league and a former den mother.

Mr. Speaker, Olla Parreott's years of service to her community have benefited the lives of hundreds of youngsters from Asbury Park. Her former students and fellow teachers certainly are well aware of this. With all of the dangers and difficulties faced by kids growing up in the cities today, the positive influence of a woman like Olla Parreott can and does make a real difference for young people—often the stark difference between hope and despair. Thanks to the work of Olla Parreott, generations of young people in Asbury Park received the vision of hope.

A TRIBUTE TO CWO MORRIS GOLDMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Morris Goldman of Forest Hills, Queens. Mr. Goldman is the command supervisory staff administrator of the 77th U.S. Army Reserve Command. He will celebrate his 70th birthday with a party in Great Neck, NY, on Sunday, March 8.

Mr. Goldman has over 50 years of combined military and Federal service. His distinguished military career began at the age of 18 when he enlisted with the 100th Infantry Division in 1942 and was assigned to the communications section of the 3d Battalion, 397th 1st Regiment. He received a Purple Heart for his valor in World War II after being wounded during an attack in Rimling, Germany. By the time the war ended, Goldman had advanced to sergeant major of the 3d Battalion.

In 1947 he became a member of the 77th Infantry Division. In 1951, he was appointed a warrant officer and received a dual status position as the senior civilian responsible for the day-to-day operations of the division's headquarters. By 1954, he had established himself as the senior civilian technician and principal assistant to whomever was the commanding general.

Mr. Goldman's many military awards include the Legion of Merit, the Bronze Star Medal with Oak Leaf Cluster, Purple Heart, Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal, the Army Achievement Medal, Good Conduct Medal, National Defense Medal, Armed Forces Reserve Medal, Victory Medal, the Combat Infantryman's Badge, a Presidential Unit Citation, the AME Ribbon with three Battle Stars, and the Order of Saint Barbara.

Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in congratulating CWO Morris Goldman on the occasion of his 70th birthday.

THE SHOOTING OF JACK RUSS AND THE DEATH PENALTY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Ms. NORTON. Mr. Speaker, yesterday, while I was at D.C. General Hospital visiting House Sergeant at Arms, Jack Russ, some Members took to the floor to call for the death penalty in the District. Jack seemed in remarkably good shape, ever generous and congenial, after the outrageously harrowing experience of being shot while walking his dog in Garfield Park.

Members who think that the death penalty is an answer had best look at the data from their own districts. States that have the death penalty have murder rates as high, yes, and often higher than States without the death penalty.

A brutal sanction, abolished in all but a few mostly oppressive countries, one that does not deter, and is applied only after a killing, is not good enough, my friends. Our people want us to prevent the killing. Have you taken a stand on stopping the slaughter? Where do those who trumpet the death penalty stand on the Brady—national hand gun control—bill? How did you vote on the assault weapon provision of the crime bill the day after the unprecedented Kileen, TX, massacre in October? Where do you stand on the strict liability assault weapon referendum passed overwhelmingly by the people of the District of Columbia last November? I'm afraid there is a remarkable and irrational correlation between votes that keep guns in the hands of thugs and votes in favor of the death penalty.

Virtually no part of this country has escaped today's horrific crime wave—small bucolic towns and big dangerous cities alike. The killing must be stopped, and stiffer penalties, including life in prison without the possibility of parole, must be applied. But let us not add to the madness of the killing the insanity of a remedy that will not stop the killing. If you want to stop the killing there are proven ways—and the death penalty is not one of them.

CONGRESSMAN KILDEE CONGRATULATES LAPEER COUNTY CLERK MARY ELLEN THICK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. KILDEE. Mr. Speaker, it is a privilege for me to rise before you today to recognize the lifelong achievements of Mary Ellen Thick. On January 31, 1992, Mary Ellen retired from her post as the Lapeer County clerk after 44 years of tireless public service.

Mary Ellen Thick was born to Harry and Mary Best, on June 18, 1929, in Metamora, MI. A lifelong resident of Lapeer County, Mary Ellen graduated from Lapeer High School in 1947. In 1948 she married Jack A. Thick and their union produced three children, Phillip, Mary, and Gary.

It was inevitable that Mary would become involved in government, given her family's history of commitment to public service. Her father, Harry Best, served as the Metamora Township supervisor and as a Lapeer County road commissioner. Mary Ellen's brother, Harold, recently retired after serving as the Metamora Township supervisor for 25 years. Mary Ellen continued the family's tradition when she began working for Lapeer County on January 2, 1948.

In 1957, she became deputy to Lapeer County Clerk Lyle Stewart. In 1975 she was named to the clerk's post to complete Stewart's term. In 1976, Mary Ellen made her mark in history when she successfully ran for the office of clerk, becoming the county's first elected female clerk.

Having served Lapeer County through 11 presidential races and local elections too numerous to count, Mary Ellen has now chosen to elect herself a well-deserved rest. She will be dearly missed by all of those who had the pleasure of working with her.

Mr. Speaker, I ask you and my colleagues to join with me in honoring Mary Ellen Thick. She may be officially departing from the public eye, but she will never be forgotten. The dedication and professionalism she has displayed over the years will continue to set the standard for public servants for years to come.

MORE BLATANT WASTE

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. ROEMER. Mr. Speaker, since I was sworn into this body last year I have done my best to help cut spending and save taxpayers dollars from being wasted. This has been a difficult task, because far too often Congress spends large sums of money on projects that this country simply cannot afford.

A perfect example was the vote on February 25, to spend upward of $70 million dollars on the "Steamtown National Historic Site." Without any authorizing authority, Congress expends these many millions of dollars on a project of highly questionable value and significance.

Mr. Speaker, I truly regret that we did not have a roll call vote on this issue. This spending should not have proceeded on a project whose value was so highly contested in the current poor economic atmosphere. This is the time for difficult choices, and the taxpayers do not want to hear that the Government is funding multimillion dollar theme parks while we are asking them to tighten their belts.

We in Congress need to send a message to the people we represent, telling them that we

are spending their tax dollars intelligently. I am afraid that the message they are getting is just the opposite, and they are justifiably angry with this institution.

Our authorization process was established for the proper conduct of business, but this process has too often been ignored. It is time to end these blatant examples of pork-barrel excess. We have a duty to the American taxpayer, and, Mr. Speaker, one would think an obligation to use common sense.

THREE GIRL SCOUTS EARN COVETED "GOLD AWARD"

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. NOWAK. Mr. Speaker, it is always a genuine pleasure to recognize the accomplishments of one's constituents. Such a case recently was brought to my attention by Ms. Ann Marie Przybyl, program services director of the Girl Scout Council of Buffalo and Erie County, Inc., who advised me that the Girl Scout Gold Award—the highest award achievable in Girl Scouts—was presented to three young women from the 33d Congressional District of New York, which I am privileged to represent.

This award, according to Ms. Przybyl, "reflects a progression of skill building, leadership development, and career exploration activities; and includes the design, development, and carrying out of a special Gold Award project." The award was presented to Diane Bittermann of Lancaster, NY, and Kimberly S. Gengler and Lori Ray of Depew, NY.

Ms. Przybyl described their respective projects in this way:

Diane decided to gain first hand experience in what she thought would be her career choice of education while she served her church community as a religious education teacher. She taught a fourth grade class of 25 students which involved developing lesson plans, tests, and report cards.

Kimberly ran a neighborhood-wide book drive, utilizing her computer skills to develop informational flyers and posters about the project. As the number of donations grew, she organized her troop to help sort and deliver the donations. An estimated 4,500 books and magazines were distributed among the following charities: Brothers of Mercy, Williamsville View Manor, City Mission, Children's Hospital, St. Benedict's Elementary School, Depew High School, the Native American Center, and Haven House.

Lori organized a clothing drive for Haven House, a center for battered women and children. As an incentive for participating in the drive, Lori developed program links for Girl Scout troops. What makes her commitment to this project unique is that it is conducted year-round, not just a one-time drive.

These three young women should be commended for their achievements, and I am delighted to offer my sincere congratulations.

I would also like to thank Ms. Przybyl for bringing this to my attention.

TRIBUTE TO JUDGE IRVING R. KAUFMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to speak in memory of my constituent, Judge Irving R. Kaufman, who died early last month in Manhattan at the age of 81.

Irving Kaufman was appointed to the Federal bench by President Harry S. Truman in 1949. At the time of his death, Judge Kaufman was serving on the U.S. 2d Circuit Court of Appeals in New York, to which he was appointed by President John F. Kennedy in 1961. He was chief justice of the court for 7 years.

Judge Kaufman was Chairman of the President's Commission on Organized Crime during the Reagan administration. The judge also received the Presidential Medal of Freedom, the Nation's highest civilian honor, from President Reagan in 1987.

During his 30-year tenure on the Federal bench, Judge Kaufman wrote landmark decisions in first amendment, civil rights, and criminal cases. He would have wanted to be remembered as the judge who was the first to desegregate a public school in the North, and gave innovative decisions in antitrust cases. A firm believer in freedom of the press, in 1971 the judge was the dissenting opinion on a three-judge panel which decided not to disclose the Pentagon Papers to the public. The Supreme Court later concurred with his decision.

I join my colleagues in extending our sympathy to Judge Kaufman's wife, Helen, his son, and four grandchildren.

BODIE PROTECTION ACT OF 1992

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MILLER of California. Mr. Speaker, today I join Congressman RICHARD LEHMAN in introducing the Bodie Protection Act of 1992. This legislation will help protect the Bodie National Historic Landmark which, ironically, is threatened by the activity that made it famous—gold mining.

Located east of Yosemite National Park, the town of Bodie resembles its heyday in the 1880's when Bodie was a thriving mining town. Many buildings, shops, and houses along with their furnishings still stand. When times grew tough, the miners departed, leaving their personal belongings behind. Today, Bodie is a historic ghost town managed by the California State Department of Parks and Recreation. Rangers give tours of the town, providing visitors a glimpse of what life was like when 10,000 people once lived in Bodie.

Yet, the quiet ghost town is threatened by renewed interest in gold mining on the Federal lands surrounding the Bodie State Historic Park. In the National Park Service's 1990 and 1991 report on damaged and threated national historic landmarks, Bodie is listed as a priority 1 endangered landmark. In addition, the California State Legislature adopted a resolution asking the Congress to protect the historic, cultural, and natural resource values of Bodie. In response, the legislation we are introducing prohibits mining on approximately 6,000 acres of Federal land surrounding Bodie. Valid existing rights are protected.

Mr. Chairman, in addition to the California State Legislature, many organizations, including the National Trust for Historic Preservation, Wilderness Society, Sierra Club, Natural Resources Defense Council, and the National Audubon Society have expressed their interest in this legislation. I look forward to the bill's adoption.

SIXTH DISTRICT CONGRESSIONAL ARTS CAUCUS CONDUCTS ART CONTEST

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. BAKER. Mr. Speaker, last year the Sixth District Congressional Arts Caucus conducted an art contest for high school students in my district. This contest was very successful with 26 schools submitting 47 pieces of art. The first place winner of the contest is now studying at the College of Art in Memphis where she is using her prize money contributed by the Greater Baton Rouge Fair Foundation and presented by J.H. Martin, its chairman. I would like to thank Mr. Martin and the Fair Foundation for its generous contribution toward the making of this successful event.

The judges, Marty Blade, instructor of art at Southern University, Gail Hood, associate professor of art at Southeastern University, and Michael Crespo, director of the School of Art at Louisiana State University, had many outstanding works of art from which to select the winners. I would like to thank the judges for their generosity in giving of their time and expertise. I was proud of the level of achievement displayed by the art students of the Sixth Congressional District. Their hard work has been rewarded and I plan to continue supporting the arts caucus.

I would also like to thank Carol Gikas, executive director of the Louisiana Arts and Science Center, for allowing us to use their lovely facility for the art display.

Most importantly, I would like to commend Patricia Comeaux, chairman, and her committee members, Katherine Allen, Marilyn Bateman, Carolyn Blackwood, Susan Grey, Virginia Noland, Mary Ann Sternberg, Jane Thomas, and LeAnne Weill, for a job well done.

RESTORATION OF DEMOCRACY IN HAITI

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. FASCELL. Mr. Speaker, the Haitian Refugee Protection Act of 1992, which was

passed by the House last week, contained an amendment, offered by our colleague, Mr. SMITH of Florida, which calls on the President to urge the United Nations or the Organization of American States [OAS] to organize a peacekeeping force to be sent to Haiti. I strongly supported this amendment because I believe the solutions to the crisis facing Haiti and the plight of thousands on Haitians seeking to flee their beleaguered country lie in Haiti itself, not in the United States.

Within 48 hours of the tragic coup which deprived Haiti of the fruits of its first-ever democratically elected government, I brought to the House floor a resolution which was passed by the House and which called on the international community to "take all appropriate action to restore democratic government in Haiti."

Five months later and despite world wide condemnation and the imposition of an embargo by the OAS, democracy has still not been restored in Haiti. However, the agreement reached February 23 in Washington in talks under the auspices of the OAS between President Aristide, Prime Minister-Designate Theodore and a delegation of Haitian Parliamentarians is a promising step in the right direction. All sides represented at the talks compromised and signed a protocol setting out an agreed method for resolving the crisis. The next step is ratification of the protocol by the Haitian Parliament and the installation of Mr. Theodore as Prime Minister. But, the key to successful implementation of the protocol and the ultimate restoration of democracy is the acquiescence of the army, which was not represented at the talks. Progress toward a resolution of the crisis and restoration of democracy will only be possible with the agreement of the very same people who perpetrated the coup and have since been engaged in systematic repression of groups and individuals who opposed the coup or who were simply supporters of the ousted President. Despite the offers of amnesty and the lifting of the embargo and the prospect for renewed economic assistance, the odds for securing army agreement are long at best. As long as the Haitian Army continues to oppose the diplomatic efforts of the OAS and thwart implementation of the protocol reached in Washington, it is hard to envisage the shape of a political accommodation which would restore democracy and end the suffering of the Haitian people.

In these circumstances, Mr. Speaker, it is time for U.S. diplomacy to flex its muscles in a final attempt to bring about a peaceful resolution of the crisis. We must do everything in our power to secure implementation of the Washington protocol. The leaders of the Haitian Armed Forces, and their supporters in the Haitian elite, must be under no illusions whatsoever about the American position—illusions do exist, I am sorry to say, as a result of the recent weakening of the embargo. We must make clear that a return to democracy in Haiti is our top priority in the hemisphere and that the United States, in conjunction with either the United Nations or the Organization of American States will be ready, if an accommodation is not found, to support the dispatch of a multinational peacekeeping force to Haiti to create the conditions in which democracy can be restored.

Mr. Speaker, in October of 1991, I called for the use of all appropriate means by the international community to restore democracy. In early February of this year, I urged Secretary Baker publicly to support the sending of a multinational peacekeeping force and I joined our colleagues from South Florida in a letter to President Bush urging him to call on the United Nations or the OAS to organize such a force. And last week, Mr. Smith's amendment to the same effect passed the House without opposition. This clear message to the Haitian Army now needs to be repeated forcefully and insistently by the administration. There must be no misunderstanding in Port-Au-Prince: the Haitian coup will not stand.

LIFE BEFORE ROE V. WADE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. EDWARDS of California. Mr. Speaker, millions of people throughout the world were dismayed last month to read about a 14-year-old Irish girl, raped by her friend's father, who was barred by an Irish court from traveling to England for an abortion. Americans should remember that before Roe versus Wade was decided in 1973, American law imposed many of the same restrictions contained in current Irish law.

President Bush wants to reverse Roe versus Wade and the Rehnquist Supreme Court is preparing to do just that. H.R. 25, the Freedom of Choice Act will enact Roe into law. It deserves overwhelming support:

[From the Washington Post, Mar. 2, 1992]

LIFE BEFORE ROE V. WADE

The case of the 14-year-old Irish girl, allegedly raped by her friend's father, who was barred from traveling to England for an abortion, has been settled. Last week the Supreme Court of Ireland lifted the order of a lower court and allowed the girl to make the trip. The case has caused much political turmoil in Ireland, where abortion is banned by both statute and constitutional provision, and it may lead to changes in the law. But it was much discussed here as well, where the girl and her family won great sympathy and the Irish law much criticism.

What many Americans have forgotten is that before *Roe v. Wade* was decided in 1973, this country had laws very similar to those now in force in Ireland. Some women here were shocked to learn that Ireland not only prohibits abortion but forbids advertising, counseling or even the dissemination of information on where the operation can be obtained abroad or how much it will cost. Yet in the '60s that was exactly the situation here. No abortions, except in some states to save the life of the mother, no ads, not even an organized network (though there was a clandestine one) for providing information. By 1973 four states had legalized the procedure, and another 13 had allowed it in cases of rape and incest and where the mother's health or life was in jeopardy. The rest—33 states and the District of Columbia—prohibited abortion, and of that group only Mississippi allowed an exception in the case of rape.

Some Americans in a position of power want this country to return to the pre-*Roe* era and are counting on the Supreme Court's giving them that opportunity via state legislation. During the 1988 campaign, Vice President Quayle, for example, repeatedly made this point. He was asked by a 12-year-old girl if he could justify an abortion for her if she had been raped by her father. He said no. When asked what he would advise his own wife if she became pregnant after rape, he said he would tell her to carry the child. He was asked whether the woman raped by Willie Horton should have had an abortion if she had become pregnant, and he said that would be wrong.

This is the position of absolutist abortion opponents. The debate here will soon move from the academic to the very personal. Hypotheticals—a 12-year-old incest victim, a vice president's wife, a Maryland rape victim—could become as real as the Irish girl in last month's case. As the Irish consider changing their laws on abortion, Americans are hard pressed to hold on to the reforms already won.

MR. AND MRS. PATRICK NEE CELEBRATE 40TH WEDDING ANNIVERSARY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. MOAKLEY. Mr. Speaker, I ask you to join me in congratulating Mr. and Mrs. Patrick Nee on the occasion of their 40th wedding anniversary. Anne and Patrick were married on March 1, 1952 in Sacred Heart Church, Newton, MA.

Patrick was born in Roxbury, MA., to Anne and Patrick Nee formerly of County Galway, Ireland. He was the youngest of their five children. After high school, Patrick enrolled in the U.S. Marine Corps and saw active duty during World War II.

Anne was born in Connemara, County Galway, Ireland, to Mary and Patrick Trayers. She was 1 of their 13 children. Anne emigrated to Boston soon after completing school.

Anne and Patrick married and settled in the Dorchester area of Boston. They are the parents of three children: Anne, Mary, and Patrick, Jr.

Their love and respect for each other has sustained them through good times and bad times. Their home has been a welcoming and caring place for friends and family. Their generosity, kindness, and commitment to their marriage and children should be saluted.

NATIONAL GUARD AND RESERVE BURIAL BILL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1992

Mr. HARRIS. Mr. Speaker, today I introduced legislation to correct a problem that I believe is very unfair to our Nation's National Guardsmen and Reservists.

At present, under title 38, National Guardsmen and Reservists are not eligible to be buried in national cemeteries with exception to an

in-service death. I feel that this exemplifies an extreme lack of appreciation for the men and women who have dedicated their lives to our country.

The National Guard and Reserves had approximately 142,600 men and women who served in Operation Desert Storm. I hope that this fact alone proves what an important part that National Guardsmen and Reservists play in our Armed Forces. It is time to make a change in some of the rules to include this brave and devoted group of people.

Therefore, I have introduced a bill which would extend national cemetery burial rights to National Guardsmen and Reservists who have served 20 years in good standing. These men and women who have spent 20 years of their life as a member of the reserve or guard deserve this honor.

I ask my colleagues to support this measure. It is strictly a matter of fairness.