# SENATE—*Thursday, May 14, 1992*

*(Legislative day of Thursday, March 26, 1992)*

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

## PRAYER

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

Let us pray:

*God that made the world and all things therein, seeing that he is Lord of heaven and earth, dwelleth not in temples made with men's hands, as though he needed anything; and hath made of one blood all nations of men for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation; that they should seek the Lord * * *.*—Acts 17:24–27.

Eternal God, Architect of the universe, Lord of history, the Earth and the nations, these words of the Apostle Paul, spoken on the Areopagus in Athens, point us to the fundamental reality of existence. You are the Author of history, not its victim. You are in charge, not a helpless observer. You created us with freedom of choice, and reminded us that every choice has its own consequence, good or evil. You made us free to seek You, love You, serve You—or to disregard You, despise You, reject You. Forgive our indifference, our propensity to ignore You, to forsake You. Help us to see that our true humanity is realized in knowing You, our full potential in obeying You.

Gracious Father, in these confusing, catastrophic days, grant us grace to seek Your face, to conform to Your righteous order. In the name of Him whose life was a demonstration of true humanity. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 14, 1992.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Alabama is recognized to speak for up to 10 minutes.

## THE NEED FOR A BALANCED BUDGET AMENDMENT

Mr. HEFLIN. Mr. President, as of this month, the Federal debt continues to rapidly spiral out of control toward $4 trillion. According to Congressional Budget Office estimates, it cost the American taxpayers almost $300 billion to pay the interest on spending beyond what the Government collected in tax revenues and other income during the past fiscal year. This amounts to $5.5 billion every week, or $785 million every day. These figures are staggering, but it is even more frightening to consider the answer to the question, "What if interest rates were to double?"

In 1963, the total debt held by the public was $254 billion. Twenty years later, in 1983, it topped $1 trillion for the first time. I have a CBO table which shows each fiscal year increase in the budget deficit since we last had a surplus with the 1969 budget.

Mr. President, I ask unanimous consent that the table appear in the RECORD at this point in my remarks.

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

TABLE D–2.—REVENUES, OUTLAYS, DEFICITS, AND DEBT HELD BY THE PUBLIC

[In billions of dollars]

| | Revenues | Outlays | Deficit(−) or surplus | | | | Debt held by the public[1] |
|---|---|---|---|---|---|---|---|
| | | | On-budget | Social Security | Postal Service | Total | |
| Fiscal year: | | | | | | | |
| 1962 | 99.7 | 106.8 | −5.9 | −1.3 | 0 | −7.1 | 248.0 |
| 1963 | 106.6 | 111.3 | −4.0 | −.8 | 0 | −4.8 | 254.0 |
| 1964 | 112.6 | 118.5 | −6.5 | .6 | 0 | −5.9 | 256.8 |
| 1965 | 116.8 | 118.2 | −1.6 | .2 | 0 | −1.4 | 260.8 |
| 1966 | 130.8 | 134.5 | −3.1 | −.6 | 0 | −3.7 | 236.7 |
| 1967 | 148.8 | 157.5 | −12.6 | 4.0 | 0 | −8.6 | 266.6 |
| 1968 | 153.0 | 178.1 | −27.7 | 2.6 | 0 | −25.2 | 289.5 |
| 1969 | 186.9 | 183.6 | −.5 | 3.7 | 0 | 3.2 | 278.1 |
| 1970 | 192.8 | 195.6 | −8.7 | 5.9 | 0 | −2.8 | 283.2 |
| 1971 | 187.1 | 210.2 | −26.1 | 3.0 | 0 | −23.0 | 303.0 |
| 1972 | 207.3 | 230.7 | −26.4 | 3.1 | 0 | −23.4 | 322.4 |
| 1973 | 230.8 | 245.7 | −15.4 | .5 | 0 | −14.9 | 340.9 |
| 1974 | 263.2 | 269.4 | −8.0 | 1.8 | 0 | −6.1 | 343.7 |
| 1975 | 279.1 | 332.3 | −55.3 | 2.0 | 0 | −53.2 | 394.7 |
| 1976 | 298.1 | 371.8 | −70.5 | −3.2 | 0 | −73.7 | 477.4 |
| 1977 | 355.6 | 409.2 | −49.8 | −3.9 | 0 | −53.7 | 549.1 |
| 1978 | 399.6 | 458.7 | −54.9 | −4.3 | 0 | −59.2 | 607.1 |
| 1979 | 463.3 | 503.5 | −38.2 | −2.0 | 0 | −40.2 | 639.8 |
| 1980 | 517.1 | 590.9 | −72.7 | −1.1 | 0 | −73.8 | 709.3 |
| 1981 | 599.3 | 678.2 | −74.0 | −5.0 | 0 | −79.0 | 784.8 |
| 1982 | 617.8 | 745.8 | −120.1 | −7.9 | 0 | −128.0 | 919.2 |
| 1983 | 600.6 | 808.4 | −208.0 | .2 | 0 | −207.8 | 1,131.0 |
| 1984 | 666.5 | 851.8 | −185.7 | .3 | 0 | −185.4 | 1,300.0 |
| 1985 | 734.1 | 946.4 | −221.7 | 9.4 | 0 | −212.3 | 1,499.4 |
| 1986 | 769.1 | 990.3 | −238.0 | 16.7 | 0 | −221.2 | 1,736.2 |
| 1987 | 854.1 | 1,003.9 | −169.3 | 19.6 | 0 | −149.8 | 1,888.1 |
| 1988 | 909.0 | 1,064.1 | −194.0 | 38.8 | 0 | −155.2 | 2,050.3 |
| 1989 | 990.7 | 1,144.2 | −206.2 | 52.4 | .3 | −153.5 | 2,190.3 |
| 1990 | 1,031.3 | 1,251.8 | −277.1 | 58.2 | −1.6 | −220.5 | 2,410.4 |

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

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TABLE D-2.—REVENUES, OUTLAYS, DEFICITS, AND DEBT HELD BY THE PUBLIC—Continued

[In billions of dollars]

| | Revenues | Outlays | Deficit(−) or surplus | | | | Debt held by the public [1] |
|---|---|---|---|---|---|---|---|
| | | | On-budget | Social Security | Postal Service | Total | |
| 1991 | 1,054.3 | 1,323.0 | −320.9 | 53.5 | −1.3 | −268.7 | 2,687.2 |

[1] End of year.

Source: Congressional Budget Office.

Mr. HEFLIN. We know the statistics. We have heard the arguments for and against an amendment requiring a balanced budget on numerous occasions. This time, however, it appears that this body will get its best chance yet to actually turn rhetoric into reality. A historic opportunity exists for us to draw upon the potential of this Nation by adopting a balanced budget amendment of which we can all be proud.

Contrary to popular belief, Congress has made attempts in the past to bring the budget under control. Congressional efforts like Gramm-Rudman-Hollings had the potential to work if given a chance, but the teeth of such measures were compromised away by a budget agreement between the White House and the congressional leadership. This is proof enough that fiscal responsibility must be dictated by the Constitution.

Since coming to the Senate, I have supported and advocated a balanced budget amendment to the Constitution; it was the first piece of legislation I introduced during my first term as a Senator. At the beginning of each Congress, the first bill I have introduced has been a constitutional amendment mandating a balanced budget. During the 97th Congress, a measure was passed in the Senate, getting 69 votes—constitutional amendments require a two-thirds vote as we know—but it failed to gain approval in the House. In the 99th Congress, after lengthy debate, passage of a balanced budget amendment by the Senate failed by one vote. It has been necessary to convince some of our colleagues who have been previously opposed to this to now support the concept. As a result, Senator PAUL SIMON has now stepped forward and all longtime supporters have asked him to be the leader. All of the longtime supporters are original joint sponsors of his proposal, myself included.

The 102d Congress has seen a confluence of political and fiscal developments that makes the amendment's chances of passage this year by both Chambers better than ever before. The ever-increasing concern to do something about the deficit is apparent. The national debt is on the minds of every person who thinks about the future of America. This measure is embodied in Senate Joint Resolution 18, introduced by our distinguished colleague from Illinois, Senator SIMON. This resolution and its House counterpart enjoy broad bipartisan support. I look forward to the debate as the Simon amendment makes its way to the floor.

For most of our history, a balanced budget at the national level of government was a part of our unwritten Constitution, as a balanced or surplus budget was the norm for the first 100 years of the Republic. In recent decades, however, Americans have witnessed a continuing cycle of deficits, taxes, and spending. We tend to look at each program in isolation, not realizing that each and every dollar appropriated becomes part of the larger debt—a debt that we all know is threatening our economic and social stability.

I think that Alexander Hamilton, while he was serving as the Secretary of the Treasury, put it best when he said:

> Public debt swells 'till its magnitude becomes enormous, and the [burdens] of the people gradually increase 'till their weight becomes intolerable. Of such a state of things great disorders in the whole political economy, convulsions, and revolutions of government are a natural offspring.

Hamilton's statement is dated January 16, 1795, but undoubtedly he was speaking to his countrymen of nearly 200 years later.

Likewise, when our Constitution was finally adopted, Thomas Jefferson warned, "The public debt is the greatest of dangers to be feared by a republican government." Over the course of time, we have lost sight of our Forefathers' warnings. I am firmly convinced that neither the Congress nor the administration have the will power to reduce spending and balance the Federal budget without a constitutional amendment providing the fiscal discipline to do so.

Yes, some argue that if we possessed and practiced a stronger discipline, then a constitutional amendment would be unnecessary. I do not dispute that sentiment, but I do its reality. Incredibly, as the table I mentioned earlier shows, the last balanced budget came under President Lyndon Johnson. In particular, the haphazard fiscal policies of the last 17 years or so indicate that the problem goes much deeper than individual or even collective resolve. It is the institutional structure of Government that encourages short-term responses to individual need, rather than their implications for the greater good and the future.

There is no doubt as to what our responsibilities as national leaders are in this regard. There is also no question as to what the American people want and deserve. The only question is whether we, as a body, are willing to respond affirmatively by accepting the challenge. I hope that in the next few weeks, we will see the beginning of the process which will eventually add a new amendment to the United States Constitution and secure a sound financial future for our country. Quite simply, as our friend from Idaho, Senator CRAIG, put it to me recently:

> Now is the time, this is the opportunity, to stop mortgaging the future and loading unconscionable debts onto our children.

As I stated earlier, I look forward to the debate on this critical legislation in the coming weeks. I hope it will allow us to find the strength and the courage to finally do what must be done with regard to our economic future.

## MAYOR GUTHRIE J. SMITH

Mr. HEFLIN. Mr. President, I rise again to speak about my friend, Mayor Guthrie J. Smith of Fayette, AL. Not long ago I spoke on the Senate floor about the impending retirement of Mayor Guthrie J. Smith, who is completing 44 years of consecutive service as an elected official to the city of Fayette. Recently Mayor Smith was honored at the Alabama League of Municipalities at its annual convention. He was asked to speak. His address to that body on May 2, 1992, in my judgment, is one of the most impressive statements about government I have ever read. While it is directed toward local government, many of his thoughts are applicable to Federal and State governments. Therefore, I ask unanimous consent that his speech entitled "We Must Move With the Tides of Change" be printed in the CONGRESSIONAL RECORD in order that all Members of this body and all readers of the CONGRESSIONAL RECORD will have an opportunity to share the wisdom of a great leader in government.

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

WE MUST MOVE WITH THE TIDES OF CHANGE

When Perry Roquemore asked me to speak at this opening session, I hesitated to give him an answer. I did considerable thinking about it. I wondered, is he asking me just because I am a survivor, that I have lasted 44 years in this business, that I am some sort of a rare bird or does he think I might have something worthwhile to say?

These questions are at present unanswered, but here I am. You will have to judge whether Perry is to be shamed or praised.

I am deeply honored to have been asked to appear before you.

How have I survived all these years in this business?

That's a good question and one I have pondered.

Forty-four years ago Fayette really had no tax revenue, and city hall was one room next to the city jail.

From that beginning, over the years, we followed a strict policy of informing Fayette citizens of our revenue needs for specific services, as they arose. We saw to it that the money collected was spent for the projects we specified.

Looking ahead during the past 40 years, we prepared for our future by building a revenue base which enabled us to improve the quality of life for everyone. These improvements are there for all to see and enjoy.

For instance, we have a fine 100-acre recreation park with over 200,000 visitors a year, and a 65-year-old school building converted to an award winning civic center supported by a tax-free endowment fund of one-half million dollars. On display in this center at all times are 300 pieces of art from our 1,500 piece art collection valued at one-quarter million dollars.

For the year 1989, Fayette led the State of Alabama in new jobs announced. By the end of next year this new industry will employ 1,000 people. Their capital expenditures will exceed $23 million and the city of Fayette will upgrade water and wastewater treatment facilities at a cost of $5 million.

During the past 10 years, Fayette city and industrial capital expenditures have exceeded 92 million dollars.

We are a small city of less than 5,000.

I tell you this, simply to illustrate a very significant point.

You, in this audience, have the honor to have been chosen to serve in a leadership and decisionmaking capacity. I challenge you to live up to your responsibility and duty. Don't be afraid to chart a course of progress and development. Be sure the need is worthwhile—explain that need—never fear to ask for the money, and then spend it wisely. As long as the taxpayer sees genuine benefit from his taxes and we act responsibly, we can survive. I believe my long tenure proves this to be true.

During my years in office there have been many times when friends advised me not to propose a new tax or fee—that it would beat me at election time.

I replied, that my primary concern is not reelection—that we need this project and if our citizens are unwilling to provide the funds to move forward they can send me home.

They did not send me home. Today they are not complaining to me and the city council about fees and taxes. Most of them thank us for their improved quality of life.

In my humble opinion, sound, efficient, strong local government is the bulwark of our democracy. How can America remain strong with weak, bankrupt, inefficient, or corrupt government at the local level? We dare not sit on our hands, waiting for someone else to do that which we should do for ourselves.

As dedicated municipal officials I salute all of you. One of the more rewarding experiences of my life has been my privilege to know and be associated with so many outstanding public servants as you. The foundation and hope for all that is good in America rests upon municipal officials just like you.

This is a profound statement but it is true. You should feel proud and honored to be so classified.

I know there are times you become discouraged, disappointed, and depressed. Such low times are expected, but let me remind you that the periods of success and accomplishment will more than make up for the times of frustration. I know, because I, also, have experienced the lows and the highs.

I assure you, public service at the municipal level is most honorable and victories won are the most rewarding you will ever experience.

Your lot as a city official is not a happy one, except on those rare days when nothing goes wrong. To be certain, some folks we serve generally sit in judgment on the most trivial of decisions. But this is the price we pay for our democratic way of life.

One great fact is that men and women like you come forward to serve, lead, and devote yourselves, for small returns, to a most difficult task. The administration and leadership of a 1992 community.

Your daily activities in municipal government, the leadership you exercise to meet new and difficult problems, seldom make headlines; but they are really what determines Alabama's future.

Two weeks ago, April 19, was the 217th anniversary of the first shot at Concord, Mass., for freedom in our Revolutionary War of 1775. That shot signaled our soon-to-come Declaration of Independence; later our Constitution; and our enduring faith in individual freedom.

I can think of no better place to dedicate ourselves again to that faith than in our cities and towns where we live.

But freedom is not only the bells we ring and the speeches made. It is the officer of government by the people, even in our smallest community, helping to make the wheels of local government turn efficiently and economically.

As public officials we have no political axes to grind. Constant political battles are sure to ultimately hinder our effectiveness. We must concentrate on services to be provided; facilities to be maintained and rebuilt; and the long list of daily problems to be solved which, if not met, could make a farce of democratic freedom.

We must move with the tides of change or risk municipal decay. Although we look back upon our recent past with what an eloquent lady columnist called, "The Fragrant and Mellow Memories of Yesterday", we must live and act for our own new times.

The FBI maintains a list of America's 10 most wanted people. They are undesirable; they need to be put out of circulation. In other words, the public welfare would be improved if we were rid of them. I hasten to assure you that we don't have one of these characters here today.

I would like to suggest to you that there is another group of the most wanted men and women in America. They are most wanted in every community and city of our land because they are needed in leadership roles. The greatest need of today's cities and towns is effective leadership.

We have men and women who are dedicated to the success of their business, their profession or their job and that is as it should be. But the most wanted men and women are those who are willing to extend their interest and service beyond their personal responsibilities; people who are willing to go a step further and devote some of their time, and some of their talents to the betterment of the community in which they live. The most wanted men and women of any community are those who offer dedicated leadership in the church, education, recreation, health, business, government, and other civic projects aimed at community improvement.

No community can be any better than the citizens who make up that community. Neither can any community rise above its leadership. Our cities and towns will be no better than we want them to be.

Let's ask ourselves this question: What kind of community would we have if no one contributed anymore of their time or service to its betterment than I do?

I am speaking of the need—the serious need—for all of us to become really involved in this business of local government and community improvement projects. The leading men and women of every city and town, who once tended to think of local politics as a necessary evil must begin to see the conduct of their communities as the highest type of personal challenge and responsibility.

Qualified men and women of our communities must become personally involved if our children and grandchildren are to live in environments for which they will thank us rather than condemn us. This generation, you, I and our neighbors know and can foresee that our towns and cities must plan ahead; they must be expertly managed or miss the bus of tomorrow's high promises; or perhaps be run over by that bus.

We hear a lot of talk these days about rights—we hear others say: "I know what my rights are; I am going to insist upon my rights."

But—wait a minute—our rights are not everything—don't we have some responsibilities as well as rights? I think it is high time we talk and think about our responsibilities and duties for a change. It has been said that every right carries with it a duty. If every citizen realized the two-sided nature of citizenship, we would be better off. Too many people talk too much about their rights and forget the corresponding duties. Two of our most fundamental duties are obedience to lawful authority and service to our community and fellow citizens. If some citizens refuse to respect the laws which they dislike, why couldn't other citizens do the same? If we make such allowances for our likes and dislikes, you can be assured that very few laws will be respected.

Now, I don't wish to sound like a flag waver, but I would like to say this: Our Forefathers have given us our democracy—a system of government under which we may govern ourselves through representatives of our own choosing. It is a system which depends upon us—the people—for its very life. Because it is government by the people, government by us, it can be no better than we, the people are willing to make it.

Our democracy is a challenge. It is a challenge to all of us, and not just to all of us some of the time. If we are to maintain, enjoy and develop our democratic system, we must meet this challenge. We simply must work to make democracy work, to make democracy live.

Democracy in the United States involves more than government by the people through elected representatives. In a very real sense, our democracy is government by public opinion. It is obvious that government by public opinion works best when the opinions held by the public are informed opinions. Therefore, it is our duty to keep ourselves informed on public affairs. Keeping informed is not always an easy task, but it is an essential one. Corrupt political machines and selfish interests breed on public indifference. Democracy flourishes with citizen interest and enlightenment. I like this state-

ment taken from one of our weekly news magazines, "A well informed public is America's greatest security."

I do not doubt that our Nation, is entering a new era. Particularly is this true in Alabama. Whether the future, which really begins tomorrow, finds us morally, spiritually and culturally better off; whether we guide our towns and cities in their growth along planned lines of dignity and decency, depend upon the quality of leadership we exert now, in each and every local community. Most of our communities, even the smallest, grew up during horse and buggy times. Much of our thinking today, our political thinking, is still horse and buggy too. In olden times when one day was like another, we came to see local politics and local offices as rewards for political leaders, the aim being only to keep taxes down and to balance the books. It was a modest variation of the spoils system, with modest fringe benefits to the men who could get enough votes in the ballot boxes. Some of that thinking is still with us.

But those days are really over. We face problems right now in the conduct of even our small communities that require the same shrewd management, the same mature thinking and planning, the same vision, the same courageous leadership as in business. There is also the need for informing, teaching, and leading all citizens to support quality leadership at the polls. Business does not put its operations in charge of people who can provide the tastiest barbecue, or think up the fanciest words on a platform. Business seeks those of proven ability to enlarge the operations and put black ink on the operating statement. It seeks those with the wisdom to see opportunities up ahead; to keep abreast of the times; and to be ready for changes that are sure to come.

Our modern communities are facing important changes, important challenges, and even possible dangers that are inherent in growth. We cannot meet these problems without discarding our old fashioned, outworn approach to local politics and local government. The leading citizens of every city and town, the best minds, those who once tended to think of local politics as a necessary evil, must begin to involve themselves in the affairs of their communities and view their involvement as the highest type of personal challenge and responsibility. We, as public officials, must set the example for all to follow.

The revolution of change is upon us, fundamentally changing our way of life, our approach to civic problems and our political thinking. Think back 5, 10, 15 years ago—think of all the changes which have taken place in this short time. There is no such thing as a Berlin Wall around us to keep change away from our doors.

The challenge is, how shall we meet this change? Will it be with thinking that suited the days of the horse and buggy, or with the best minds we can find; minds sharpened in the competitive fields of business, finance, or otherwise?

Every President of the United States in these days of crisis and change, feels at liberty to tap an entire battalion of leading minds from business, from finance, from universities, to sacrifice the most productive years of their lives in dedicated service to their country. Nobody says, "No." The call of the President is a command. What a shambles we would be in if our government were filled with men whose only thought was feeding at the public trough.

Looking ahead to the complexity of the problems of growth and development, and I can't stress this too much, we need on our town boards and committees . . . those who are not anxious or even willing to serve, but who have much to offer the nonpartisan conduct of our community affairs. The rewards, monetarily, are trifling, or zero; or even less than zero. There are always the perennial critics who can make any decision a hazard. Accomplishing a given desirable end is not always a rewarding experience, but often full of bricks and scars. Even the most talented mayor and council member must know when and how to duck.

People of talent must respond to the needs of our communities to meet the challenges of tomorrow, and to exploit the glorious opportunities for our future good. I plead today for new thinking to meet our new age; community thinking. I plead for the draft of men and women who try to hold themselves aloof from matters unrelated to their own business affairs. Their reward, your reward, and the rewards for our progeny of later years, will be in brighter and better centers of life and living, as you help to guide our towns and cities toward the promised land. I dare you to exercise strong leadership to meet these new challenges.

Mahatma Gandhi once said, "There go my people, I must hurry to catch up with them, for I am their leader." I have, many times, felt the same as Gandhi.

We love our country. We love our State. However, it is in our towns and cities that the American spirit will live and thrive and expand, or wither and fade, not in Washington, not in Montgomery, but right in our own hometowns.

If we measure up—if we meet the high expectations we set for ourselves, we can be entering a new period of enlightenment, or progress and prosperity.

The challenge is ours. Do we fumble the ball or do we run with it?

Today I leave with you these parting words:

My town is the place where my house is found. Where my business is located, and where my vote is cast. It is where my children are educated, and where my neighbors dwell, and where my life is chiefly lived. It is the home spot for me.

My town has a right to my civic loyalty. It supports me and I should support it.

My town wants my citizenship, not my partisanship; my friendliness, not my dissensions; my sympathy, not my criticism; my intelligence, not my indifference.

My town supplies me with protection, trade, friends, recreation, education, schools, churches, and the right to free moral citizenship; it has some things better than others. The best things I should seek to make better; the worst things I should help to suppress.

Take it all in all it is my town and it is entitled to the best there is in me.

Mr. HEFLIN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas [Mr. PRYOR] is recognized to speak for up to 30 minutes.

Mr. PRYOR. Mr. President, I will be ready to speak in about one or two moments.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. PRYOR. 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.

## TAX BENEFITS FOR THE PHARMACEUTICAL INDUSTRY

Mr. PRYOR. Mr. President, this morning I am releasing a General Accounting Office report that startles even those of us who have long known that our Nation's pharmaceutical industry continues to take advantage of the American people it says it so diligently serves. This report, Mr. President—is entitled "Pharmaceutical Industry Tax Benefits of Operating in Puerto Rico."

Mr. President, this report adds to the mounting evidence that at least as far as the pharmaceutical industry in America is concerned, the section 936 tax credit is the "mother of all tax breaks."

Mr. President, we talk a lot around here about the most-favored-nation status of various countries around the world, but in truth what we have done, as a matter of policy, as a matter of practice in this country, we have conferred the most-favored-industry status on the pharmaceutical manufacturers of America.

I might add that this has happened to the detriment of the American consumer and certainly the detriment of the American taxpayer.

Mr. President, what does the American taxpayer give to the drug industry in this country? We give drug manufacturers FDA approval for drugs, then a patent from anywhere between 8 and 10 years, which allows them to charge monopoly prices for their drugs. Then we give them millions of dollars in research credits each year to find the cures for the diseases of our time. Then we underwrite the cost of research and development through billions of dollars in federally funded NIH grants. Not satisfied with this, then we turn around and give them hundreds of millions of dollars in tax deductions to market and to advertise their products. To top it all off, Mr. President, then we give them billions of dollars in section 936 tax breaks in Puerto Rico, to go to Puerto Rico and manufacture the drugs that we use in America.

Mr. President, what does the American taxpayer get from the pharmaceutical manufacturers in return for this multi-billion dollar investment? What do the drug companies give us in return? First, we get prescription drug price inflation that has tripled the rate of general inflation since 1980. Second, Americans get drug prices that are 50 and 60 percent higher than any other industrialized country in the world, the same drugs that are made in the United States and Puerto Rico for American citizens to consume.

Third, Americans get more and more "me too" drugs. Those are the drugs

which represent little or no therapeutic advance over drugs already on the market. These are not breakthrough drugs that we must have and that we need to cure the devastating diseases of our time in this generation.

Mr. President, in spite of the recent pledges of voluntary price moderation by a very few of the drug companies, Americans continue to stagger under the weight of out-of-control drug price increases. For the first quarter of 1992, the data from the Bureau of Labor Statistics show that while the overall CPI increased at just 1 percent, drug prices increased 3 percent. It is the same old story—three times the rate of inflation. For those drugs that we support with our tax dollars and we give them the research dollars to find cures for the diseases of our time, they are increasing drug prices three times the rate of inflation.

Mr. President, Americans, the sick, the poor, the other vulnerable population of our society, are underwriting the most profitable industry in America. Specifically, while the average Fortune 500 company was making a return on sales of 3.2 percent, the drug industry made 4 times that amount—12.8 percent. While the average Fortune 500 company was making a return on equity of 10.2 percent, the drug industry's return on equity was more than 2½ times this amount—26.1 percent.

Mr. President, for the last 11 years the pharmaceutical industry in America has been the leading profit-making industry in the United States—far outpacing the average Fortune 500 company. Over the last few years, the gap between the profits of the pharmaceutical industry and the profits of the average Fortune 500 company has widened even more.

All these very eye-opening statistics should lead us to conclude that the pharmaceutical industry in America has certainly earned the title of the most recession-proof industry in our country in the 1980's. But the reason this morning I am on the floor is to summarize, the very explosive findings of the General Accounting Office Report and what it tells us about how the pharmaceutical industry is abusing the Tax Code and taking advantage of a tax system.

I hope that we are all going to be shocked by what we read in this report and, if we are not, there is something wrong. Nothing, absolutely nothing compares to this report which clearly and undeniably demonstrates that our American Government has given the pharmaceutical industry a blank check to pillage the Federal Treasury though the section 936 tax credit.

Last September, I released a report which documented that the drug industry receives billions of dollars each year in a little known nonresearch break called the section 936 tax credit. This tax credit was created in the 1920's as a way to stimulate the development of jobs in territorial possession of the United States such as Puerto Rico. Shortly after I released that report in September of 1991, Mr. President, the pharmaceutical industry, the PMA, which represents all the pharmaceutical manufacturers—the powerful, rich, entrenched, manufacturers—said that Senator PRYOR was really not giving us all the facts. They said that Senator PRYOR was confused in what he was talking about, that he did not really understand the subject.

Mr. President, to a degree, the pharmaceutical manufacturers were correct. I then contacted the General Accounting Office. Thinking that I might have made a mistake. Maybe I have committed an error. Maybe I need to go to the pharmaceutical manufacturers and express an apology. Little did I know, Mr. President, that what I had claimed in that report in September of 1991 about the tax breaks for the drug industry did not tell the whole story. What the GAO found was worse—worse than I had originally imagined.

Mr. President, that September report showed—and this new GAO report confirms—the section 936 tax credit is doing far more to add to the already awesome profits of the drug industry. It is not finding new cures for diseases as the pharmaceutical manufacturers would lead us to believe.

Here is a map, Mr. President, of this little island, and we can see that 22 drug companies now have 38 manufacturing facilities in Puerto Rico.

There are some 18,000 workers in these 38 plants that make drugs.

Well, Mr. President, the reason we see this island today dotted with firm after firm after firm, where they are manufacturing these drugs in Puerto Rico and not in America, is simple: This has not only become the capital of the pharmaceutical industry in the world; it has become a tax haven. This is a tax haven for the pharmaceutical manufacturers. The highest annual section 936 tax benefits received per employee, according to 1987 figures, is $70,788 every time a company hired an employee in Puerto Rico.

This is much in excess of the average wage paid per employee, which they claim is $26,471.

Let us take that figure of $26,000 per employee. You hire an employee and get a $70,000 tax break.

The distinguished occupant of the chair is perhaps one of the better business people in the U.S. Senate. I think that even he would realize that he would like to operate a business venture where he could get three, four, five, six times the dollars back for every employee that he hired.

Since 1981, Mr. President, the drug industry in our country has received the lion's share of section 936 tax benefits, but it has employed only a small percentage of all section 936 employees in Puerto Rico. For example, in 1987 again, the electronics industry employed 23 percent of all of the section 936 employees; however, they received only 16 percent of the section 936 benefits. In contrast, the drug industry, which employed only 18 percent of all section 936 employees, received a whopping 56 percent of all of the benefits—3½ more benefits than the electronics industry.

Mr. President, this is disturbing. It is almost unbelievable. It definitely is an incredible tax break. The GAO report this morning that I am releasing shows that many drug manufacturers take a per-employee section 936 tax credit that is higher than the 1987 figure of $71,000 that we originally saw.

Mr. President, here is what we find in this report this morning:

For every employee that Pfizer hires in Puerto Rico they get a $156,400 tax credit—incredible.

Merck was around here about a month ago, when S. 2000 was on the floor of this Senate, the bill which would have helped to bring cost containment to the pharmaceutical industry, and try to put some lid on how much profits these companies can make. Merck was round here lobbying against that amendment. Pfizer was around here lobbying against that amendment. American Home Products were here. Bristol-Myers Squibb, Upjohn were all here—No wonder they lobbied against that amendment, Mr. President. Look what they gained by defeating it.

Look what they did by once again saddling the American taxpayer, the American consumer with the highest drug costs in the industrialized world.

Look at the tax breaks that these companies have received and are not paying taxes on in Puerto Rico, because that amendment went down the drain. Incredible. For every $1 in wages that Pfizer pays to its employees in Puerto Rico, it receives $6.36 in section 936 tax credits; $6.36 for every $1 paid out in salaries. Name me one other American enterprise, or name me one enterprise in the world of any nation, that gives the benefit that would even approach the abusive nature or, as some might say, the generosity of this particular tax benefit known as section 936.

Well, Mr. President, the GAO report proves that we squander billions of precious tax dollars through the excesses of the section 936 program.

Riot-torn Los Angeles might need some of this help. In Mississippi County, AR, where we are losing literally thousands of jobs because of a base closing, we need help. American small businesses need help. Our health care system needs help. Our elderly and our children need help.

Mr. President, if we in this institution continue to look the other way and allow these pharmaceutical compa-

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nies to take advantage of this system, to take advantage of the consumer, to take advantage and run over the American taxpayer, we do not belong here. We do not belong here, if we allow this practice to continue.

Mr. President, I could go on and on about how I believe the drug industry is abusing the American people, how, through their newspaper and television ads, they have become, in my opinion, one of the most hypocritical parts of our health care industry, saying how they want to find the cure for cancer and AIDS and Parkinson's disease. How they say they have to have all of these profits in order to do this research. How they say they do not want any controls, no checks, no balances, and how they continue to come to this Congress and say, "Give me a blank check."

We have given them a blank check. We have given it to them in the Tax Code. And now we have let the pharmaceutical manufacturers run over the American consumer. We are the ones who will be held accountable, Mr. President, you and I. Those of us who are Members of this great institution are the ones handing over American tax dollars to the pharmaceutical industry, while their profits rise 3 times the rate of inflation, while their profits are more than the Fortune 500 companies.

The March vote to table my amendment to contain the cost of prescription drugs for all America was a disappointment to me. I have had disappointments before, though, and I have had them on the floor of this Senate. I am willing to take my medicine, and come back and try another day.

But I will tell you who else was disappointed. It is the sick people out in America, it is the old people out in America, it is the people who are dependent on drugs to stay alive produced by the pharmaceutical manufacturers. That is who is being taken advantage of, Mr. President. That is who is suffering. That is who is paying the price. That is who is subsidizing the greed of these pharmaceutical manufacturers.

We constantly talk here, Mr. President, about addressing health care costs. I am tired of addressing some of these problems. I want to start solving some of these problems, Mr. President. The American people are tired of hearing us address the problems. They know what the problems are. Now it is time we start finding solutions.

Mr. President, I would like to say that the Congress has the responsibility to the American taxpayer, to the American consumer, to make certain that a program that was developed many decades ago is still meeting its objective, and given the data and analysis included in today's report and the growing number of unmet and urgent needs in America, it is time now, I think, for all of us to reevaluate the nature and the resulting shame of the 936 tax credit.

Years ago, I attempted to struggle with the difference in the definitions of nonfeasance and malfeasance. What we may have been guilty of in the past has been nonfeasance, not criminal in nature, but, Mr. President, if we continue to let this go, I think that we are all going to be guilty of malfeasance.

We may not be able, in 1992, to balance the budget. We may not be able to enact—a health care program that will work. Mr. President, we can however, restore some equity, we can have some fairness in the Tax Code. We can say to the pharmaceutical manufacturers, "You have had a free ride for too long and we are going to stop it, and we are going to start making you, Mr. Manufacturer of Pharmaceuticals, pay your fair share."

Mr. President, I have heard that the pharmaceutical industry in the last several days would have paid any amount of money to have had an advanced copy of this report. I had calls even late yesterday afternoon from friends of mine on the House side saying, "Is it possible for you to give us an advance copy of this report?" And I said no. It is my understanding that the pharmaceutical manufacturers are already gearing up, are already coming to town, hiring accounting firms, law firms, lobbyists, what have you, to counter this report.

Mr. President, you cannot counter the facts that are set out in this report. You cannot dispute how much the pharmaceutical industry has gleaned in tax savings at the expense of the American consumer and taxpayer. Johnson & Johnson, for example, from 1980 to 1990, according to the General Accounting Office, saved in taxes $1.117 billion; SmithKline Beecham, $987 million in tax savings because of 936; Abbott Labs, $860 million; Pfizer, $759 million; Upjohn, $750 million.

No wonder they do not want any legislation passed around here, Mr. President. No wonder these pharmaceutical companies who are getting all of these great tax credits that no other person, no other industry is getting, it is no wonder that they are gearing up to fight anything we do in cost containment. They will be right out there in that hall right beyond that door. They will be in our offices. They will be talking to us and talking to our staffs. They are going to run big ads in the newspaper. Just get ready.

But, Mr. President, these facts cannot be disputed. And today I challenge any representative of any of these companies, I challenge any Member of this great body of the U.S. Senate to come here, to come to the floor of this Senate, to come to a committee of the Senate and try to defend this practice. It is indefensible. It is inexcusable. Mr. President, If we do not do something about it, we are going to be judged by the American people, and we should be judged for malfeasance.

Mr. President, I yield the floor and I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, in my presentation a few moments ago I failed to ask unanimous consent to have the General Accounting Office study entitled "Pharmaceutical Industry Tax Benefits of Operating in Puerto Rico" printed in the RECORD.

I ask unanimous consent that that study and a summary prepared by the Aging Committee staff on this report be printed in the RECORD.

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

[U.S. General Accounting Office]

PARMACEUTICAL INDUSTRY: TAX BENEFITS OF OPERATING IN PUERTO RICO

(Briefing Report to the Chairman, Special Committee on Aging, U.S. Senate, May 1992)

GENERAL ACCOUNTING OFFICE,
*Washington, DC, May 4, 1992.*

Hon. DAVID PRYOR,
*Chairman, Special Committee on Aging, U.S. Senate.*

DEAR MR. CHAIRMAN: This briefing report responds to your November 14, 1991, request for detailed information about the pharmaceutical industry's tax benefits obtained from operating in Puerto Rico in the 1980s. We are continuing our work on your request to review other major tax benefits used by the pharmaceutical industry.

BACKGROUND

Section 936 of the Internal Revenue Code provides a tax credit equal to the federal tax liability on certain income earned in Puerto Rico and certain U.S. possessions. The credit is equivalent to exempting completely from federal taxes the income of qualifying U.S. corporations in Puerto Rico. The Department of the Treasury will lose $15 billion in tax revenues during the 1993 through 1997 period due to section 936, according to the Congressional Budget Office. When Congress enacted section 936 in 1976, it sought to help Puerto Rico obtain employment-producing investments.

Various industries, including the pharmaceutical industry, have taken advantage of section 936 by manufacturing products in Puerto Rico. U.S. corporations have been able to combine the federal tax credit with local tax benefits granted by the government of Puerto Rico to pay low income taxes.

In the early 1980s, Congress and Treasury were concerned about the incentives created by the section 936 tax credit to transfer income to Puerto Rico. Treasury has described how corporations at that time could shelter from federal tax substantial amounts of U.S. income obtained from intangible assets, such as drug patents.[1] A pharmaceutical company would develop a drug in its U.S. research facilities and transfer the drug patent to its

wholly owned subsidiary operating in Puerto Rico. The subsidiary would produce the patented drug and claim the income obtained from the drug sales as tax-free income. Treasury would take the opposite position that the income obtained from drug sales had to be allocated to the U.S. parent corporation and subject to federal taxation. This issue resulted in lengthy litigation.[2]

Congress made substantial changes to section 936 in 1982 to "lessen the abuse caused by taxpayers claiming tax-free income generated by intangibles developed outside of Puerto Rico."[3] The Tax Equity and Fiscal Responsibility Act of 1982 established that, in general, intangible income of section 936 corporations would be taxable to U.S. shareholders. However, the act gave section 936 corporations the right to claim income attributable to intangible assets under two options. Thus, since 1982, section 936 corporations have been able to elect one of the two options and thereby, continue to shelter from federal tax a portion of their income from intangible assets.

Treasury was also concerned in the early 1980s that, despite section 936, the employment levels in Puerto Rico had been flat and the average tax revenue lost per job was higher than the average employee compensation paid by section 936 corporations. Therefore, in 1984 Treasury proposed to replace the section 936 tax credit with a wage credit tied to the federal minimum wage. It argued that a wage credit would provide a more direct and cost-effective incentive to create jobs in Puerto Rico and U.S. possessions.

Although Congress did not adopt Treasury's wage credit proposal, it did further tighten section 936 in 1986. Its reasoning was that the 1982 changes reduced the total section 936 tax credits by less than originally anticipated.[4] Recently, the Congressional Budget Office reported that replacing the section 936 tax credit with a wage tax credit would raise $2.2 billion during the 1993 through 1997 period.[5]

A study prepared for the Puerto Rico, U.S.A. Foundation stated that the repeal of section 936 would cause the Puerto Rican economy to experience extreme dislocation.[6] We noticed that the combined federal and local tax incentives have resulted in a manufacturing sector that provided 63 percent of Puerto Rico's total net income in 1990 although it accounted for only 17 percent of total jobs. Unemployment in Puerto Rico remained above 10 percent during the 1980s, and the estimated net out-migration was 280,000 from 1980 to 1988, almost 9 percent of the 1980 population.

RESULTS

Throughout the 1980s the pharmaceutical industry received a relatively large share of the tax benefits from section 936 compared to the number of jobs directly created and the amount of employee compensation the industry provided. Industry representatives state that other employment-related information, such as the number of jobs created in companies servicing pharmaceutical corporations, needs to be considered in evaluating the benefits of section 936. We found that individual pharmaceutical companies differed markedly from each other in the level of taxes they saved by operating in Puerto Rico, and that 17 of the 21 most prescribed drugs in the United States in 1990 were authorized for manufacture in Puerto Rico.

*Tax benefits reported in tax returns*

The pharmaceutical industry received about half of the total tax benefits from section 936 and provided between 15 and 18 percent of the jobs of all section 936 corporations in Puerto Rico.[8] These results hold in 1981—previous to the 1982 act—and in the 3 years after 1982 for which aggregate tax return data were available—1983, 1985, and 1987. In 1987, this meant the industry received $1.3 billion of the $2.3 billion in total section 936 tax benefits and employed about 18,000 of 100,916 workers (see table I.1).

Treasury estimated the above tax benefits by subtracting from the section 936 tax credits reported in the corporations' tax returns other tax benefits—such as accelerated depreciation, investment tax credits and foreign tax credits—which the companies might have claimed if they had elected not to receive the section 936 credit.

Tax benefits received per employee by the pharmaceutical industry were three to four times greater than those received by the industry with the next greatest amount of benefits—electrical and electronic equipment—and five to seven times greater than those received by all other industries. In 1987, this meant tax benefits per employee were $70,788 in the pharmaceutical industry, $16,450 in the electrical and electronic equipment industry, and $10,593 in other industries (see table I.2).

Tax benefits as a percentage of employee compensation also varied widely among industries. For example, the section 936 tax benefits of pharmaceutical corporations in 1987 were 267 percent of the compensation paid to pharmaceutical employees. The ratio of section 936 tax benefits to employee compensation in the electrical and electronic equipment industry was 98 percent; in other industries the ratio was 68 percent. This means that for each dollar of employee compensation, pharmaceutical companies received $2.67 in tax benefits, electrical and electronic equipment companies received 98 cents in tax benefits and companies in other industries received 68 cents in tax benefits.

Representative of the pharmaceutical industry have asserted that employment-related numbers like these are not the only ones that need to be considered. They have cited the importance of examining the number of (1) high-paying skilled jobs that have been provided to college graduates, (2) Puerto Ricans occupying managerial positions, and (3) indirect jobs created in other companies, such as pill box providers and landscapers, that service pharmaceutical corporations. Analyzing statistics like these was beyond the scope of our work.

*Tax savings reported in financial statements*

Estimated total tax savings obtained from Puerto Rico operations for 26 pharmaceutical corporations was about $10.1 billion. This figure is in 1990 dollars adjusted for inflation for the 11-year period 1980 through 1990. It is based on information the 26 companies reported in their financial statements or, in some cases, provided us directly. These tax savings translated into about $24.7 billion—valued in 1990 dollars—in tax-exempt earnings from Puerto Rico operations (see table I.5). Estimated tax savings, even after adjusting for inflation, increased in every year except 1984, 1987 and 1988. The decreases in tax savings in 1987 and 1988 were possibly due to the decline in the maximum statutory corporate income tax rate from 46 percent in 1986 to 34 percent in 1988.

We found wide differences in estimated tax savings from Puerto Rico operations among the 26 pharmaceutical corporations. For instance, 1 company saved more than $1 billion; another saved $987 million; 9 other companies saved more than $500 million but less than $1 billion; and the other 15 companies saved less than $500 million (see table I.6).

Similarly, we found wide differences in estimated tax savings per employee and estimated tax savings as a percentage of employee compensation. In the group of 17 drug corporations for which we matched employees and tax savings, the tax savings per employee ranged from $0 to about $156,000 in 1989. Two companies had tax savings per employee greater than $100,000; seven companies had tax savings per employee lower than $100,000 and higher than $50,000; and the other 8 companies had tax savings lower than $50,000 (see table I.4).

Estimated tax savings as a percentage of employee compensation ranged from 636 percent to 0 percent in the group of 17 corporations for which we matched employees and tax savings. In 1989 one company had $6.36 in tax savings per dollar of employee compensation; another company received more than $4 in tax savings per dollar of employee compensation; another 3 companies received more than $3 but less than $4; and the other 12 companies received less than $3 (see table I.4).

Pharmaceutical companies also showed wide variation in the ratio of estimated tax savings to income before taxes. For the 24 companies that reported positive earnings, tax savings ranged from 0 percent to 19.4 percent of income before taxes (see table I.7). Six corporations had tax savings from Puerto Rico operations greater than 10 percent of corporate income before taxes.

The estimates of tax savings from Puerto Rico operations, which are based on corporate financial statements, could differ from actual tax benefits provided by section 936 due to computation, timing, and other differences between financial statement and tax return data. We describe these reasons in appendix III. We believe that, regardless of whether tax return or financial statement data are used, our finding that pharmaceutical companies differ substantially from each other in their tax consequences from operating in Puerto Rico would hold true.

We recognized that if actual tax return figures were used, company-by-company analyses might reveal a different picture. Therefore, we tried to be conservative in estimating the companies' tax savings from operating in Puerto Rico. For instance, in the case of a company that reported tax savings as being principally from Puerto Rico, we presented only half of the tax savings shown in the financial statements. We also used the ratio of U.S. sales to total sales technique explained in appendix III to further reduce the estimated amount of tax savings obtained from Puerto Rico operations for certain corporations specified in appendix II.

We also compared our estimates of tax savings obtained from financial statements with actual tax return data for 1 year to determine if the tax savings were lower than actual section 936 tax credits. We found that the total tax savings from Puerto Rico operations based on our financial statement analysis was less than two-thirds of the total section 936 tax credits reported in tax returns. To avoid disclosing tax data, we do not present in this report company-by-company measures that show to what extent tax savings derived from financial statements might or might not be similar to section 936 tax credits.

*Most-prescribed drugs approved for production in Puerto Rico*

In our study, we also found that 17 of the 21 most prescribed drugs in the United States in 1990 were authorized for Puerto

Footnotes at end of article.

Rican manufacture (see table I.8). Seven pharmaceutical corporations were authorized to manufacture in Puerto Rico 2 or more of the 35 most prescribed U.S. drugs. More detailed information about the products is provided in appendix I.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives included obtaining comparative information for the period 1980 through 1990 on (1) the aggregate tax benefits pharmaceutical corporations received from operating in Puerto Rico related to the number of employees they hired and the wages they paid and (2) the estimated tax savings and earnings exempt from federal taxes that individual pharmaceutical corporations obtained from operating in Puerto Rico. The third objective was to obtain information on the major drugs that pharmaceutical corporations were authorized to produce in Puerto Rico. Our work was not intended to be a full policy analysis of section 936.

To address the first objective—dealing with aggregate tax benefits—we obtained statistical information compiled by the Internal Revenue Service (IRS) and Treasury. Using this information, we determined ratios of tax benefits per employee and tax benefits to total compensation paid in Puerto Rico.

To estimate tax savings and tax-exempt income, we collected, analyzed, and aggregated company-specific data. For this work, we used primarily financial statement data of 26 pharmaceutical corporations that were publicly available and, thus, allowed us to do the sort of company-by-company analysis requested.

We also asked each of 14 pharmaceutical companies whose financial statements aggregated tax savings from Puerto Rico with other tax savings to review a table we prepared for that company. Each table showed the numbers taken from the company's financial statement footnotes which we believed included a figure for tax savings from operating in Puerto Rico. We asked that each company provide us with its estimate of tax savings from Puerto Rico operations. Eight companies, listed in appendix II, provided such estimates.

Our approach did not allow us to isolate the section 936 tax benefits companies received by using the credit specifically. Rather, it enabled us to estimate the tax savings from Puerto Rico operations companies received by using the section 936 tax credit and other tax provisions related to operating in Puerto Rico. We obtained inflation-adjusted tax savings and tax-exempt income using the implicit price deflator for U.S. gross domestic product.

Financial statement figures are not necessarily equal to the numbers on tax returns and may differ substantially from them because they can be governed by different practices or based on different time periods. Also, companies may differ from each other in how they present their financial statement information. If actual tax return figures were used, company-by-company analyses might reveal a different picture.

Other analysts have used financial statements to describe the impact of Puerto Rico operations on corporate tax savings. We believe that, regardless of whether tax return or financial statement data are used, it would still be true that pharmaceutical companies can differ substantially from each other in their tax consequences from operating in Puerto Rico over time.

The tax savings derived were not amounts that necessarily would have been paid in the absence of a section 936 tax credit. If companies did not have section 936 tax credits to use, they might have been able to take advantage of other tax provisions, such as the foreign tax credit, that would have reduced the amounts of taxes they would have otherwise paid.

For our last objective—determining the major drugs that pharmaceutical corporations were authorized to produce in Puerto Rico—we obtained a 1990 list of highly-prescribed drugs that the Food and Drug Administration had approved for manufacture in Puerto Rico. We then categorized by company those drugs with the largest number of prescriptions.

In doing our work, we interviewed Treasury and IRS officials responsible for analyzing tax returns of section 936 corporations, and we reviewed aggregate and individual tax data of section 936 corporations. In addition, we analyzed Treasury reports and professional articles on section 936 as well as Securities and Exchange Commission rules and generally accepted accounting principles followed in preparing and presenting financial statements.

We also considered the views of accounting professionals and pharmaceutical industry representatives. We met with Price Waterhouse officials and members of the Tax Subcommittee of the Pharmaceutical Manufacturer's Association to obtain their views on the characteristics of tax data reported by pharmaceutical companies in financial statements and the tax benefits of section 936. We also received a Price Waterhouse report that describes the issues involved in measuring section 936 tax benefits from financial statement data.[9] Their views have been incorporated into the preparation of this report.

We did our work in Washington, D.C., between November 1991 and April 1992 in accordance with generally accepted government auditing standards. Appendix III discusses our objectives, scope, and methodology in greater detail.

We discussed the contents of this report with a senior Treasury official knowledgeable of section 936 issues. He agreed with the analysis and information provided, and his views have been incorporated into the preparation of this report where appropriate.

As agreed with the Committee, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of the Treasury, the Commissioner of the Internal Revenue Service, the Director of the Office of Management and Budget, and other interested parties. We will also make copies available to others upon request.

The major contributors to this report are listed in appendix IV. If you have any questions, please contact me at (202) 275-6407.

Sincerely yours,

JENNIE S. STATHIS,
*Director, Tax Policy and Administration Issues.*

APPENDIX I.—INFORMATION RELATED TO THE PHARMACEUTICAL INDUSTRY IN PUERTO RICO

TABLE I.—THE PHARMACEUTICAL INDUSTRY RECEIVED ABOUT HALF OF THE TAX BENEFITS PROVIDED BY SECTION 936 BUT EMPLOYED LESS THAN 20 PERCENT OF THE WORKERS IN 1981, 1983, 1985, AND 1987

| | 1981 | 1983 | 1985 | 1987 |
|---|---|---|---|---|
| Total tax benefits received (millions): | | | | |
| Nominal dollars | 1,430 | 1,496 | 2,150 | 2,311 |
| Inflation-adjusted 1990 dollars | 2,046 | 1,938 | 2,572 | 2,609 |
| Percentage of tax benefits: | | | | |
| Pharmaceutical industry | 49 | 49 | 45 | 56 |
| Electrical and electronic equipment industry | 25 | 24 | 19 | 16 |
| Other industries | 26 | 27 | 36 | 28 |
| Total number of employees | 72,543 | 75,642 | 97,726 | 100,916 |
| Percentage of employees: | | | | |
| Pharmaceutical industry | 15 | 15 | 15 | 18 |
| Electrical and electronic equipment industry | 25 | 29 | 26 | 23 |
| Other industries | 60 | 56 | 59 | 59 |

Note.—Financial data have been adjusted for inflation using the implicit price deflator for U.S. gross domestic product.

Sources: 1981—"The Operation and Effect of the Possessions Corporation System of Taxation: Fifth Report," Department of the Treasury (July 1985); 1983—"U.S. Possessions Corporation Returns, 1983," "Statistics of Income Bulletin," Department of the Treasury (Spring 1988); 1985—"U.S. Possessions Corporations, 1985," "Compendium of Studies of International Income and Taxes, 1984-1985," Department of the Treasury (1991); 1987—"U.S. Possessions Corporation Returns; 1987," "Statistics of Income Bulletin," Department of the Treasury (Summer 1991) and unpublished IRS data.

TAX BENEFITS AND NUMBER OF EMPLOYEES OF SECTION 936 CORPORATIONS

When Congress enacted section 936 in 1976, it sought to help Puerto Rico obtain employment-producing investments. By using income tax, employment, and payroll data available for the 1980s, we compared the distribution of tax benefits to the distribution of jobs and compensation provided by section 936 corporations in Puerto Rico in 1981, 1983, 1985, and 1987.

As shown in table I.1, the pharmaceutical industry received almost 50 percent of the total tax benefits provided by section 936 in 1981, 1983, and 1985. The percentage increased to 56 percent in 1987, or $1.3 billion of the $2.3 billion in total section 936 tax benefits. The percentage of employees in the pharmaceutical industry stayed constant at 15 percent in 1981, 1983, and 1985 and increased to 18 percent in 1987. In 1987, the 18 percent translated into approximately 18,000 jobs out of the 100,916 jobs provided by all section 936 beneficiaries.

The share of tax benefits of the second largest section 936 beneficiary—the electrical and electronic equipment industry—decreased from 25 percent in 1981 to 16 percent in 1987. The percentage of jobs provided by this industry first increased, from 25 percent in 1981 to 29 percent in 1983, and then decreased to 23 percent in 1987.

Representatives of the pharmaceutical industry have asserted that employment-related numbers like these and the ones that appear on table I.2 are not the only ones that need to be considered. They also cited the importance of examining the number of (1) high-paying, highly skilled jobs provided to college graduates, (2) managerial positions occupied by Puerto Ricans, and (3) jobs created in companies that service pharmaceutical corporations, such as pill box providers and landscapers. Analyzing statistics like these was beyond the scope of our work.

TABLE I.2.—TAX BENEFITS PER EMPLOYEE AND AS A PERCENTAGE OF EMPLOYEE COMPENSATION IN THE PHARMACEUTICAL INDUSTRY WERE MUCH HIGHER THAN IN OTHER INDUSTRIES

| | 1981 | 1983 | 1985 | 1987 |
|---|---|---|---|---|
| Tax benefits per employee: | | | | |
| Nominal dollars: | | | | |
| Pharmaceutical industry | 62,078 | 65,318 | 68,660 | 70,788 |
| Electrical and electronic equipment industry | 19,930 | 16,242 | 16,174 | 16,450 |
| Other industries | 8,584 | 9,618 | 13,093 | 10,593 |
| Inflation-adjusted 1990 dollars: | | | | |
| Pharmaceutical industry | 88,810 | 84,609 | 82,129 | 79,896 |
| Electrical and electronic equipment industry | 28,512 | 21,039 | 19,347 | 18,567 |

TABLE I.2.—TAX BENEFITS PER EMPLOYEE AND AS A PERCENTAGE OF EMPLOYEE COMPENSATION IN THE PHARMACEUTICAL INDUSTRY WERE MUCH HIGHER THAN IN OTHER INDUSTRIES—Continued

| | 1981 | 1983 | 1985 | 1987 |
|---|---|---|---|---|
| Other industries | 12,280 | 12,459 | 15,661 | 11,956 |
| Tax benefits as a percentage of employee compensation: | | | | |
| Pharmaceutical industry | 346 | 298 | 285 | 267 |
| Electrical and electronic equipment industry | 152 | 103 | 101 | 98 |
| Other industries | 71 | 76 | 90 | 68 |

Note.—Financial data have been adjusted for inflation using the implicit price deflator for U.S. gross domestic product.

Sources: 1981—"The Operation and Effect of the Possessions Corporation System of Taxation: Fifth Report," Department of the Treasury (July 1985); 1983—"U.S. Possessions Corporation Returns, 1983," "Statistics of Income Bulletin," Department of the Treasury (Spring 1988); 1985—"U.S. Possessions Corporations, 1985," "Compendium of Studies of International Income and Taxes, 1984–1985," Department of the Treasury (1991); 1987—"U.S. Possessions Corporation Returns, 1987," "Statistics of Income Bulletin," Department of the Treasury (Summer 1991) and unpublished IRS data.

TAX BENEFITS AND EMPLOYEE COMPENSATION OF SECTION 936 CORPORATIONS

As shown in table I.2, tax benefits received per employee by the pharmaceutical industry were three to four times greater than those received by the industry with the next greatest amount of benefits—electrical and electronic equipment—and five to seven times greater than those received by all other industries. In 1987, this meant tax benefits per employee were $70,788 in the pharmaceutical industry, $16,450 in the electrical and electronic equipment industry, and $10,593 in other industries.

Tax benefits as a percentage of employee compensation also varied widely among industries. For example, in 1987 the pharmaceutical industry received on average $2.67 in tax benefits for every dollar of employee compensation, which was down from the amounts shown in earlier years. The electrical and electronic equipment industry received 98 cents in tax benefits, and other industries received 68 cents in tax benefits for every dollar they paid their employees in 1987. Employee compensation includes an estimate of fringe benefits which is about 25 percent of wages.

Inflation-adjusted tax benefits per employee decreased in the pharmaceutical industry from $88,810 in 1981 to $79,896 in 1987, in 1990 dollars. In the electrical and electronic equipment industry, inflation-adjusted tax benefits per worker decreased from $28,512 in 1981 to $18,567 in 1987. Benefits per employee in other industries decreased from $12,280 in 1981 to $11,956 in 1987.

TABLE I.3.—*Pharmaceutical corporations with a Puerto Rico operation and year started included in this report*

| | |
|---|---|
| Abbott Laboratories | 1968 |
| Allergan, Inc | 1976 |
| American Cyanamid Co | 1974 |
| American Home Products Corp | 1984 |
| A.H. Robins Co. Inc | 1974 |
| Baxter International Inc | 1968 |
| Becton, Dickinson & Co | 1958 |
| Bolar Pharmaceutical Co., Inc | 1985 |
| Bristol-Myers Squibb Co | 1971 |
| Carter-Wallace, Inc | 1972 |
| Eastman Kodak Co. (Sterling Drug) | 1973 |
| Eli Lilly & Co | 1966 |
| Forest Laboratories, Inc | 1966 |
| Johnson & Johnson | 1961 |
| Merck & Co., Inc | 1972 |
| Monsanto Co. (G.D. Searle & Co.) | 1959 |
| Mylan Laboratories, Inc | 1987 |
| Pfizer Inc | 1973 |
| Rhone-Poulenc Rorer Inc | 1984 |
| Schering-Plough Corp | 1972 |
| SmithKline Beecham plc | 1970 |
| Squibb Corp | 1970 |
| Syntex Corp | 1975 |
| The Upjohn Co | 1973 |
| Warner-Lambert Co | 1963 |
| Zenith Laboratories, Inc | 1984 |

Sources: Corporate annual reports; "The Drug and Pharmaceutical Industry in Puerto Rico," Economic Development Administration of the government of Puerto Rico (June 1982, Sept. 1986, and Sept. 1990); "Profile of Performance: The Drug and Pharmaceutical Industry in Puerto Rico," Economic Development Administration of the government of Puerto Rico (Jan. 1985); and "Caribbean Business Book of Lists 1990" (Puerto Rico: Casiano Communications, Inc., 1990) for year Becton, Dickinson started operations.

Table I.3 shows the 26 pharmaceutical corporations that we studied for this report. We describe how we selected these 26 companies in Appendix III. Most of the companies we studied were engaged in operations in Puerto Rico for many years. All but five were operating in Puerto Rico from 1976 or before.

The majority of the companies we included in our analysis had establishments in Puerto Rico in one of the following industries (U.S. standard industrial codes in parentheses):

(1) Medicinal chemicals and botanical products (code 2833). This industry includes establishments primarily engaged in manufacturing bulk medicinal chemicals and their derivatives, and processing bulk botanical drugs and herbs.

(2) Pharmaceutical preparations (code 2834). This industry includes establishments primarily involved in fabricating pharmaceutical preparations in forms for final consumption, such as tablets, capsules and suspensions.

(3) Diagnostic substances (code 2835). This industry includes establishments mainly involved in manufacturing substances used in diagnosing or monitoring the state of health by measuring components of body fluids or tissues.

(4) Biological products, except diagnostic substances (code 2836). This industry includes establishments involved in producing bacterial and viral vaccines, serums, plasmas, and other blood derivatives.

The pharmaceutical operations of some diversified companies in table I.3 accounted for only a small percentage of total sales. For example, Monsanto's pharmaceutical sales in 1990 were 16 percent of net sales. Another company we included in our analysis—Baxter—asserted that it was not part of the pharmaceutical industry because, although it produced some drug products, its main line product line was medical devices. As of May 1990, other companies with manufacturing plants in the drug and pharmaceutical industry in Puerto Rico included Allied Signal; B.O.C. Holding Corp.; Boehringer Mannheim GMBH; The Boots Co. plc; Darby Drug Co.; Du Pont (E.I.) de Nemours & Co., Inc.; F. Hoffman-La Roche & Co. Ltd.; Flow Cytrometry Std. Corp.;' Hanson Industries North America; Imperial Chemical Industries plc; J.M. Family Enterprises, Inc.; Lymphomed, Inc.; Nestle S.A.; Proctor & Gamble Co.; Rotho Pharmaceutical; Sandoz LTD; and Stiefel Laboratories, Inc.[10]

TABLE I.4.—ESTIMATED TAX SAVINGS PER EMPLOYEE AND ESTIMATED TAX SAVINGS AS A PERCENTAGE OF COMPENSATION VARIED WIDELY WITHIN THE PHARMACEUTICAL INDUSTRY IN 1989

| Company | Employees | Estimated tax savings per employee | Estimated tax savings as a percentage of compensation |
|---|---|---|---|
| Pfizer | 500 | $156,400 | 636 |
| Merck | 953 | 110,493 | 450 |
| American Home Products | 1,000 | 80,600 | 328 |
| Kodak (Sterling) | 350 | 77,143 | 314 |
| Bristol-Myers Squibb | 1,440 | 74,097 | 302 |
| Upjohn | 775 | 58,452 | 238 |
| Eli Lilly | 950 | 57,368 | 234 |
| SmithKline Beecham | 991 | 56,206 | 229 |
| Johnson & Johnson | 2,900 | 50,690 | 207 |
| Schering-Plough | 1,200 | 48,417 | 197 |
| Monsanto (Searle) | 500 | 40,600 | 165 |
| Abbott | 2,200 | 33,636 | 137 |
| Rhone-Poulenc Rorer | 295 | 27,797 | 113 |
| Warner-Lambert | 1,524 | 25,984 | 106 |
| American Cyanamid | 1,121 | 23,372 | 95 |
| Baxter | 5,912 | 10,521 | 43 |
| Syntex | 333 | 0 | 0 |

Note.—See appendix II for relevant corporate-specific tax data.

Sources: GAO calculations based on information in corporate financial data. Number of employees comes from "Caribbean Business-to-Business Guide 1991" (Puerto Rico: Casiano Communications, Inc., 1991); average compensation figures come from "Drug and Pharmaceutical Industry in Puerto Rico," Economic Development Administration of the government of Puerto Rico (Sept. 1990). Employee compensation was estimated using average hourly earnings in the pharmaceutical industry as of March 1990, and includes fringe benefits equal to about 26 percent of wages.

EMPLOYEES, ESTIMATED TAX SAVINGS, AND EMPLOYEE COMPENSATION IN SELECTED PHARMACEUTICAL CORPORATIONS FOR 1989

Based on 1989 and 1990 employment figures, tax savings per employee and tax savings as a percentage of compensation varied substantially within the drug industry. For instance, 1989 estimated tax savings per employee ranged from $0 to $156,400 in a group of 17 corporations for which we were able to match employees and estimated tax savings (see table I.4). Figures for 1990 showed a similar pattern but were not reported because they were based on less reliable data than the 1989 figures. The 1989 estimates were based on December 1989 employment figures and average wages in the pharmaceutical and drug industry as of March 1990.

Tax savings as a percentage of employee compensation ranged from 0 percent to 636 percent in the group of 17 corporations for which we matched employees and tax savings. In 1989 one company received $6.36 in tax savings per dollar of employee compensation; another received $4.50; three companies received more than $3 but less than $3.30; and the other 12 companies received less than $2.40. The estimate of employee compensation includes fringe benefits equal to about 26 percent of wages.

Because company-by-company employment information was not readily available for Puerto Rico over time, we were not able to do a long-term or comprehensive analysis relating the number of a company's employees in Puerto Rico to its estimated tax savings from operating in Puerto Rico. The figures shown in table I.4 were calculated from estimated tax savings derived from financial statement data (see appendix III) and employment figures we collected from a directory of Puerto Rico businesses.[11] We computed 1989 and 1990 estimated tax savings per employee for the 17 corporations included in our universe and listed in the directory. We divided the estimated tax savings per employee by average compensation figures per employee to arrive at estimated tax savings as a percentage of compensation.

TABLE I.5.—ESTIMATED TAX SAVINGS AND ESTIMATED TAX-EXEMPT INCOME FROM PUERTO RICO OPERATIONS OF 26 PHARMACEUTICAL CORPORATIONS INCREASED IN THE 1980s.

[In millions of dollars]

| Year | Estimated total tax savings | Estimated total tax savings, 1990 dollars | Estimated total tax-exempt income | Estimated total tax-exempt income, 1990 dollars |
|---|---|---|---|---|
| 1980 | 460 | 723 | 999 | 1,572 |
| 1981 | 526 | 752 | 1,144 | 1,636 |
| 1982 | 567 | 764 | 1,233 | 1,661 |
| 1983 | 597 | 772 | 1,297 | 1,679 |
| 1984 | 616 | 764 | 1,339 | 1,661 |
| 1985 | 828 | 990 | 1,800 | 2,153 |
| 1986 | 1,007 | 1,173 | 2,189 | 2,551 |
| 1987 | 952 | 1,075 | 2,379 | 2,686 |
| 1988 | 836 | 908 | 2,458 | 2,672 |
| 1989 | 1,017 | 1,059 | 2,986 | 3,111 |
| 1990 | 1,119 | 1,119 | 3,284 | 3,284 |
| Total | 8,524 | 10,102 | 21,109 | 24,667 |

Note.—Totals may not add up due to rounding. Financial data have been adjusted for inflation using the implicit price deflator for U.S. gross domestic product.

Source: GAO calculations based on corporate financial data.

ESTIMATED TAX-EXEMPT INCOME AND ESTIMATED TAX SAVINGS FROM PUERTO RICO OPERATIONS, 1980–1990

As shown in table I.5, the amount of estimated income exempt from taxes for the entire 11-year period totaled about $24.7 billion in inflation-adjusted dollars. Estimated tax savings were about $10.1 billion in inflation-adjusted dollars.

These figures are total tax-exempt income and tax savings summed over all 26 companies in inflation-adjusted dollars for the years 1980 through 1990. We used the implicit price deflator for gross domestic product to convert prior year dollars into constant 1990 dollars. The inflation-adjusted savings and tax-exempt income are larger than the nominal amounts because they reflect an inflation that averaged about 5.7 percent per year during the 1980s. The inflation rate was computed using the gross domestic product deflator.

In general, the 26 pharmaceutical companies' tax-exempt income and tax savings from operations in Puerto Rico increased from 1980 through 1990. Inflation-adjusted tax-exempt income increased from $1.6 billion in 1980 to about $3.3 billion in 1990, and inflation-adjusted tax savings increased from $.7 billion in 1980 to about $1.1 billion in 1990. Total estimated tax savings increased in inflation-adjusted dollars at an average annual rate of 5.5 percent over the 11-year period.

The change in tax savings over time did not exactly parallel the change in tax-exempt income. More specifically, the tax savings amount dipped in 1987 and again in 1988, whether adjusted for inflation or not, and tax-exempt income barely decreased from 1987 to 1988. This difference might be explained by the decline in statutory corporate income tax rates from a maximum rate of 46 percent to 40 percent for 1987 and to 34 percent for 1988. Lower tax rates would not have necessarily changed the amount of tax-exempt income, but they definitely would have reduced the amount of taxes saved on that income.

The $952 million nominal amount for tax savings in 1987 differs from the $1.3 billion for section 936 tax benefits in 1987 as reported by Treasury (56 percent of the $2.3 billion in table I.1). We believe this difference exists in part because (1) IRS used actual tax return information, which, for reasons described in appendix III, can differ substantially from financial statement data; (2) our estimates are the result of conservative assumptions we made using only 26 companies' financial statements; and (3) we could not exclude nonpharmaceutical subsidiaries.

TABLE I.6.—ESTIMATED TAX SAVINGS AND ESTIMATED TAX-EXEMPT INCOME FROM PUERTO RICO OPERATIONS VARIED AMONG CORPORATIONS

[Inflation-adjusted 1990 dollars in millions]

| Corporation | Estimated total tax savings, 1980–90 | Average annual tax savings | Estimated total exempt income, 1980–90 | Average annual exempt income |
|---|---|---|---|---|
| Johnson & Johnson | 1,117 | 102 | 2,778 | 253 |
| SmithKline Beecham | 987 | 90 | 2,301 | 209 |
| Abbott | 860 | 78 | 2,075 | 189 |
| Pfizer | 759 | 69 | 1,864 | 170 |
| Upjohn | 750 | 68 | 1,776 | 161 |
| Merck | 749 | 68 | 1,890 | 172 |
| Baxter | 685 | 62 | 1,648 | 150 |
| Schering-Plough | 655 | 60 | 1,581 | 144 |
| Eli Lilly | 650 | 59 | 1,583 | 144 |
| Bristol-Myers Squibb | 627 | 57 | 1,591 | 145 |
| Squibb | 514 | 57 | 1,212 | 135 |
| American Home Products | 450 | 75 | 1,194 | 199 |
| Warner-Lambert | 337 | 31 | 828 | 75 |
| Monsanto (Searle) | 293 | 27 | 678 | 62 |
| American Cyanamid | 225 | 21 | 554 | 50 |
| Kodak (Sterling) | 141 | 16 | 362 | 40 |
| Becton, Dickinson | 111 | 10 | 266 | 24 |
| A.H. Robins | 54 | 7 | 120 | 15 |
| Carter-Wallace | 50 | 5 | 120 | 11 |
| Rhone-Poulenc Rorer | 39 | 8 | 106 | 21 |
| Allergan | 24 | 12 | 72 | 36 |
| Forest Laboratories | 15 | 1 | 37 | 3 |
| Mylan Laboratories | 5 | 1 | 14 | 4 |
| Bolar Pharmaceuticals | 4 | 0.7 | 11 | 2 |
| Zenith Laboratories | 2 | 0.4 | 4 | 1 |
| Syntex | 0 | 0 | 0 | 0 |

Note.—See appendix II for relevant information about individual companies.

Source: GAO calculations based on corporate financial data.

ESTIMATED TAX-EXEMPT INCOME AND ESTIMATED TAX SAVINGS FROM PUERTO RICO OPERATIONS BY INDIVIDUAL CORPORATIONS, 1980–1990

We found wide differences in the estimated tax savings from Puerto Rico operations reported by 26 pharmaceutical corporations. For instance, 1 company saved more than $1 billion; another saved $987 million; 9 other companies saved more than $500 million but less than $1 billion; and the other 15 companies saved less than $500 million (see table I.6). The company that reported zero tax savings from Puerto Rico operations asserted that its net operating loss carryforwards exceeded section 936 tax benefits. We obtained these estimates from information derived from financial statements of 26 pharmaceutical companies for the 11-year period 1980 through 1990. These tax savings have been adjusted for inflation to the year 1990 and have the limitations we describe in appendix III.

In general, the pattern of total tax-exempt income is similar to the tax savings pattern described above. The company that reported tax savings greater than $1 billion obtained the largest tax-exempt income—$2.8 billion. The tax-free earnings of another two companies were greater than $2 billion; the total tax-free earnings of another 9 companies were greater than $1 billion but less than $2 billion; and the other 14 companies had less than $1 billion in tax-exempt earnings.

The average annual exempt income and the average annual tax savings also varied substantially from company to company. We computed the averages by dividing a company's income and savings amounts by the number of years the company had been operating in Puerto Rico since 1979.

TABLE I.7.—ESTIMATED TAX SAVINGS OBTAINED FROM PUERTO RICO OPERATIONS COMPARED TO INCOME BEFORE TAXES VARIED WIDELY

[Inflation-adjusted 1990 dollars in millions]

| Company | Estimated total tax savings, 1980–90 | Total income before taxes, 1980–90 | Savings as a percentage of income before taxes |
|---|---|---|---|
| Baxter | 685 | 3,530 | 19.4 |
| Upjohn | 750 | 4,592 | 16.3 |
| Squibb | 514 | 3,229 | 15.9 |
| Allergan | 24 | 184 | 13.0 |
| Schering-Plough | 655 | 5,134 | 12.8 |
| Rhone-Poulenc Rorer | 39 | 368 | 10.6 |
| SmithKline Beecham | 987 | 10,202 | 9.7 |
| Johnson & Johnson | 1,117 | 12,714 | 8.8 |
| Abbott Laboratories | 860 | 9,861 | 8.7 |
| Carter-Wallace | 50 | 586 | 8.5 |
| Pfizer | 759 | 10,516 | 7.2 |
| Forest Laboratories | 15 | 210 | 7.1 |
| American Cyanamid | 225 | 3,542 | 6.4 |
| Warner-Lambert | 337 | 5,537 | 6.1 |
| Bechton, Dickinson | 111 | 1,928 | 5.8 |
| Eli Lilly | 650 | 11,456 | 5.7 |
| Monsanto (Searle) | 293 | 5,216 | 5.6 |
| American Home Products | 450 | 9,220 | 4.9 |
| Bristol-Meyers Squibb | 627 | 12,848 | 4.9 |
| Merck | 749 | 15,527 | 4.8 |
| Bolar | 4 | 91 | 4.4 |
| Mylan Laboratories | 5 | 140 | 3.6 |
| Kodak (Sterling) | 141 | 6,644 | 2.1 |
| Syntex | 0 | 2,904 | |
| A. H. Robins | 54 | (1,797) | NA |
| Zenith Laboratories | 2 | (30) | NA |

Note.—See appendix II for relevant information about specific corporations.

Source: GAO calculations based on corporate financial data.

ESTIMATED TAX SAVINGS OBTAINED FROM PUERTO RICO OPERATIONS COMPARED TO INCOME BEFORE TAXES

As table I.7 shows, over the 1980 through 1990 period, for pharmaceutical companies with operations in Puerto Rico, estimated tax savings as a percentage of income before taxes varied widely, from 0 percent to about 19 percent.

This means that companies' effective tax rates for the period were reduced from 0 to 19 percentage points. Tax savings from Puerto Rico operations were more than 10 percent of corporate income before taxes for 6 of the 26 pharmaceutical corporations. Two companies had losses during the period and therefore did not enter into our calculations.

TABLE I.8.—MAJOR PRESCRIPTION DRUGS APPROVED FOR PRODUCTION IN PUERTO RICO

| Pharmaceutical corporation | Drug | Rank |
|---|---|---|
| American Home Products | Premarin | 4 |
| Boots | Synthroid | 8 |
| Bristol-Myers Squibb | Capoten | 13 |
| Ciba-Geigy | Lopressor | 19 |
| Eli Lilly | Ceclor | 7 |
| Do | Darvocet-N 100 | 27 |
| Do | Prozac | 16 |
| ICI Pharmaceuticals | Tenormin | 11 |
| Johnson & Johnson | Tylenol w/codeine | 25 |
| Do | Ortho-Novum 7/7/7 28 | 18 |
| Marion Merrell Dow | Cardizem | 12 |
| Do | Seldane | 10 |
| Merck | Vasotec | 9 |
| Do | Mevacor | 32 |
| Monsanto (Searle) | Calan SR | 17 |
| Pfizer | Procardia | 35 |
| Do | Procardia XL | 33 |
| Schering-Plough | Theo-Dur | 26 |
| SmithKline Beecham | Tagamet | 15 |
| Do | Dyazide | 6 |
| Syntex | Naprosyn | 14 |
| Upjohn | Halcion | 30 |
| Do | Micronase | 28 |
| Do | Provera | 34 |
| Do | Zanax | 5 |
| Warner-Lambert | Dilantin | 21 |

Source: Food and Drug Administration.

MAJOR PRESCRIPTION DRUGS APPROVED FOR PRODUCTION IN PUERTO RICO

As shown in table I.8, various companies were involved with the most-prescribed drugs in the United States that were approved by the Food and Drug Administration for production in Puerto Rico. Four of the

companies—Boots, Ciba-Geigy, ICI Pharmaceuticals, and Marion Merrell Dow—were not included in our study because either the company was not on the lists we checked, Puerto Rico-specific information was not available through the Securities and Exchange Commission or Puerto Rico operations had not yet begun as of 1990.

We obtained our information on most-prescribed drugs and on approvals for manufacture in Puerto Rico from the Food and Drug Administration. The agency provided us with a list of the 200 most-prescribed drugs in the United States in 1990, counting new and refilled prescriptions. It also pinpointed 73 of these drugs that it had approved for production in Puerto Rico.

We should point out that just because a particular drug was approved for manufacture in Puerto Rico does not necessarily mean that it actually was manufactured in Puerto Rico. Representatives of the pharmaceutical industry told us that particular drugs often are approved for production in different plants.

Seven pharmaceutical companies were authorized to manufacture in Puerto Rico 2 or more of the 35 most prescribed drugs in the United States in 1990. As shown in table I.8, 26 of the 35 drugs were authorized for Puerto Rican manufacture. More specifically, 17 of the top 21 had this approval. Some of the uses of the drugs in table I.8 are shown next.

*Premarin*, according to its producer American Home Products, was in 1990 the leading estrogen replacement therapy in the United States for the treatment of menopausal symptoms and osteoporosis.

*Synthroid*, produced by Boots, is indicated for the treatment of conditions associated with thyroid glands, such as primary atrophy, absence of thyroid glands and thyroid cancer.

*Capoten* is Bristol-Myers Squibb's trademark under which it sells the antihypertensive captopril. Sales of captopril increased 19 percent in 1990 to $1.5 billion, and it was Bristol-Myers Squibb's largest selling product.

*Lopressor*, produced by Ciba-Geigy, is indicated for the treatment of hypertension and the long-term treatment of angina pectoris.

*Ceclor* is one of Eli Lilly's products for the treatment of bacterial infections. *Darvocet-N 100*—used for the relief of mild-to-moderate pain—and the antidepressant *Prozac* are part of Eli Lilly's central nervous system products.

*Tenormin*, produced by ICI Pharmaceuticals, is indicated in the treatment of hypertension and the long-term treatment of patients with angina pectoris.

*Ortho Novum 7/7/7 28* is an oral contraceptive produced by Johnson & Johnson. *Tylenol with codeine*, also produced by Johnson & Johnson, is indicated for the relief of mild-to-moderately-severe pain.

*Cardizem*, produced by Marion Merrell Dow, is indicated in the treatment of angina pectoris due to coronary artery spasm. *Seldane*, also produced by Marion, is indicated for the relief of symptoms associated with seasonal allergies, such as sneezing and lacrimation.

*Vasotec* and *Mevacor* are in the group of Merck's antihypertensive and cardiovascular products.

*Calan SR* is part of Monsanto's pharmaceutical products for the treatment of hypertension. Calan's net sales in 1990 increased 28 percent to $467 million.

*Procardia* and *Procardia XL* are part of Pfizer's cardiovascular products. Their combined sales in 1990 were $727 million, an increase of 58 percent over 1989.

*Theo-dur* is a sustained-action anti-asthma product of Schering-Plough. Sales were more than $100 million in 1989, but decreased in 1990 due to competition from generic products.

*Tagamet*, indicated in treatment of active duodenal ulcers, represented approximately 26 percent of SmithKline Beecham's pharmaceutical sales in 1990. U.S. sales of Tagamet were $606 million in 1990, an increase of 6 percent. *Dyazide*, also produced by SmithKline Beecham, is a diuretic which may also be used for the treatment of hypertension. Sales of Dyazide increased 18 percent in 1990, primarily reflecting increased volume following the withdrawal of competing generic products from the U.S. market in 1989 and early 1990 after inquiries by the U.S. Food and Drug Administration and Congress.

*Naprosyn*, produced by Syntex, is indicated for the treatment of arthritic diseases. According to Syntex, Naprosyn was the top selling prescription nonsteroidal anti-inflammatory drug in the United States in 1990.

*Xanax* and *Halcion* are Upjohn's two major drugs for the treatment of central nervous system disorders. Xanax is used for symptomatic relief of anxiety with and without depression. Halcion is a hypnotic drug for the treatment of insomnia.

*Micronase* is Upjohn's major oral antidiabetes product. *Provera*, also produced by Upjohn is indicated for the treatment of abnormal uterine bleeding.

*Dilantin* is an anticonvulsant produced by Warner-Lambert.

The top three drugs in number of prescriptions—Amoxil, produced by SmithKline Beecham; Lanoxin, produced by Burroughs Wellcome; and Zantac, produced by Glaxo—were not authorized for production in Puerto Rico. Others that did not have the approval were Augmentin (SmithKline Beecham), Proventil (Shering-Plough), Lasix (Hoechst-Roussel), Voltarin (Ciba-Geigy), Ventolin (Glaxo), and Cipro (Miles Pharmaceuticals).

APPENDIX II.—NOTES ON CORPORATIONS' FINANCIAL DATA

We obtained the tax savings from Puerto Rico operations for "A.H. Robins; American Home Products (1988–1990); Bolar; Bristol-Myers (1989–1990); Carter-Wallace; Eastman Kodak (Sterling) (1980–1985); Eli Lilly; Johnson & Johnson; Merck; Monsanto (G.D. Searle); Rhone-Poulenc Rorer; Schering-Plough; Squibb; Upjohn; Warner-Lambert; and Zenith" from an explicit item in the tax footnote in the companies' financial statements labeled something like "tax exemption for Puerto Rico operations."

"Abbott (1984-1990); American Home Products (1985–1987); Bristol-Myers; Eastman Kodak (Sterling) (1988–1990); Monsanto (1985); Pfizer; and Syntex" provided us with explicit tax savings from Puerto Rico operations which were not available in their financial statements.

Although "Baxter" said that it was not a pharmaceutical company and should not be included in our analysis, it also supplied us with estimated tax savings, marked confidential, for 5 of the 11 years we analyzed. We used our own estimates, calculated as described below, because we did not have written permission to publish Baxter's confidential data and it gave us data for only 5 years.

For "Allergan; American Cyanamid (1980–1986); Baxter; Becton, Dickinson; Forest Laboratories; and SmithKline "we used the ratio of U.S. sales to worldwide sales as described in appendix III to estimate tax savings. We used this ratio because the financial statement tax footnote combined tax consequences from Puerto Rico with those from Ireland or from unidentified sources.

For "American Cyanamid" (1987–1990), we adjusted the sales ratio technique described in appendix III and also based our estimates on earlier year tax savings estimates. We did this because the company changed the relevant description in its tax footnote, and not changing our approach would have resulted in numbers that would have been inconsistent with the company's earlier experience.

"A.H. Robins" was acquired by "American Home Products" in 1989.

"Allergan" became independent of "SmithKline Beckman" in 1989.

"American Home Products" started operations in Puerto Rico in 1984.

"Becton, Dickinson" reports a larger 1987 tax consequence from foreign and Puerto Rican income than we used because we conservatively used the then-existing 40-percent statutory tax rate rather than a 43-percent rate that appeared in the financial statements.

"Bolar" began Puerto Rico operations in 1985.

"Bristol-Myers Squibb" includes only Bristol-Myers from 1980 through 1988 and after that reflects "Squibb's" 1989 merger with a subsidiary of "Bristol-Myers."

Fiscal years for "Carter-Wallace, Forest Laboratories, and Mylan Laboratories" ended on March 31 of the year after the one we show.

"Eastman Kodak" acquired "Sterling" in 1988, and "Monsanto" acquired "Searle" in 1985. Data before the year of acquisition apply to the subsidiary only, and the later data cover the combined entity. Sterling's 1986 and 1987 numbers were unavailable in legible form from the Securities and Exchange Commission.

Because "Mylan Laboratories" reported tax credits as resulting principally from Puerto Rico operations, we conservatively used 50 percent of the tax credits as the tax savings from Puerto Rico operations. Mylan began Puerto Rico operations in 1987.

"Rhone-Poulenc Rorer" resulted from the merger of Rhone-Poulenc and Rorer in 1990. Rorer's numbers alone are shown before 1990.

Our information on "SmithKline Beecham," incorporated in England, includes data for SmithKline (1980) or SmithKline Beckman with the "Allergan" component for 1980 through 1988. Data afterwards reflect SmithKline Bechman's merger with Beecham and its dissociation from Allergan. To estimate SmithKline's tax savings from Puerto Rico operations we used the sales ratio technique described in appendix III. For 1989 and 1990 we also used earlier ratios because we did not have more current ones available.

"Syntex Corporation" is incorporated in Panama. Syntex told us that the U.S. net operating loss carryforwards reflected in its 1990 annual report exceeded the section 936 tax benefits it claimed, and thus, its financial statements for the period 1980 through 1990 reflected no saving in U.S. federal tax related to section 936 operations in Puerto Rico.

"Zenith Laboratories" began Puerto Rico operations in 1984.

APPENDIX III.—OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives included determining for 1980 through 1990—the tax benefits pharmaceutical corporations obtained from operating in Puerto Rico compared to the number of employees they hired and the wages they paid in Puerto Rico; the estimated tax savings that individual pharmaceutical corpora-

tions obtained from operating in Puerto Rico; and the estimated amount of income they obtained from operating in Puerto Rico that was exempt from federal taxes.

Another objective was to determine the major drugs that pharmaceutical corporations were authorized to produce in Puerto Rico.

To address the first objective—relating tax benefits to employment statistics—we obtained statistical information compiled by IRS and Treasury. To estimate the section 936 tax benefits, Treasury subtracted from the actual section 936 tax credits claimed by the companies other tax benefits—such as accelerated depreciation, investment tax credits and foreign tax credits—which the corporations might have claimed if they had not received the section 936 credit. Using these data provided by Treasury and IRS, we determined ratios of tax benefits per employee and tax benefits to total compensation paid in Puerto Rico. We did this for all section 936 pharmaceutical companies and all section 936 manufacturing companies in 1981, 1983, 1985, and 1987, years for which federal unemployment data were available. More recent data were not available.

To address the next two objectives—estimating tax savings and tax-exempt income—we collected, analyzed, and aggregated company-specific data mostly from public sources. For this work, we used primarily financial statement data of 26 pharmaceutical corporations that were publicly available and, thus, allowed us to do the sort of company-by-company analysis requested.

We also asked each of 14 pharmaceutical companies whose financial statements aggregated tax savings from Puerto Rico operations with other tax savings to review a table we prepared for that company. Each table showed the numbers taken from the company's financial statement footnotes which we believed included a figure for tax savings from operating in Puerto Rico. We asked that each company provide us with its estimate of tax savings from Puerto Rico operations. Eight companies, listed in appendix II, provided such estimates.

Our approach did not allow us to isolate the tax benefits companies received by using the credit specifically. Rather, it enabled us to estimate the tax savings companies claimed on their financial statements by using the tax credit and other tax provisions related to operating in Puerto Rico. We obtained inflation-adjusted tax savings using the implicit price deflator for U.S. gross domestic product.

Financial statement figures may differ substantially from the numbers on tax returns because they can be governed by different practices or based on different time periods. For instance, a corporation may use what is know as "the profit split method" for calculating income for financial statement purposes and a different method for calculating income for tax purposes. As another example, any information acquired after a financial statement is published but before a tax return is filed will be used in preparing the tax return even though a financial statement is not reissued. In addition, companies may differ from each other in how they present their financial statement information—for instance, isolating various amounts related to operating in Puerto Rico to different degrees—and the same company may follow different practices in different years. Other differences between financial statement amounts and actual tax benefits may arise from (1) the way companies estimate future IRS audit adjustments or present past ones, (2) the fact that specific corporations are subject to the alternative minimum tax, and (3) other factors.

Thus, if actual tax return figures were used, company-by-company analyses might reveal a different picture. Therefore, we tried to be conservative in estimating company-specific amounts from financial statement data. For the 1 year we checked, we found that the total tax savings from Puerto Rico operations based on our financial statement analysis was substantially lower than the total section 936 credits reported in tax returns. We also did company-by-company comparisons but do not report the results because of concerns that doing so might disclose confidential tax information.

Other analysts have used financial statements to describe the impact of Puerto Rico operations on corporate tax savings.[12] We believe that regardless of whether tax return or financial statement data are used, the basic idea would hold true that companies can differ substantially from each other in their tax consequences from operating in Puerto Rico over time.

To work with the financial statements, we first identified pharmaceutical firms with manufacturing operations in Puerto Rico. We did this generally by examining two sources: (1) a list of corporations that could be producing pharmaceuticals in Puerto Rico as of September 1990, as published by the Economic Development Administration of the government of Puerto Rico; and (2) a December 1991 list of establishments approved by the U.S. Food and Drug Administration to manufacture specific drugs in Puerto Rico and the Virgin Islands.

We selected those companies that appeared on both lists and for which we could obtain usable financial statements from the Securities and Exchange Commission for the time the companies operated in Puerto Rico during 1980 through 1990. We also selected the only company—Becton, Dickinson—that was in the list of top 24 Puerto Rican pharmaceutical companies in terms of employees[13] that we had not already selected, and that had the sort of usable financial statements we needed.

Our final list of 26 pharmaceutical corporations included only those companies with financial statements that provided detailed enough information to allow us to estimate the tax savings the companies obtained from operating in Puerto Rico. The 26 corporations included companies whose section 936 tax credits, when totaled, accounted for a large majority of the total section 936 tax credits provided to all pharmaceutical corporations in the 1 year checked. The 26 companies also accounted for a large majority of the drug products approved by the Food and Drug Administration for manufacture in Puerto Rico. Companies not covered in our analysis included those that were not publicly owned and thus did not file statements with the Securities and Exchange Commission and those with Puerto Rico operations that were an immaterial and therefore unidentifiable part of total operations.

To estimate each company's tax savings from operating in Puerto Rico, we examined the company's financial statement footnote that explained its income taxes. This footnote had a section in which the company reconciled its actual tax expense with what its tax expense would have been if the statutory tax rate had been applied to income before taxes and nothing else had to be considered.

One of the reconciling items for the companies we were examining was an item labeled something like "tax exemption for Puerto Rico operations." To estimate company tax savings for the 1980 through 1990 period, we added up the company's exemption amounts for all the years that the company had a Puerto Rico operation. We did this on a nominal basis and also adjusted it for inflation. If a particular financial statement number was based on a Puerto Rico exemption as well as another exemption—for example, one for Ireland—we estimated the Puerto Rico part by using the ratio of the company's U.S. sales to worldwide sales. Our assumption was that the output produced in Puerto Rico was generally sold in the United States and the output produced under the exemptions was sold elsewhere. Although we know that this assumption is not universally true, it was based on information we obtained form the Economic Development Administration of Puerto Rico that pharmaceuticals produced in Puerto Rico are generally shipped to the United States. Because of the relative imprecision underlying this assumption, we asked the companies for whom we would be using the sales ratio technique to provide us with tax savings estimates of their own. The companies that provided their own estimates are listed in appendix II.

The resulting amount of tax savings we determined for each company was not intended to represent the section 936 tax credit taken. Rather, as alluded to above, the amount could also show the effects of taxes paid in Puerto Rico and reflect differences in how financial statements and tax returns are put together. Further, the tax savings derived are not amounts that necessarily would have been paid in the absence of a section 936 tax credit. If companies did not have section 936 tax credits to use, they might have been able to take advantage of other tax provisions, such as the foreign tax credit, that also would have reduced the amounts of taxes they would have otherwise paid.

Once we obtained a company's tax savings from Puerto Rico operations, we were able to address our third objective and compute the tax-exempt income obtained from operating in Puerto Rico. We did this computation by dividing the tax savings we arrived at earlier by the statutory tax rate—for example, by 34 percent in the United States after 1987.

For 1989 and 1990, we matched the tax savings data we had estimated for specific companies to publicly available information on the number of their employees in Puerto Rico and an estimated amount of compensation they paid them. We were thus able to obtain company-specific ratios of estimated tax savings per employee and estimated tax savings to total compensation paid in Puerto Rico.

For our fourth objective—determining the major drugs that pharmaceutical corporations were authorized to produce in Puerto Rico—we obtained from the Food and Drug Administration a list of the 200 most-prescribed drugs the agency had approved for manufacture in Puerto Rico. We then categorized by company the 25 most-prescribed drugs authorized for production in Puerto Rico.

In doing our work, we interviewed Treasury and IRS officials responsible for analyzing tax returns of section 936 corporations, and we reviewed aggregate and individual tax data of section 936 corporations. In addition, we analyzed Treasury reports and professional articles on section 936 as well as Securities and Exchange Commission rules and generally accepted accounting principles followed in preparing and presenting financial statements.

We also considered the views of accounting professionals and pharmaceutical industry representatives. We met with Price Waterhouse officials and members of the Tax Subcommittee of the Pharmaceutical Manufacturer's Association to obtain their views on the characteristics of tax data reported by pharmaceutical companies in financial statements and the tax benefits of section 936. We also received a Price Waterhouse report that describes the issues involved in measuring section 936 tax benefits from financial statement data.[14] Their views have been incorporated into the preparation of this report.

APPENDIX IV.—MAJOR CONTRIBUTORS TO THIS BRIEFING REPORT

General Government Division, Washington, D.C.:

Jose R. Oyola, Assistant Director.
Lawrence M. Korb, Evaluator-in-Charge.
Kevin E. Daly, Senior Economist.
Sharon T. Paris, Evaluator.

FOOTNOTES

[1] Intangible assets do not have physical substance but do have economic value because they confer rights on their holders. The owner of a drug patent granted by the U.S. government has the right to prevent others from making or selling the drug for a period of 17 years.

[2] See, for example, the U.S. Tax Court cases "Eli Lilly and Co. v. Comr.," 84 T.C. 996 (1985) and "G.D. Searle & Co. v. Comr.," 88 T.C. 252 (1987).

[3] "General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982," Joint Committee on Taxation (Dec. 1982).

[4] "General Explanation of the Tax Reform Act of 1986," Joint Committee on Taxation (May 1987).

[5] "Reducing the Deficit: Spending and Revenue Options," Congressional Budget Office (Feb. 1992).

[6] "Section 936 and the Puerto Rican Economy: An Analysis of the Effects of a Repeal of Section 936 Under Puerto Rico's Present Commonwealth Status," Price Waterhouse (May 1991).

[7] "Puerto Rico: Update of Selected Information Contained in a 1981 GAO Report" (GAO/H/RD-89-104FS, Aug. 1989).

[8] We report data on (1) Treasury's estimates of section 936 tax benefits obtained from tax returns and (2) our estimates of tax savings from Puerto Rico operations obtained from corporate financial statements. The difference between tax benefits and tax savings is explained in detail in appendix III.

[9] "Financial Accounting for Section 936 Tax Credits," Price Waterhouse (March 1992).

[10] "The Drug and Pharmaceutical Industry in Puerto Rico," Economic Development Administration of the government of Puerto Rico (Sept. 1990).

[11] "Caribbean Business-to-Business Guide 1991" (Puerto Rico: Casiano Communications, Inc., 1991).

[12] "A Successful Puerto Rican Statehood Initiative Will Result in Higher Corporate Tax Rates for Many Companies," Washington Analysis Corporation (Aug. 1990), and "The Operation and Effect of the Possessions Corporations System of Taxation," Department of the Treasury (1980).

[13] "Caribbean Business Book of Lists 1990," (Puerto Rico: Casiano Communications, Inc., 1990).

[14] "Financial Accounting for Section 936 Tax Credits," Price Waterhouse (March 1992).

[Senate Aging Committee Majority Staff Analysis of General Accounting Office Report, May 1992]

PHARMACEUTICAL INDUSTRY: TAX BENEFITS OF OPERATING IN PUERTO RICO

BACKGROUND

In November, 1991, Senate Aging Committee Chairman David Pryor (D-Ark) asked the U.S. General Accounting Office (GAO) to determine the nature and extent of the tax subsidies received by the pharmaceutical industry under the section 936 tax credit. This tax credit provides a tax exemption for business income earned by U.S. corporations that manufacture products in Puerto Rico and other territorial possessions of the United States. The stated purpose of the credit is to stimulate the development of jobs in these territorial possessions.

In short, the GAO report concludes that the section 936 tax credit has been significantly more efficient at producing billions of dollars in tax savings for the pharmaceutical industry rather than creating jobs in Puerto Rico. In doing so, the GAO report confirms the similar findings of a September, 1991 Senate Aging Committee staff report, "The Drug Manufacturing Industry: A Prescription for Profit."

The GAO report was requested to provide an independent analysis to the Congress on the tax subsidies that the pharmaceutical industry is realizing from this generous tax credit. The information provided in the report should help Congress restructure the credit so that it meets its stated purpose—job creation, not profit padding—and makes it more fair to the Puerto Rican people and the taxpayers of the United States.

SUMMARY AND ANALYSIS OF REPORT FINDINGS

Point 1: The pharmaceutical industry was responsible for producing only 18 percent of all the section 936 manufacturing jobs in Puerto Rico in 1987 (18,176 of 100,916 section 936 jobs), while in the same year it received about 56 percent of all tax benefits from the section 936 tax credit (about $1.3 billion of the $2.3 billion in total section 936 benefits).

Point 2: During the period between 1980 and 1990, the drug industry received a total section 936 tax savings of $8.5 billion, and had total tax exempt income of $21.1 billion. GAO states that, for one year that was studied, the section 936 drug manufacturer tax savings identified in this Report, which are based on company financial statements, represented only about two-thirds of actual total section 936 tax benefits reported by drug manufacturers in confidential tax returns. Therefore, GAO says that its own Report significantly understates the amount of the drug industry's section 936 tax benefits.

Point 3: The annual section 936 tax benefits received *per employee* by each pharmaceutical manufacturer in 1987—$70,788—is far in excess of the average wages paid per employee—$26,512.

Point 4: The pharmaceutical industry receives the highest per-employee tax break of any section 936 manufacturing industry in Puerto Rico. The Report found that, on average, for each dollar that a drug company paid in wages, it received $2.67 in section 936 tax benefits. The section 936 tax benefits to other industries in Puerto Rico were much smaller. For example, the electronics industry received only 98 cents in tax benefits for each dollar paid in wages; the average section 936 manufacturing company in Puerto Rico received only 68 cents for every dollar paid in wages.

Point 5: The stark inefficiency of the section 936 tax credit in creating jobs in Puerto Rico is demonstrated by the fact that the electronics industry—which employs 23 percent of all section 936 employees—only receives 16 percent of the section 936 tax benefits. In contrast, the drug industry, which has fewer section 936 employees than the electronics industry—18 percent—receives three and a half times MORE benefits than the electronics industry—56 percent.

Point 6: Although a drug company's average section 936 tax savings per employee are about $71,000, the Report found that actual tax savings per employee are substantially higher for many individual pharmaceutical manufacturers in Puerto Rico. The leading drug companies in per-employee tax savings in 1989 were:

| Rank/Company | Tax savings per employee | Tax savings as percent salary | Total employees | Percent total 936 employees |
|---|---|---|---|---|
| 1. Pfizer | $156,400 | 636 | 500 | 0.5 |
| 2. Merck | 110,495 | 450 | 953 | .8 |
| 3. AmHome | 80,600 | 328 | 1,000 | .8 |

Point 7: During the period between 1980 and 1990, about 52 percent of all tax savings received by the pharmaceutical industry under the section 936 credit went to just six pharmaceutical manufacturers. In fact, just two manufacturers—Johnson and Johnson and SmithKline Beecham—received 21 percent of all pharmaceutical manufacturer section 936 tax savings during this period—$2.1 billion dollars. The tax savings for these 6 companies over the 1980-90 period were:

*Total 1980-90 section 936 tax savings*

| Company: | *Billions* |
|---|---|
| | *Billions* |
| 1. Johnson and Johnson | $1.117 |
| 2. SmithKline Beecham | .987 |
| 3. Abbott Labs | .860 |
| 4. Pfizer | .759 |
| 5. Upjohn | .750 |
| 6. Merck | .749 |
| Total 1980-90 tax savings for top six companies | 5.222 |

Point 8: The amount of the section 936 tax credit received by a company has little relationship to the level of employment in Puerto Rico. While Pfizer receives a per-employee tax credit of $156,400, it employs only 500 individuals in Puerto Rico or, only 0.5% of all section 936 employees in Puerto Rico. In contrast, while Baxter receives a per-employee tax credit of $10,521, it employs almost 6,000 individuals in Puerto Rico.

Point 9: Seventeen of the top twenty-one selling drugs in the United States are approved by FDA to be made in Puerto Rico. As the attached chart shows, in addition to avoiding paying millions of dollars in taxes by making these drugs in Puerto Rico, and in addition to receiving a tax credit far in excess of wages paid for the employees that make these drugs in Puerto Rico, the drug manufacturers of this nation have forced the American public to swallow staggering double-digit price increases on these drug products.

CONCLUSION

Today, American taxpayers are underwriting the costs of new drug research, providing tax write-offs for drug manufacturer marketing and advertising expenses, subsidizing billions of dollars in new drug research at the NIH, and paying drug prices that consistently triple the general inflation rate. To ask the American taxpayer to also continue to subsidize the most profitable industry in the country though the section 936 tax credit is not only unfair, it is a disgrace.

Congress has a responsibility to the American taxpayer to make sure that a program that was developed many decades ago is still meeting its objective today. Given the data and analysis included in this report, and the growing number of unmet, urgent social needs that we have in this country today, it is time for the Congress to re-evaluate the nature and structure of the section 936 tax credit.

For more information contact Ann Trinca, Press Secretary, John Coster, or Chris Jennings of the staff of the U.S. Senate Special Committee on Aging, 202-224-5364; or Steve Glaze of Senator Pryor's Office, 202-224-2353.

PRICES FOR PRESCRIPTION DRUGS MADE IN PUERTO RICO SKYROCKET

| Drug/manufacturer | Average annual percent change in price, 1986–91 | Total estimated section 936 tax savings received by MFGR, 1986–91 [1] |
|---|---|---|
| Premarin 0.625mg., American Home Products (estrogen replacement) | 17.0 | $375,000,000 |
| Tylenol & Cod No. 3, Johnson and Johnson (pain killer) | 17.0 | 510,000,000 |
| Halcion 0.25mg., Upjoin (tranquilizer) | 15.0 | 340,000,000 |
| Xanax 0.5 mg., Upjohn (tranquilizer) | 14.6 | 340,000,000 |
| Dilantin 100mg., Parke-Davis (epilepsy) | 14.4 | 155,000,000 |
| Capoten 25mg., Bristol-Myers Squibb (hypertension) | 13.2 | 285,000,000 |
| Tagamet 30mg., SmithKline (ulcers) | 12.0 | 450,000,000 |
| Procardia 10mg., Pfizer (hypertension) | 12.0 | 345,000,000 |
| Ceclor 250mg., Eli Lilly (antibiotic) | 9.5 | 295,000,000 |
| Provera 5mg., Upjohn (hormone replacement) | 9.4 | 340,000,000 |
| Vasotec 10mg., Merck (hypertension) | 8.9 | 340,000,000 |

[1] Estimate based on average annual section 936 tax savings reported in table I.6 of GAO report.

Source: PRIME Institute, Minneapolis, MN and GAO report, 1992.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio [Mr. GLENN] is recognized for up to 20 minutes.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the introduction of S. 2711 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Delaware [Mr. ROTH].

(The remarks of Mr. ROTH pertaining to the introduction of S. 2712 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Montana [Mr. BAUCUS] is recognized.

## NAFTA NEGOTIATIONS

Mr. BAUCUS. Mr. President, in the past couple of weeks the rumor mill has been operating full tilt on the subject of the North American Free-Trade Agreement, otherwise known as NAFTA.

It is said that the political decision has been made. The Bush administration wants an agreement to prop up friends in Mexico and Canada and to woo voters in Texas and California. And it will seek an agreement almost regardless of its content or consequences.

I have long been a strong advocate of lowering barriers to trade. I voted for the United States-Canada Free-Trade Agreement, as well as the United States-Israel Free-Trade Agreement. I supported the administration's request for fast track negotiating authority to negotiate the NAFTA.

But I am disturbed by the direction the NAFTA talks have taken. Decisions seem to be dictated more by politics than by substance.

I am particularly disturbed by the lack of attention to ensuring that free trade not harm the environment and to addressing the needs of displaced workers.

I still support freer trade. But I cannot vote for a trade agreement that harms the environment and displaces thousands of American workers. Unless the administration makes dramatic progress to address these issues, I will oppose the NAFTA.

### THE FAST-TRACK BARGAIN

A little over a year ago, this body engaged in a major debate over extending fast-track negotiating authority and most of the debate focused on the NAFTA.

The debate was contentious and sometimes acrimonious. Much of the controversy centered on concerns about the labor and environmental implications of a trade agreement with a developing nation, Mexico. Ultimately, in a bipartisan spirit that I strongly supported, the Senate voted to grant negotiating authority to the President.

The affirmative vote was based upon a bargain between the administration and the Congress. In a document known as the action plan, the administration set out a series of promises about a NAFTA agreement.

For many in this body, two promises were critical. First, the administration agreed to address environmental issues in the NAFTA. Second, the administration pledged to work with Congress to develop a program to address the needs of American workers who might be displaced by the NAFTA.

To date, the administration has not adequately fulfilled either of these commitments. Unless they are fulfilled before the agreement is sent to Congress, I think congressional approval of a NAFTA is unlikely.

I still support the concept of a NAFTA. A successful NAFTA could net significant gains for our American economy. In fact, a new study by the Institute for International Economics estimates that 130,000 new American jobs could be created by a NAFTA. A NAFTA would also provide U.S. exporters with unfettered access to the largest market in the world.

### ADMITTING THE COSTS

But there is another side to free trade. There are losers, as well as winners from free trade. Our economy is constantly changing. In particular, there are dangers and costs inherent to liberalizing trade with developing countries, as opposed to with developed countries.

For example, the NAFTA raises serious environmental issues. Though progress has been made, Mexico does not enforce its environmental laws as strictly as the United States. Unless this disparity in enforcement is addressed, a NAFTA could creat an incentive for U.S. manufacturing firms to move south to take advantage of lax enforcement of environmental protection laws.

Further, wage rates in Mexico are one-tenth or less than comparable wage rates in the United States. Some U.S. workers, such as textile and ceramic workers, will be hurt by low-cost imports. Some job flight to Mexico may be inevitable—with or without a NAFTA. But if American workers are going to be displaced by a Government decision to pursue free trade we have a responsibility to ease their transition.

### THE NEED FOR FAST ACTION

As I said, these issues are hardly new. The administration has promised to address both environmental and labor concerns.

But the administration has been heavy on promise and light on results.

On the environmental front, the administration did commit $200 million for pollution control on the border. This is an important first step, but most experts recognize that real cleanup will require several billion dollars.

Moreover, little progress has been made on addressing Mexican enforcement of environmental laws. To secure enforcement, there should be an explicit linkage between environmental commitments and the trade agreement. Mexico has made unilateral promises, but no serious effort has been made to incorporate the commitments into the NAFTA. Empty promises from the Bush and Salinas administrations will not be enough to secure my vote.

The administration has given even less attention to labor issues. Despite the assurances, I am aware of no administration plan for providing meaningful worker adjustment to those hurt by trade with Mexico. But the IIE study I alluded to earlier has put the cost of worker adjustment stemming from the NAFTA at more than $1 billion.

### A FREE-TRADE TRUST FUND

It is time for the administration to put its money where its mouth is. Funds must be committed to environmental protection and worker adjustment.

One way to secure funds would be to create a free-trade trust fund to pay for the costs associated with free trade. To support the fund a small fee—perhaps one-half a percent or less—could be placed on imports and new investments. Each government could decide how to use its share of the fund. In the United States, the fund could pay for worker adjustment. In Mexico, it might support environmental protection.

A free-trade trust fund could allow us to reap the benefits of free trade while responsibly addressing the costs.

### CONCLUSION

Our Government works only when the administration and the Congress work together. Last year at this time, Congress put partisanship and parochialism aside by granting the administration fast-track negotiating authority.

But the fast track is a two way street. And the administration has not lived up to its end of the bargain.

I hope there is still time to fulfill the fast-track bargain we struck with the administration last year. But unless the administration takes some dramatic steps forward, I will oppose the NAFTA.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont [Mr. LEAHY] is recognized to speak for up to 10 minutes. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. I thank the Chair, my distinguished neighbor and friend from New England.

## FEEDING THE HUNGRY

Mr. LEAHY. Mr. President, I have spoken on this floor many times about hunger issues. In fact, when I became chairman of the Senate Agriculture Committee, I said I was going to put the whole title back in that committee, which is the Committee on Agriculture, Nutrition and Forestry. It is very important to me.

The reason for this is simple. Hunger is not a political issue. It is a moral one. It tears at the inner fiber of our Nation. In this, the wealthiest, most powerful Nation on Earth, we cannot think of hunger as an economic or political issue. It is truly one of the few moral issues of our Nation.

Hunger falls hardest on our children. Children who go to school hungry do not learn, and children who do not learn can never achieve. They are left in an endless cycle of poverty and despair.

The riots in Los Angeles were a graphic demonstration of the plight of our inner cities. Many who live there are hungry. But too often, the curse of hunger is felt elsewhere. It is found in rural America and it is found in our suburbs.

We have done much in our country to feed the hungry, but we also have to do more. We have to commit ourselves to completely ending childhood hunger.

We cannot rest until all our children have enough food to eat and the educational skills to lead a productive and successful life.

Despite the harsh rhetoric of some in the last 2 weeks, our Federal nutrition programs have worked. The legislation other Senators and I are introducing today will build on these successes. These bills will not solve all our problems, but they are an important step in the right direction.

What we say, Mr. President, is that in this country, of all countries in the world, children should not go hungry. There is not a Member of the Senate who ever goes hungry except by choice. Those who are privileged to serve here or serve in the White House or serve in the other body never go hungry except by choice. Millions of children go hungry every day in the United States of America. It, Mr. President, casts shame upon our country and it casts shame upon our leaders if we do not take steps to change that.

We have successful nutrition programs, and one of these successes is WIC, the Supplemental Food Program for Women, Infants and Children. WIC serves children in some of the most critical times in their lives. It feeds mothers when they are pregnant or breastfeeding, and it feeds children during their important early development years.

Created in 1972, it is universally acclaimed as one of the Nation's most successful nutrition programs.

According to the Surgeon General, the average medical cost of a low-birth-weight baby can exceed $39,000. The average cost of the WIC Program is $30 a month, and it cuts back dramatically on those low-birth-weight babies.

One of the most important components of WIC is the WIC Farmers Market Program.

Without this legislation the WIC Farmers Market Program will end. In my State of Vermont, this program serves 17,000 pregnant women, mothers, and their children, allowing them to obtain fresh fruits and vegetables at local farmers markets. It makes good nutritional sense. It also makes good economic sense for farmers. This program has increased sales at farmers markets, and even after families are no longer on WIC, many continue to shop at farmers markets.

Of course, another successful Federal effort is the School Lunch Program. Each day, 25 million meals are served nationwide to hungry children in 89,000 schools. But increasing costs and the recession have taken their toll and may force some schools off the program, leaving these children no place to go for lunch.

This legislation will help keep schools hurt by the recession on the National School Lunch Program by cutting the costs of food paid for by these institutions. This legislation would create a campaign to encourage breastfeeding, paid entirely by private donations; expand efforts to feed preschool-aged children living in homeless shelters; and ensure that nutrition programs have enough food at the beginning of the fiscal year to feed the hungry.

Mr. President, this is a time when all of us, Republicans and Democrats alike, ought to search our conscience. This is not a time to say no Federal programs work. The fact is, we know many programs work very well, indeed, especially the nutrition programs. So let us set aside partisan politics. Let us recommit ourselves to build on programs that work and make a difference in people's lives. The road ahead is long. Our task is too important for us to do otherwise.

There are millions of hungry children who are not seen, who are not heard. They do not vote. They do not contribute to political campaigns. They do not organize. They do not march on Congress. They do not hire lobbyists. They do not sit at political dinners. They are the hungry in this country, a country with a $1.5 trillion budget, the wealthiest country on Earth. Let us commit ourselves not to let them go hungry further. We must help those crying out for our attention. We cannot ignore them because they do not have a political voice.

## SENATOR TIMOTHY E. WIRTH

Mr. LEAHY. Mr. President, Senator TIM WIRTH of Colorado is one of the best friends I have had in this Senate. I knew TIM when he was in the House of Representatives, and I have known him very well here in the U.S. Senate.

TIM WIRTH is in many ways a Senator's Senator. He speaks to the most important issues of this country, from our economy to our environment. He speaks, as many of us tried to, not just on problems of today, but how those will affect our children and our children's children in generations to come.

He is a man who ennobles the Senate by being here and diminishes the Senate by leaving. So I was distressed, as was my wife, Marcelle, and my family, my staff, in hearing that TIM WIRTH would not run again.

I looked at TIM and I understand his reasons, his wife, Wren's, reasons, and his family's reasons for not seeking reelection.

But it is terribly frustrating to think that somebody this qualified, and this good, with experience and seniority, decides in frustration that the issues will not be addressed; that voices of change and continuity will not be heard; the real issues will not be heard.

TIM WIRTH wrote on May 12 an op-ed piece in the Washington Post called "Time for a New Crew in Washington." I ask unanimous consent that the op-ed piece be printed in the RECORD.

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

TIME FOR A NEW CREW IN WASHINGTON

(By Timothy E. Wirth)

On the day that I announced in Colorado that I would not run for a second term in the U.S. Senate, I handed out a long and detailed explanation of my decision, an evaluation of Senate life, my place in it, my aspirations, discontents and goals. This was followed by a press conference and a lengthy question-and-answer period with the press. So should I have been surprised when a Denver reporter, having just heard me read my statement and my many reasons for terminal frustration, asked me privately after the press conference if I were sick? Code word: AIDS.

Should I have felt my blood begin to boil when another Colorado journalist wanted to know—again with the microphones off—whether a "financial scandal" was about to break over my head? After all, I had already read that morning the account in The Wash-

ington Post stating that among the reasons why I was leaving was a supposed affection for the House Bank and overdrafts from it, which would be crippling burdens to carry in my reelection campaign.

This off-the-wall, off-the-mark press speculation confirmed the judgment that led me to call it a political day: It has become nearly impossible, in Congress or outside it in the press, for public officials to carry on sustained, serious discussions of the fundamental challenges Americans must understand and, through their government, rise to meet.

Sensation-seeking in the media has trivialized civil discourse. Too many print editors and television anchors underestimate the capacity of their readers and viewers to absorb and be absorbed by complicated policy questions. Inevitably, such judgments become self-fulfilling. The budget deficit, the hole in the ozone layer, health care costs, poverty, crime and dropout rates all increase, all get their 15 minutes of fame, and all drop off the screen to be supplanted by transitory alarms that are reported with equal weight and importance.

Attention-deficit is the disorder of the day. I grew not just hoarse from shouting but increasingly frustrated that so much of the nation's press—the crucial intermediary between government and the governed—spends so little time working to make representative government work. The House Bank, a political sideshow, is more widely reported and better understood than either our national debt or the underlying economic confusion that has fed its alarming growth.

After 12 years in the House of Representatives, I went to the Senate in 1987 hoping to find it a more effective forum for inquiry, reflection and consensus-building. By reputation, its pace was more deliberate than that of the House and its members less disposed to grandstanding. I found a different reality; an unsteadying diet of petty partisan maneuvering, ego clashes and legislative ambushes mounted by single-issue zealots who can make the fate of liability insurance within the aircraft industry or the eccentricities of a handful of avant-garde artists seem the most urgent of legislative questions. And all of this in a country whose leader refused to lead, who does not seem to have a sense of where he wants the country to go, and whose lack of direction in turn pervades the whole government.

The House controls itself through rules that limit not only the time of floor debates but, sometimes too narrowly, their content as well. The Senate is supposed to operate on collegial lines, to do much of its formal business by unanimous consent. When comity collapses, as it decisively has during the past decade of divided government, an undisciplined Senate becomes a mine field where the ability to maneuver counts far more than capacity to legislate with vision for the future. In such an arena, moreover, various concentrations of moneyed interests increasingly form impassable barriers to action. Against their veto power, initiative falters; posturing more and more takes the place of substantive discussion and decision. Nowhere is this more evident than in the recent action to sustain high levels of defense spending despite the dramatic changes in the geopolitical landscape—a victory for defense contractors, a loss for our children.

The culture of the institution in this sense reflects all too well the culture of a profoundly distracted society. "Headline News" would be an oxymoron in any age except the one where the answer to information overload is a soundbite, where supermarket tabloids and docudramas enjoy almost equal credibility and where "Read My Lips" sums up an entire political credo.

There may be a chance this election year to break that downward spiral. The gathering protest—focused on the failure of government to deliver needed services at reasonable cost or to adjust priorities in a world of breath-taking change and on the perceived arrogance and distance of public officials—will sweep a large number of new men and women into office in November. Let's hope they are vigorous and idea-oriented as were those who rode earlier waves in 1934, 1946, 1958 and 1974. Let's pray, as Rep. Vin Weber (R-Minn.) said so well, that they arrive promising to do more than give their parking place to a homeless person or not to use a House Bank that is already out of operation.

They will be angry. Let's hope they'll be idealistic. And let's make certain that they get heard. The press could pave the way for their arrival and for the changes they could set in motion by focusing now on the content, not just the conflict, of their campaigns. That would be a worthy role for the fourth branch of government. Who knows? Such reporting might even interest and involve viewers, readers and voters in the work of renewing America's democratic experiment.

Mr. LEAHY. Mr. President, the op-ed piece speaks for itself. In it Senator WIRTH states very clearly the difficulty of having a rational discussion of major issues.

We had a major debate, discussion of two committees with administration witnesses, to find out how much the new foreign aid package for the former Soviet Union was going to cost, what the taxpayers' involvement would be, and where exactly this money—millions of dollars—was going to go. I looked in vain the next day for any discussion of that in the paper.

So, Senator WIRTH talks about the problems of getting the word out on these issues and getting a real debate of the things that are on people's minds in this country. I have to say I agree with him.

It took a riot in Los Angeles to make our country realize that we should be discussing race relations in this country.

Should not somebody be asking why it is discussed, so little attention is given by the news media unless it is immediately after a riot? Why not before a riot?

So as I said, I wanted to put the op-ed piece of Senator WIRTH's in the RECORD. But I also wanted to state as a personal matter, that I am one Senator who will miss him very, very much.

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

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. COCHRAN. 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. COCHRAN. Mr. President, am I correct in observing that the Senate is in morning business and will be until the hour of 10:30 this morning?

The PRESIDING OFFICER. The Senator from Mississippi is correct.

## THE 27TH AMENDMENT TO THE U.S. CONSTITUTION

Mr. COCHRAN. Mr. President, I take this opportunity to announce to the Senate my intention of offering today a concurrent resolution to confirm the validity of the ratification of the 27th amendment to the U.S. Constitution.

Senators have been following, I am sure, the progress that States have made in taking up this matter of ratification of the constitutional amendment proposed originally as part of the package of 12 amendments when the Constitution was being perfected back in 1789. Ten of those amendments were ratified in a prompt way, within 2 years as a matter of fact, by the States as required under the terms of the Constitution. They became the Bill of Rights, the first 10 amendments. Two others that were approved by Congress and submitted were not ratified.

But, just now, States have completed action. The requisite number of States, I think at least 38 in number, have now ratified this amendment.

It is my judgment, Mr. President, that the Congress ought to speak at this point and state clearly that it is the sense of the Congress that the ratification process has been valid. I think that, because the amendment itself by its terms describes a limitation on the power of the Congress. No State power is involved. No executive branch power is involved. No judicial branch of the Government's power is involved or affected by this amendment. It speaks solely to the Congress.

I will read the language of the amendment as proposed:

> No law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened.

It is unambiguous. It is very clear that it applies only to the setting of compensation for services of Members of Congress, both the House and the Senate. It seems to me, therefore, that with the announcement by the Archivist that he considers the ratification process valid, and will announce today or tomorrow that the Constitution has been amended and that the 27th amendment has been lawfully added as an amendment to the U.S. Constitution, the Senate and the House should speak clearly and unequivocally in support of that decision and agree by its action through adoption of this resolution that it intends to abide by and honor the terms of this amendment.

There are some who are quibbling over whether or not there has been a

ratification within a reasonable time of the approval by the Congress of this amendment to the Constitution. The length of time that has elapsed is unusual, there is no question about that. But the resolution by which the amendment was adopted initially by the Congress did not impose a time limit within which it should be ratified. There were no time limits on the other amendments in that package of 12 amendments that were adopted by Congress in 1789.

If Congress wanted at that time to limit the time within which the ratification could lawfully take place, it could have done so, but it chose not to do so. In recent years, Congress has, from time to time, imposed time limits within which amendments must be ratified. That was done when the Congress approved the equal rights amendment.

As a matter of fact, Congress took action to extend the time within which that amendment could be ratified indicating that it considered ratification within a certain period of time important, and that it must be accomplished nearly contemporaneous with the approval of that amendment by Congress. The same was true with the D.C. statehood amendment to the Constitution; a time limit was described within the terms of the measure that amended the Constitution. The Congress insisted that it be completed within a certain period of time to be valid.

But where Congress imposes no time limit, no limitation, it seems to me that the appropriate interpretation of the power of the Congress under that circumstance is that no time limit exists.

So it is particularly true with this amendment, where no other branch of Government, no power of the States, no individual citizen's rights would be impinged, harmed, or in any way affected by giving full force and effect to this ratification process. It is very appropriate for Congress to wind up this debate by adopting a concurrent resolution.

A concurrent resolution would not have to be signed by the President, because this is not a matter for executive decision. This is not a matter of judicial interpretation either, in my judgment. I think it is very clear that it is purely and simply a matter for Congress to resolve. The States have already taken the action required of them under the Constitution.

I think if Congress tried now to say that this ratification process has been invalid, or that this amendment should not be considered to have the full force and effect of a constitutional provision, it would be a very serious mistake.

I urge the Senate not to move in that direction. And I see no reason for delay. There have been some who are suggesting there ought to be hearings. There is an article in this morning's Washington Post, for example, that talks about this issue.

I ask unanimous consent that a copy of this article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. COCHRAN. The chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights, Congressman DON EDWARDS, is quoted in the paper as saying:

> I don't see how Congress could give up such an important function to a political appointee.

He is referring to the decision of an administration official to announce that this amendment has been validly ratified.

Well, I think the point is, this ministerial function that the Archivist has assumed is his responsibility, I think, is being faithfully, lawfully, and honorably carried out by the Archivist.

He has simply said that under the law, 1 U.S.C. 106b, he is required to certify whether or not an amendment has been adopted. And he has to look only to the language of the Constitution, which is clear and unambiguous as to how the Constitution can be amended.

The process was first begun in 1789 by the Congress in adopting this amendment by the requisite number of votes of the Members of Congress. And now the States, even though a long period of time passed, have in the requisite numbers ratified that amendment.

So it seems to me that the Archivist is well within his powers, and he should not be criticized by the Congress for doing what the law requires of him to do.

I think it could be cleared up, and it should be cleared up, that he is making the correct decision, and it should be done quickly. There is nothing left for the Congress to debate or decide, except whether or not it will abide by the 27th amendment of the U.S. Constitution.

I think we should. The merits of the amendment are clear and very worthy. I do not think anyone can argue effectively against the content of the amendment:

> No law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened.

That makes eminently good sense to this Senator. It obviously did to James Madison, who was the author of the amendment. It obviously makes good sense to 38 State legislatures which have now voted to ratify that amendment. It made good sense to the Senators and Congressmen who recommended these amendments and approved them as Members of Congress.

So it seems to me that there ought not to be any debate time left. The time for debate and discussion and deliberation surely has passed, after these 200 years. It is clear that this would settle, in my judgment, a lot of the dissension and anxiety that surrounds the passage of pay raises for Members of Congress.

If you look at the merits of the thing, it seems to answer a question we have been seeking to answer. Presidential pay commissions have been appointed from time to time to try to substitute their judgment for the judgment of Congress about the appropriate level of pay for Representatives and Senators. It seems to me that this takes care of a very sticky problem that the Congress has acknowledged and wrestled with from time to time since the inception of the Republic.

I suggest that the adoption of this concurrent resolution will help settle that issue. The merits of the amendment are worthy, and we ought to give full force and effect to the validity of the ratification process by adopting the concurrent resolution.

The States have spoken; the Constitution has been amended. The Congress should say, "So be it."

[From the Washington Post, May 14, 1992]

ACROSS TWO CENTURIES, A FOUNDER UPDATES THE CONSTITUTION

(By Bill McAllister)

James Madison's 202-year-old proposal for a constitutional amendment to prevent members of Congress from voting themselves a midterm pay raise is an idea whose time has come, the archivist of the United States declared yesterday.

With that endorsement, Archivist Don W. Wilson effectively proclaimed the one-sentence, 24-word measure the 27th Amendment to the Constitution. The amendment states, "No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened."

Wilson's decision appeared to undercut suggestions by members of the Senate and House that Congress can block the measure from being added to the Constitution because it took so long for the required three-fourths of the states to ratify the proposal. Two leading constitutional scholars suggested yesterday that Congress may not have such power.

Congress submitted the amendment to the states on Sept. 25, 1789, as part of a package of 12 initial amendments. Ten of these were ratified by 1791 and became the Bill of Rights, but the pay raise prohibition found relatively little support. By 1800, only six states had endorsed the idea.

The amendment languished until the 1980s when a state legislative aide in Texas discovered the proposal and orchestrated a campaign that led to its approval last Thursday morning by the Michigan legislature, an action that gave it approval by the required three-fourths of the states.

Some members of Congress including House Speaker Thomas S. Foley (D-Wash.) and Sen. Robert C. Byrd (D-W.Va.), have expressed reservations over the viability of Madison's idea, insisting that the Founding Fathers wanted state approval of constitutional amendments to be contemporaneous with their submission by Congress. The Supreme Court made a similar suggestion in 1921 and 1939 rulings, but congressional supporters of the Madison amendment, noting

that Congress imposed no time limit when it sent the measure to the states, argued that the Michigan action added it to the Constitution.

Yesterday, Wilson, 49, a Reagan administration appointee who holds a PhD in history, sided with the supporters. "Upon receipt of formal notification of ratification of the congressional pay amendment by three-fourths of the states, I will, in accordance with 1 USC §106b, certify the adoption of the amendment," he said in a written statement.

His action ended any question over whether the archivist would grant conditional approval to the amendment or await further action by Congress or do nothing, options that his staff had suggested last week were possibilities following the Michigan vote.

As head of the National Archives and Records Administration, Wilson is the custodian of the Constitution. As such, he has the authority to declare when an amendment has been adopted. His publication of such a notice is likely in "the next day or two," said Susan Cooper, an Archives spokeswoman, noting that Wilson is still awaiting receipt of formal ratification papers from one of the last of the required 38 states.

Constitutional scholars seemed to agree that Congress's time to act on Madison's amendment had passed. "It is not Congress's role to declare Michigan's 1992 ratification too recent or Maryland's 1789 ratification too ancient," said Laurence H. Tribe, Harvard Law School professor of constitutional law, in an article in yesterday's Wall Street Journal.

Duke University law professor Walter Dellinger said he, too, considered the process completed. "My own view is that Congress has no formal role to play," he said. "The amendment process is completed by act of the last necessary state."

He did say that a congressional resolution backing the amendment would do "no harm" and might end the dispute. The founders were wary, he noted, of giving Congress the sole power to determine amendments.

Members of Congress seemed determined to press for congressional review. "Congress—not the courts and not the executive—has the final say over whether an amendment has received the required votes for ratification in a reasonable time," said Byrd.

Rep. Don Edwards (D-Calif.), chairman of the House Judiciary subcommittee on civil and constitutional rights, accused Wilson of usurping "ministerial" powers he holds by an act of Congress. "I don't see how Congress could give up such an important function to a political appointee," he said, disputing suggestions that congressional action is unnecessary.

"On its face it's a dangerous precedent," he said. Even so, Edwards said he had no doubt that Madison's proposal "is going to be made part of the Constitution. But it's going to be done right."

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $3,886,828,966,547.72, as of the close of business on Tuesday, May 12, 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, or $785 million every day.

On a per capita basis, every man, woman and child owes $15,132.15—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time allocated for morning business has expired. Morning business is now closed.

## NATIONAL VOTER REGISTRATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 250, which the clerk will report.

The bill clerk read as follows:

A bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kasten amendment No. 1799, to provide for product liability actions brought against a manufacturer or product seller on any theory, and to establish guidelines for Federal standards of liability for general aviation accidents.

The PRESIDING OFFICER. The pending question is the amendment (No. 1799) of the Senator from Wisconsin [Mr. KASTEN]. Under the previous order a vote on a motion to table amendment 1799 shall begin at 11:30 a.m. As a result, the time available for debate under the order and controlled by Senators KASTEN, HOLLINGS, ROCKEFELLER, and EXON must be reduced proportionally.

Mr. DANFORTH. Mr. President, in view of the fact that morning business was extended 10 minutes beyond the hour, I doubt that it is appropriate for a Senator to ask for an extension of the time on this amendment without consulting the majority leader. But I wonder if the Senator from South Carolina would agree it would be appropriate to have 1 hour of debate on this issue.

Mr. HOLLINGS. Mr. President, I would have to take that up with the majority leader. We will do that momentarily.

Mr. KASTEN. 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. HOLLINGS. 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. HOLLINGS. Mr. President, permit me to speak briefly and to the point on two issues of immediate relevance to the Senate—campaign finance reform and the balanced budget amendment.

### CAMPAIGN FINANCE REFORM

Mr. President, having been one of the Senators engaged in this matter going back some 20 years ago, and watching Congress, like a dog chasing its tail, trying to get around a faulty Supreme Court decision, I introduced in a bipartisan fashion with the distinguished Senators on the Republican side from Delaware, Pennsylvania, Kansas, and others, a joint resolution to amend the Constitution to permit the Congress to regulate expenditures in Federal elections. It is just that simple, and it is intended to be that simple.

A very good law, the Federal Election Campaign Act Amendments of 1974, was gutted by the Court's 5-to-4 decision in Buckley versus Valeo. Were it not for the mindset of one particular judge, in this Senator's judgment the mistake of one particular Supreme Court Justice, we could well have not had this rhubarb and we could have gone ahead in a bipartisan fashion as orginally intended in 1974.

Originally the Republicans and Democrats voted to put everything on top of the table, to have everything regulated and accounted for, and it was working very smoothly until the Court came in with this flawed decision that money was equated with free speech. That in and of itself said those who are rich have freedom of speech and those without money did not have that freedom.

Specifically, we have seen exactly that, where you have one candidate with $100,000 but the opposition with $1 million, and the latter waits to spend it on TV ads in October when the public is finally focused on the election, then you veritably take away the poorly financed candidate's speech.

The Commission on Constitutional Government has approved my constitutional approach and, in essence, what we do is restore freedom of speech. I hope we can get that joint resolution up and pass it so it can be acted upon by the States.

### BALANCED BUDGET AMENDMENT

Mr. President, concerning the proposed balanced budget amendment, let me point out that there is no constitutional or procedural approach that will magically give you a balanced budget

unless and until this Congress and President make up their minds to do it. There will be a hundred ways to circumvent and subvert the amendment. That is one thing Gramm-Rudman-Hollings proved. Gramm-Rudman-Hollings is itself a balanced budget amendment. But when Congress eliminates the enforcement dimensions; namely, the sequester, and when Congress removes the deficit-reduction targets in a surreptitious fashion in the budget summit of 1990, then you have effectively rescinded Gramm-Rudman-Hollings. The 1990 budget summit took a very cute approach. Rather than having targets and then not meeting the target, rather than cutting across the board, they talked airily about proposed savings. That's like your spouse going on a spending spree. And you say, "$149—that much?" Your spouse says, "It was regularly priced at $449; I saved you $300."

That is what the Government is doing these days. How much are we saving as the deficit soars? When President Bush came to office, the deficit was down to $150 billion. He was supposed to reduce it to $100 billion under Gramm-Rudman-Hollings. Instead, he has now raised it up to over $400 billion, all the time claiming tens of billions in alleged savings. And now let the dog chase its tail on the balanced budget amendment.

We are going to find out that there is no constitutional provision nor procedural fix that is going to eliminate deficits unless and until the body itself makes up its mind to do it, and that is a discipline that must begin with the President. I was a Governor and had to balance budgets at the State level with the general assembly.

And as long as the President says we are headed in the right direction, do not worry about it, we are saving $500 billion in the next 5 years, then of course no discipline ensues, and everybody keeps spending so as to get us by the next election.

I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KASTEN. Would there be an objection on behalf of the Senator from South Carolina if in fact we now established the time as 1 hour divided, as was originally scheduled? That is due to the fact that morning business was extended. I wonder if the Senator from South Carolina or the Senator from Alabama could respond on behalf of the majority leader.

Mr. HOLLINGS. Mr. President, I would be glad to respond as I understand it. We started I say to the distinguished Senator, at 11:35. We have, of course, the appearance of the former Soviet President, Mr. Gorbachev, at a speech and then a lunch. There is no way to extend it an hour. We can extend it 5 minutes to 12:35 or whatever that will give us the same time.

Mr. KASTEN. Exactly. That was my request. Therefore there would be no objection then if I asked unanimous consent that the time for debate be extended to 11:35.

Mr. HOLLINGS. Until 11:35.

Mr. KASTEN. With the time allotted between 10:35 and 11:35 in the manner previously agreed to.

Mr. HOLLINGS. Yes.

Mr. KASTEN. I make that request, and so ask unanimous consent.

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

Mr. KASTEN. I thank the Chair and I thank the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator.

AMENDMENT NO. 1799

Mr. KASTEN. Mr. President, we are in an extraordinary situation here today. We are about to have a tabling motion made on a bill which the Senator from West Virginia [Mr. ROCKEFELLER] and I have worked on in a bipartisan way for over 2 years. Both of us have labored to make compromises to reach out to make it a moderate bill.

I think it is just a terribly unfortunate situation that we have found ourselves in today. I am not sure how we are going to be able to get out of it—except by voting not to table the legislation today, by voting in favor of the Kasten amendment. At that point, I am willing, as I know the other proponents of this legislation are, to sit down with the majority leader and others and say OK, let us see if we cannot find a way to do this.

But the vote we are going to have in an hour is not a vote on cloture. It is not a vote having to do with motor voter. It is not a vote having to do with anything except whether or not you are for or against S. 645. In fact, this is a vote that some of us have been seeking on the floor of the Senate for 11 years. We have never had an up-or-down vote on a motion to table, or on a motion to agree to this particular vote.

I would ask my fellow Senators to look at an extraordinary couple of pages in the CONGRESSIONAL RECORD of May 12, the CONGRESSIONAL RECORD of the day before yesterday, look at these statements that were put into the RECORD. For four or five pages here, we see a number of different statements about why people still claim to support S. 640 or S. 645—but go on to say that they do not support it at this time, in this way, under these circumstances, on this bill and, therefore, they regret that they must vote against it today but would like to vote for it on another day.

Well, today is another day. Today is that opportunity. Today is an up-or-down vote on the motion. Today is an up-or-down vote on the substance of S. 640 and S. 645.

One Senator said, "I rise in the awkward position of supporting two propositions." He goes on, "Therefore, I hope that S. 640 can be scheduled for floor consideration before the end of the session."

Another Senator said, "Let me say right from the start that I am a cosponsor of the product liability bill and I believe that our society has become overlitigious. I believe the Senate should be allowed to work its will," and then he explains why he also is going to vote no.

Another Senator says, "I remain committed to tort reform and remain hopeful that we may consider it. I want to emphasize I remain committed, but I am going to vote no today."

Today is the day. Today is the chance to vote up or down on the motion to table. There is no reason why this bill has to be attached to the motor voter bill. The reason it is here now is because this was the only opportunity we had to get a vote. Things have changed in the last 2 days. I simply want to point out that now we have a chance to vote up or down on the substance of this legislation. The chance is before us now.

I yield such time as he may desire to the Senator from Missouri.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, I want to explain as clearly as I can why this amendment is on this bill and what we propose to do to take the amendment off of this bill and arrange for a vote on product liability and on other tort reform issues at any reasonable time—hopefully, between now and the August recess—that the majority leader might want to schedule.

In his speech on the floor on May 12, the majority leader said—and I am quoting portions of his speech:

> If this is such an important amendment, why have 6 years gone by without the amendment being offered to any other bill? Why this bill? Why not the hundreds of other bills that were considered here in the Senate this year, last year, the year before, the year before, and the year before that? * * * This amendment has one purpose and one purpose only and that is to kill the voter registration bill.

The majority leader goes on to say:

> This is a transparent ploy to kill the voter registration bill. That is the purpose, that is the intention, and that will be the effect.

Mr. President, it is always interesting to speculate as to what is going on in the mind of another person. But I can say that the representation of the majority leader with respect to the intentions of the proponents of this amendment are just not true and really not fair to the people who are putting forth this amendment.

Because of that, I called up the majority leader yesterday. I said that

Senator KASTEN and I would like to go to the floor of the Senate and make an offer. He inquired about the offer, and said the offer would be to take the amendment off of this bill, provided that we could have a time set aside where we could vote on the tort reform issue, product liability, and other issues, find a couple of days when we could vote. We could try to arrange a time agreement.

The majority leader pointed out, well, any Senator could object to that. That is possibly true, but we could at least try to provide for a time agreement so that tort reform could go on to the floor of the Senate.

The other option, as the majority leader pointed out in his speech on May 12, is to pick other bills. Well, we would be willing to do that. We would be willing to find other bills in the Senate and offer this proposal and offer other tort reform proposals, medical malpractice and others, which we believe should come to the attention of the Senate and should be voted on. We have offered in good faith to work out reasonable time agreements or any agreement that could be proposed for actually voting on this subject. That offer still stands. There is no reason why we have to have a motion to table on the pretext of getting this legislation off of the motor voter bill. We would take it off voluntarily, but we do need an opportunity to actually start voting.

Mr. President, it is not as though there is not patience on the part of those who support tort reform. Product liability has been introduced in every Congress since the 97th Congress. In the 97th Congress, Senator KASTEN introduced a product liability bill on June 16, 1982. That bill was voted out of the Commerce Committee on October 1, 1982. We have been waiting, Mr. President, for nearly 10 years for an opportunity to vote on the floor of the Senate on tort reform—nearly 10 years.

We have been very, very patient. We understand that the Senate is a deliberative body. But, Mr. President, 10 years is really a ridiculous length of time, and it is perfectly clear that the tactic employed to prevent the passage of tort reform legislation is the tactic of delay. We cannot allow delay to continue to thwart the will of the people in this country. We cannot allow delay to continue to thwart the will of the Senate, whatever it might be.

Now, people can disagree on tort reform. Some do. The trial lawyers clearly disagree with us. But there are many people in this country who believe that the civil justice system is in serious disarray. They point out the amazing delays. They point out the fact that in cases of serious injury only 15 percent of the value of the loss is recovered. They point out the fact that between 50 and 75 percent of the total costs of the system go to pay the lawyers and the court system rather than the parties.

The American people—business people, physicians, hospitals, nonprofit organizations, the Boy Scouts, and other organizations—are crying out for tort reform, and we cannot even get it to the floor of the Senate. And people say, well, why the gridlock in Congress? It is the very essence of gridlock to have legislation that is delayed 10 years before it comes here for a vote. That is gridlock.

Now people say, well, motor voter is important. I do not happen to think motor voter legislation is terribly important. Some people think it is. It is. We renew our offer to voluntarily take it off of this bill and find another time to bring it up.

Or, we can continue to bring it up bill after bill after bill in the form of an amendment. Many Senators have pointed out that one of the problems is that issues never go away and they are constantly offered as an amendment. All right, we are willing to deal with that. Make us a reasonable offer. We are sitting by our telephones. But do not tell us that we can do nothing at all, or that we are helpless, or that there is no possibility of bringing it to the floor for a vote.

This will come to the floor for a vote. The American people demand that it does.

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

Mr. KASTEN. Mr. President, parliamentary inquiry. How much time is remaining for this side?

The PRESIDING OFFICER. The Senator from Wisconsin has 12½ minutes. And on the other side, there is 8 minutes remaining.

Mr. KASTEN. I want to reserve at least some time to respond to whatever it is Senator ROCKEFELLER and Senator EXON are choosing to say, but let me at least make one more point with regard to this extraordinary several pages in the CONGRESSIONAL RECORD.

The administration is opposed to the so-called motor voter bill as it stands, but they have not taken a strong position against it yet. They are waiting to see what we come up with.

I would argue the reverse of what these statements in the RECORD assert. If proponents of motor voter are so concerned to have the administration sign motor voter, why do we not give the administration something they want in addition to the motor voter bill? In effect, product liability could become the engine which would pull motor voter registration through the legislative process, through the White House and into law. If you want this bill to become law, if you want this motor voter registration bill to become law, why do you not join us in making this better from the administration's point of view, then work out the details of how the motor voter process might work?

If we are really serious about what we are doing here, as opposed to just playing politics and shadow boxing back and forth, if we are really serious about wanting this bill to be signed into law, let us add it on.

Mr. HEFLIN. Will the Senator yield?

Mr. KASTEN. Let us add it on. It would be more likely for the administration to sign this bill if it includes product liability reform.

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

Mr. KASTEN. I will be happy to yield to the Senator on his time.

Mr. HEFLIN. I believe my colleague started out talking and then, as I understood it, his argument was that the administration would likely be more prone to adopt that. The Senator does not propose to tell this group that he has any word from the administration relative to that, does he?

Mr. KASTEN. No. The administration has not, to my knowledge, taken a firm position on motor voter, because they do not know what motor voter bill is going to come to them. But I do know where they stand on S. 640. I do know where they stand on S. 645. And I would say to everyone in the Chamber that if S. 640 and S. 645 are part of this, the administration would be more likely to support the overall motor voter bill.

I thank the Senator.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from West Virginia [Mr. ROCKEFELLER] who under the previous order has 9 minutes.

Mr. ROCKEFELLER. I thank the Presiding Officer. The Presiding Officer indicated I had 9 minutes? Not 10 but 9?

The PRESIDING OFFICER. The reason for that is there is an overall time constraint of 11:35 and we have reduced the time proportionally because that is the constraint which the Chair is informed the parliamentary process must operate with.

Mr. ROCKEFELLER. The mathematics and wisdom of the Presiding Officer is utterly compelling.

I rise with tremendous disappointment today to speak against the pending amendment to the motor-voter bill.

As my colleagues know, I am the leading Democratic sponsor of S. 640, the Product Liability Fairness Act. For several years, I have been fighting hard, with colleagues on both sides of the aisle, to advance the cause of tort reform and to put a product liability bill on the President's desk. Thus, it is with real frustration that I find myself forced to oppose my own bill today.

The Senators offering this amendment clearly are sincere and determined in their effort to enact product liability reform. But the plain and simple fact about the situation before us is that offering this amendment to the motor-voter bill amounts to a hostile act against an absolutely essential piece of legislation.

I believe that everyone in this body should support the motor-voter bill.

And if they do not, they should simply vote against it—they should not attach an amendment like product liability that deals with completely different subject matter, confuses the debate on both issues, and continues the gridlock that is preventing us from acting on any of the serious problems facing this country.

For those of us who support product liability reform, it is important for us to realize that the pending amendment is an empty gesture, getting us no closer to our goal than we would otherwise be. The simple fact is, the sponsors of S. 250 will pull their bill if product liability is attached. This is nothing but an empty, gratuitous vote.

The National Voter Registration Act of 1991 addresses a critical threat to our democratic system—declining voter participation. Senator FORD deserves recognition for the tremendous work he has done on this important issue.

In our last general election, only 36 percent of the population voted nationwide. Even fewer voted in my home State of West Virginia—a meager 29 percent. And the accounts of the recent round of primaries are only more discouraging.

We have to get American citizens back to the voting booths. The motor-voter bill may only be one step toward a solution, but it is a significant, constructive step.

As the distinguished majority leader said on Tuesday:

> I urge my colleagues to cast their vote for democracy, cast their vote for participation, and cast their vote for encouraging Americans to get involved in the democratic process.

While I am standing up today on behalf of the motor-voter bill and for getting a straightforward vote on its fate, it is with sincere disappointment that I find myself speaking against the Product Liability Fairness Act.

I want fair and equal treatment for S. 640. It is a moderate and balanced bill, and despite my decision to support the motion to table, I will be the first to insist that product liability deserves its day on the floor, and soon.

S. 640 has been developed and refined for more than a decade, and I am proud of my contribution to the present version. Business leaders across West Virginia and across the country have told me how much they need tort reform to survive in the global marketplace. I believe that S. 640 is part of the competitiveness solution.

The version we see today is a balanced, practical, moderate measure, sparing in terms of the changes it makes in our tort system. It does not limit or cap damages; it does not set standards of liability for product manufacturers; it does not tell plaintiffs' lawyers how much they can charge; and it does not eliminate the ability of an injured victim to be fairly compensated for all economic damages.

In short, this bill is the most even-handed product liability bill to come before this body, and it deserves floor consideration.

But to offer product liability as an amendment to the motor-voter bill is a senseless, divisive act, and an affront to the thousands of businesses and coalitions that have worked for over a decade to improve our tort system.

This amendment is not about product liability; it is a move to kill the motor voter proposal. And by offering product liability as part of a guerrilla strategy, the sponsors seriously damage any hope for fair consideration.

Debated on its merits, S. 640 stands up to the most critical scrutiny, and emerges as a reasonable and balanced step toward tort reform. Instead, however, what we see here today is political posturing and divisive rhetoric. Senators who were previously undecided, and who might have given serious thought to the issue, are now torn by party allegiance. This is exactly what I, and the groups behind the tort reform movement, had hoped to avoid.

I understand my colleagues' frustration. Opponents of product liability reform have found countless ways to block the bill, and it is true that this issue has been with us for a long time. But by employing divisive, partisan tactics to get S. 640 to the floor, the sponsors of this amendment make substantive debate impossible.

Out of a sense of fair play, I cannot join my Republican counterparts here at this place on a product liability amendment. Regardless of how genuine their intentions might be, they have chosen a kamikaze approach that will only serve to politicize a good and important piece of legislation. I can not participate in this destruction. Years of efforts to reach agreement on this pending voter registration bill have been carelessly brushed aside this afternoon, all for the sake of fleeting gratification.

I support the cause for tort reform, but I will support the motion to table the product liability amendment.

As the leading Democratic sponsor, I intend to push for an agreement on having this bill come before the full Senate. But I can not support this harmful approach to advancing a goal that I believe should prevail on its own.

The pending amendment is an empty gesture. It hurts the cause for tort reform, and it will kill the motor-voter bill. I urge my colleagues to support the motion to table the pending amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the 9 minutes allocated to him has expired.

Mr. ROCKEFELLER. The Senator from West Virginia has concluded his remarks.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, very briefly, I want the Senator from West Virginia to understand what the Senator from Missouri and the Senator from Wisconsin said just a moment ago. If you are concerned about moving forward on both of these issues, please hear me out.

I have agreed to pull this bill immediately after this vote, win or lose. If we win this vote, I will pull product liability off of this bill. We can proceed with motor-voter. I know he is a cosponsor of it. All the Senator has to do is say to me that I have an agreement with my majority leader that this product liability will come up for a vote. That is all we are asking. We will pull the bill. We are not holding up motor-voter. I do not intend to hold up motor-voter.

We are looking for a chance, for an opportunity. Yes, it should not be on this bill, but we have been told it should not be on this bill, not for weeks but for years. There has never been a bill that it should be on. That is the point. The Senator said we ought to have substantive debate. This is the closest to substantive debate we have had on this question on the floor of the Senate in 6 years. The last time we had something this close to substantive debate on product liability was 1986.

If the Senator can assure me that we will bring this legislation up in a meaningful way within the next few weeks and debate it on the floor, I will pull the bill. That has been my position all along. And I communicated that to the Senator from West Virginia. I communicated that to other cosponsors of this legislation.

It is ridiculous, Mr. President, for us to find ourselves in a position where one small special interest group—albeit a political heavyweight like the trial bar—can end up by forcing us into this ridiculous position in which Senators are going to be voting against the very bill they have been cosponsoring and advocating for years and years and years. It is insane that the Senate should be driven into this position. Can the Senator assure me that we can take up this bill?

Mr. ROCKEFELLER. In the question of the Senator from Wisconsin lies the safety of his divisive approach to this. The Senator knows full well, as does the Senator from Missouri who talked with the majority leader——

Mr. KASTEN. Yesterday.

Mr. ROCKEFELLER. Yesterday, and in fairly curt terms that the majority leader is not in a position to be able to guarantee that. The Senator from Wisconsin understands perfectly well from the position of the floor, the fact of the two conventions, the number of weeks remaining, that a guarantee of a vote indicates that, for example, the junior Senator from South Carolina would choose not to filibuster. The majority leader is not in a position to do that.

My point is twofold: One, in that the Senator has asked an impossible condition, and one which he knows cannot be met by me or by the majority leader, he then is certain of not having to drop his amendment, thus guaranteeing not only the failure of product liability which is endemic to the mood but also the failure of motor-voter.

Mr. KASTEN. Mr. President, let me just point out that we have a group of people saying they want fair and equal treatment and debate on motor-voter but they do not want fair and equal treatment and debate on product liability.

Mr. ROCKEFELLER. If the Senator will yield.

Mr. KASTEN. I understand certain people will——

Mr. HEFLIN. Parliamentary inquiry, Mr. President. Whose time is running?

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I understand. Let us face it, there are very few votes here that are 100-to-nothing. There is a difference of opinion on motor-voter; there is a difference of opinion on product liability. Let us give each the same treatment. That is all I am asking. Motor-voter is before us. We had amendments, we voted cloture. Fine. Let us do the same thing with product liability.

I think the Senator will agree with me that the votes are about 70 to 72 votes in favor of product liability and probably about 30 to 28 votes against. We should not allow a small organized group of people to manipulate the Senate schedule so that we cannot even take it up for fair and equal debate. That is the point.

Mr. ROCKEFELLER. If the Senator will yield.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. The point of the Senator from Wisconsin——

The PRESIDING OFFICER. The Chair needs to be advised because of the time agreements, who is yielding time at this point?

Mr. ROCKEFELLER. The Senator from West Virginia wishes to speak if either of the managers will yield me time.

Mr. HEFLIN. I yield 1 minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROCKEFELLER. Mr. President, the Senator from Wisconsin knows perfectly well that he has set up a trap and he knows his conditions cannot be met, so he is able, therefore, to do what he truly wants which is to make a show, and I do not say that in a derogatory manner, but to make a stance on behalf of product liability.

The point of the Senator from West Virginia is the question has always been not whether or not there are enough votes on the floor, but can we get the bill to the floor. That has been my systematic, absolutely sincere approach throughout.

The way to get it to the floor is the precise opposite of what the Senator from Wisconsin and the Senator from Missouri are doing. In defending the motor-voter bill which would be pulled if the amendment of the Senator from Wisconsin were to succeed, it would be pulled, that creates the kind of situation which lessens the opportunity for this to come to the floor. Because of what I am doing on behalf of the majority leader and others, it creates more opportunity in the future. I know that, I believe that, and that is the course that I am following.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized, under the previous order, for a period of 4½ minutes.

Mr. EXON. Mr. President, I have been listening with keen interest to the remarks made by my friend and colleague from West Virginia. I wish to associate myself with those remarks.

I have been one who has long felt that we should address the matter of liability insurance. I still feel that way. When I have a chance to vote, I will vote for making a change in what I think is a wrong procedure with regard to product liability in a whole series of areas.

However, I will simply point out that had it not been, unfortunately, for the sickness of a Member or two of the U.S. Senate, we would have invoked cloture on this measure some time ago. That would have returned us to a germaneness situation to where the amendment being offered by those basically on that side of the aisle would not have been germane and we could get on with the business at hand.

I happen to feel that the motor-voter proposition is so important that it should not be laid aside by nongermane amendments, regardless of how strongly I feel about enacting some type of a restraint on liability insurance claims.

Therefore, Mr. President, as one who has generally stood for the position being offered by the people who are offering this amendment, it is clear to me and it should be clear to all that it has nothing whatsoever to do with regard to registration of voters.

It should not be considered in this context. I happen to feel—although the majority leader cannot give a commitment at this time—that this matter will come up, and certainly those on that side of the aisle, who happen to feel about product liability as does the Senator from Nebraska, know there are certainly going to be many, many other matters coming before the Senate, germane or otherwise, to which this amendment could be attached if we cannot get a straight up-or-down vote on it as we have been trying for some time.

To say that this matter is so important that it has to be attached to the motor-voter bill just does not parallel in the view of this Senator with reasoned or rational movement. Therefore, I will support the motion to table and continue to work for an up-or-down vote on some reasonable form of product liability, which I think will come to pass in the form of a vote sometime during this session.

I reserve the remainder of my time. I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. How much time do Senators HOLLINGS and I have?

The PRESIDING OFFICER. Seven minutes.

Mr HOLLINGS. I yield whatever time we have to the distinguished Senator from Alabama.

Mr. HEFLIN. If the Senator will give me 4 minutes.

Mr. HOLLINGS. Go right ahead.

The PRESIDING OFFICER. The Senator is yielded 4 minutes.

Mr. HEFLIN. Mr. President, it is interesting to hear that in 6 years this bill has not come up. Who is at fault? They are trying to say that the opponents of the product liability are at fault. All they had to do was to attempt to bring an amendment up on some sort of bill. They are the movers. I think the confusion on that is rather ironic.

There is an issue here of referral to the Judiciary Committee, where it ought to be. These are legal issues, rules of court, and certainly it ought to be referred to the Judiciary Committee. A vote to table should send a message that it should be referred to the Judiciary Committee.

I have talked to some of my business friends, particularly in Alabama. I said, "Have you compared the tort law in your State of Alabama with this bill?" And it really is a California bill. You have tort law in one State like Alabama and some Southern States and others at one extent and then you have maybe California and New York. So what they want to do is come together and somewhere in the middle have some federalized, so-called uniform bill. Most of the States, when they ever get to analyzing this, I think would have real questions.

I think back when I came to the Senate about 14 years ago. There was a big issue then on the question of whether or not we were going to take away from the States the right to consider injured parties. There were proposals for a Federal workman's compensation law. And the Republicans at that time were all hollering about States rights, federalism, the rights of the States to have the laws pertaining to tort and injured parties.

There was another bill pertaining to corporate directors, and there was a

movement for consumer groups to have representation on corporate boards, labor to have representation on corporate boards. I heard a great deal about federalism.

Now here what do we see? We see an effort being made to really take away what rights the States have, and that is to be able to determine what remedies should be available for injured parties in that State.

Times change. I told a business friend of mine, I said, "Now, you are interested in this at this time. Have you ever seen a Federal cure that did not turn out to be a Federal plaque?" And he got to scratching his head a little bit. So times do change.

I want to point out one thing just to show how unfair this bill is. Senator John Tower met his death in an airplane accident. The National Transportation Safety Board——

The PRESIDING OFFICER. If the Senator will suspend for a moment, the 4 minutes allocated to him have expired.

The Senator from South Carolina.

Mr. HOLLINGS. I yield whatever time we have.

Mr. HEFLIN. I will try to finish very briefly.

The National Transportation Safety Board found that the cause of the crash that killed Senator Tower was in the design of a screw in a propeller, and that the FAA had approved that propeller and that design.

To point out the unfairness, certain recovery that could be allowed against the manufacturer of that propeller would be prohibited under this bill because the FAA had approved it. The statistics show that 50 percent of FAA approvals have to have recalls. That is just to show how this thing is written in such a manner as to be unfair.

I yield the remainder of the time back to Senator HOLLINGS.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, we really find ourselves in the most unusual position here, and I think the Senator from Alabama even would agree: It is ironic that the Senator is arguing right now for not a State-by-State but a Federal solution to voter registration, and on the same bill arguing against a uniform solution with regard to product liability.

Let me also point out to the Senator that if we could poll his manufacturers in Alabama, my best guess is that most of the goods manufactured in Alabama are in fact used and sold in other States. In Wisconsin, the figure is about 80 percent.

So my guess is it is the same in Alabama. If all goods made in Alabama were used in Alabama, then the Alabama manufacturers would be correct. But roughly 80 percent of the goods that are manufactured in Alabama are in fact used and sold and come into legal disputes in States like California and New York, which is why we need some kind of uniformity.

Mr. President, I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleague for yielding time.

I just want to say it always amazes me to hear all the rationale people use to justify why they are going to vote on an issue like this when the fact is the majority party does not want to vote on the issue of product liability, which is a bill that could help America become more productive. We could stop some of the litigation going on in this country that is very expensive to our productive competitiveness throughout the world.

I might just say we have spent all kinds of time here on a tax increase bill that was postured for the Democrats against the President. We have spent all kinds of time here on a bill, weeks on this floor; it was finished yesterday by the sustaining of the President's veto on the taxpayer-supported financing of House and Senate races that would do nothing to help the competitiveness of this country, only to keep the Democratic majority in the position they now enjoy in Congress.

We debated for weeks a gun control bill so that Democrats could posture on it and play games with it.

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

Mr. SYMMS. Now, for Senators to say that they cannot have a vote on product liability when it is the first chance we have had in years to do it, when the leadership here clearly is opposed to product liability and legislation, even though the committee voted, they do not want the issue on the floor, and so this is the chance for Senators to vote on the issue, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. They can either vote yes, they are for it, or no, they are opposed to it. But I do not think they should use as an example——

If I could have 10 seconds to close.

Mr. KASTEN. I am happy to yield the Senator the additional time he needs.

Mr. SYMMS. Since the Senator from Alabama, for whom I have great respect, did bring up the name of a great Senator who served here for many years, Senator Tower, and used that as an example of what might happen, I would just say for the record there is no amount of money in the world that will ever be able to pay back the memory of John Tower for the injustice that was done to him by a vote on the Senate floor that denied him the opportunity to be Secretary of Defense of this country.

Mr. KASTEN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute and 40 seconds.

Mr. KASTEN. Is that all the time remaining on either side?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and a half. The Senator from Nebraska technically has 1 minute of the 4½ minutes allocated to him.

Mr. KASTEN. Mr. President, I think it is clear the situation we find ourselves in. I want to end as I began.

This is a sad situation. The Senator from West Virginia and I have been hearing the panels, have been working back and forth, staffers have worked together, to try to put together a moderate bill that can pass.

The Senator from West Virginia and I have been trying to put together some kind of a system in which it can come up for debate on the floor of the Senate. This is the closest that we have come.

We are going to be back. I hope that the next time we are back the Senator from West Virginia and I will be standing together, because that is as it should be, in favor of this legislation. Right now, basically because of the power of the trial bar, we are going to see people coming into the well of the Senate and voting against bills, against a piece of legislation that they themselves have cosponsored. They have been responding to their mail saying: "I am going to vote for this; I am a cosponsor of it; you are right, we need these reforms. Come on. Here we go."

And now they vote against it.

Why are the American people upset with Congress? I'll tell you. They see people voting against bills they themselves have cosponsored. And they know there's something seriously wrong with that. We are going to lose this vote but we will be back.

I am willing to pull this product liability bill and let motor-voter go. Motor-voter is not going to make any difference to Wisconsin, because we have same day registration. It is a shame that we could not have passed a product liability bill that would have made a big difference for the future of U.S. competitiveness.

I urge my colleagues to vote against the motion to table.

Mr. HOLLINGS. Mr. President, right to the point, we heard yesterday that product liability puts us out of business. You get this anecdotal nonsense that they do not make football helmets anymore in Missouri. We were told this by the distinguished Senator from that State. They make them up in Chicago, and all over. You will be watching them on TV. They are made by American manufacturers. We can rebutt all this anecdotal nonsense.

Literally hundreds and thousands of foreign industries are coming to invest in America—the British, the Germans,

the Japanese. I have worked with them and encouraged them to a great extent. Never have they mentioned product liability. They are happy to come. They say why are the people upset? Some States have attempted this alleged reform, some of them reacting under the promise of reduced insurance premiums. Florida tried it, and the premiums went up.

All the consumer interest organizations are opposed to this measure, as is the American Bar Association, the American Public Health Association, the Association of State Chief Justices, the Association of State Attorneys General. The only crowd pushing this bogus reform is that pack of lawyers downtown here in Washington who have been paid to keep this thing going for 10 years, and they are about to run out of gas. That is the crowd that never has tried or developed or protected an injured party. They are up here as agents of influence to try to ram through.

Mr. SHELBY. Mr. President, I rise in opposition to the Kasten amendment. This amendment represents an unwise and unnecessary infringement upon the rights of the States, and an unwarranted trampling of the rights of individuals in favor of the interests of product manufacturers and sellers in this country.

The changes proposed in this amendment represent an unjustified and unprecedented usurpation of the States' authority to regulate the rights, responsibilities, health, and safety of their citizens. A fundamental principle of federalism requires that the States maintain their traditional responsibility to create and enforce tort laws to protect their citizens against injuries and compensate victims inured by defective products. Over the last 150 years, the States have developed effective product liability laws which balance the interests of manufacturers and users of products and place the cost of injury on the party in the best position to prevent injuries or bear compensation costs.

On the other hand, Congress has had little experience with the complexities of product liability law on a case-by-case basis. Federal product liability provisions will require that Federal law be amended constantly to handle unforeseen product liability problems. This is unlikely to occur because of the amount of time required to this type of legislation to move through the Congress. As a result, the inflexible rules of this amendment will deny equitable treatment to the people in America.

In contrast, the States adjudicate product liability questions on a case-by-case basis, thereby allowing careful experimentation and adjustment. As a result, the liability rules reflect economic and scientific changes in product manufacturing, as well as the needs of each States' citizens. The preemption of State law under this proposal amendment would be a radical and unprecedented action, and would create confusion rather than fulfilling its promise of uniformity, in this country.

The ostensible purpose of the proposed legislation is to bring uniformity and predictability to the State product liability system. However, in the years of hearings on this bill and its predecessors, law professors and jurists have consistently and repeatedly concluded that the legislation will not and cannot achieve this purpose. In fact, according to legal scholars and judges, confusion and protracted litigation are the probable results of this legislation. The Federal and State courts inevitably will interpret and apply the new liability rules in conflicting ways. Prof. Page Keeton of the University of Texas Law School, warned of such a result almost 10 years ago when he testified here in the Senate before a committee. He said:

> It is my judgment that this bill if passed will unsettle the law for 10 or 15 years, and each state would be interpreting the statute in its own way. Since the language used is susceptible of varying interpretations to concrete situations, it is inevitable that conflicts will arise in the various states over these interpretations.

I believe those words are good today as they were then. The same criticism applies to this amendment, which will act as an overlay on the existing State and territorial court systems as well as the Federal system under diversity jurisdiction. These rules will be applied in many different contexts and will inevitably be construed and applied differently. With each State interpreting the rules, even the uniformity that has been achieved to date in product liability State statutes will be destroyed, and the long process of unraveling new concepts will begin. Let me quote Harry L. Carrico, chief justice of the Supreme Court of Virginia, testifying on the identical predecessor to this amendment:

> * * * from our perspective, State supreme courts will no longer be final arbiters of tort laws of their States. Federal standards will make the Supreme Court of the United States the court of last resort for a new class of cases with mixed State and Federal questions largely outside its current jurisdiction. These cases, involving two distinct sets of Federal questions, will come from the 50 State supreme courts, as well as 12 Federal Courts of Appeals, to a Supreme Court that many legal scholars believe is overburdened and incapable of maintaining adequate uniformity in existing Federal law. Consequences for federalism as well as for uniformity and the future development of law, are therefore incalculable.

The complexity introduced to the system by the Kasten amendment is overwhelming. In addition to creating conflicting State court interpretations of the new standards, this amendment would force State courts to apply Federal law to the conduct of some parties, and State law to other parties' conduct in cases involving more than one cause of the accident. Therefore, the Kasten legislation would aggravate rather than resolve product liability problems, because it never would be clear how State courts would mesh the Federal and State rules.

To advocate the passage of this amendment is to ignore almost two centuries of product liability tort law, without any demonstration of need. Although proponents of this amendment have played around with the statistics, a pressing national need for reform in the area of product liability has not been demonstrated, nor has it been shown that the present system of State law is inadequate. Our current system of product liability tort law has satisfactorily served our needs for over 200 years, and should continue to offer protection to the individuals who have been wronged. I urge the Senate to defeat the Kasten amendment.

Mr. HARKIN. Mr. President, I oppose the amendment proposed by Senator KASTEN concerning product liability. Quite simply, this legislation is unnecessary, an imposition on the prerogatives of the States and harmful to the interests of consumers who have been severely injured by dangerous and defective products. I believe that the Senate has an obligation to fully consider these issues in the Judiciary Committee before taking precipitous action and causing irreversible harm to the rights of consumers.

Unfortunately, this issue has been clouded by misinformation and anecdotal evidence substituting for careful consideration of the facts. Proponents of this measure have fostered a number of myths, which have gained credibility through repetition. They say that punitive damages were being awarded too often and are having too great an impact on businesses. They say that our product liability system hurts American competitiveness. They say that there is a litigation explosion. And they say that the product liability system results in unnecessarily high liability insurance costs.

One of the sponsors of this bill said that punitive damages "are intended to be awarded in egregious cases, not every case." Well, they are not being awarded in every case—far from it. In an exhaustive survey of State and Federal tort cases decided in the 25 years between 1965 and 1990, only 355 cases were found in which punitive damages were awarded. One fourth of those cases concerned liability for asbestos. And another fourth were overturned on appeal.

My colleague from Iowa says that, despite their extreme infrequency, punitive damages are having a major impact on businesses, which settle claims out of court for fear of massive punitive awards. Is the contention that these businesses have an irrational fear that the company's blameless behavior

will somehow result in a jury award of massive punitive damages? Or are these out-of-court settlements an example of the system working correctly, where a company acknowledges liability for an injury their product causes?

The evidence clearly indicates that punitive damages are not awarded routinely, and studies also show that punitive damage awards are closely correlated to actual damages. The system works, and it works well. Punitive damages are the most important factor in deterring injuries to consumers by defective products. This bill would, in effect, abandon injured consumers to the tender mercies of the manufacturers of the products that caused the injuries.

When the proponents of this legislation talk about the costs of product liability litigation on manufacturers, they seem to forget the victims. The Rand Corp. has documented that the total direct cost of accidental injuries, including product-related injuries, is over $175 billion per year. Only $7.7 billion of that was compensated through the tort system. The rest was paid by the victims or by society as a whole. In 1987, the Consumer Product Safety Commission reported 21,900 deaths and 30 million injuries associated with products.

Hospital emergency rooms admitted 9,632,128 patients with product related injuries in 1984. Yet Federal courts saw 10,745 product liability cases in 1984, and 13,595 such cases in 1986. Manufacturers are benefiting from the fact that most tortious injuries related to their products never come to court. The vast majority of grievances of all kinds never become cases—some studies indicate as few as 5 percent ever go to court.

I am particularly concerned about a provision that would exempt manufacturers from punitive liability for products that receive premarket approval by the Food and Drug Administration [FDA]. The FDA does not conduct independent investigations of drugs; its premarket approval is based on studies performed by the manufacturers. This provision would give manufacturers an incentive to focus their attention on performing studies that will achieve FDA approval, rather than substantively working to ensure the safety of their products. Manufacturers could produce studies that would secure FDA approval, without ascertaining the complete picture about a drug or device, even without withholding or misrepresenting evidence. This provision would remove an important deterrent from manufacturers of medical products.

As chair of the Labor, Health, and Human Services Appropriations Subcommittee, I am concerned that this provision will require much larger FDA funding levels. If FDA action will dispose of punitive damages claims, then their investigation will have to be far more detailed than they are presently, and perhaps require an independent investigation. I find it ironic that conservative Members who supposedly support reducing the responsibility of the Federal Government, and keeping power in the hands of the States, are pushing a proposal that would take power away from the States and put it in the hands of a Federal agency.

Another myth is that American competitiveness has been injured by product liability. Certainly, the fear of product liability suits have kept some new products from reaching the market. But one of the purposes of product liability law is to deter dangerous products from coming to market. Is it considered bad that our law deters potentially harmful products from being brought to market? Is it vital to our competitiveness as a nation that we prevent companies from being held liable for injuries their products cause?

A 1988 Rand Corp. study found that product liability represents only about 1 percent of manufacturers' costs. Another Rand study found no evidence that product liability hinders the international competitiveness of U.S. manufacturers.

Some supporters of this legislation say that the fact that manufacturers like Dow Chemical have much higher costs for product liability in the United States than in the rest of the world proves that our product liability laws are too strict. So whose product liability standards do they advocate? Should we adopt the tort standards of third world countries? After we ship American jobs to Mexico through a free trade agreement, are we going to import Mexican liability standards?

Another argument is that there is a litigation explosion. But this legislation does not address the real source of the explosion—businesses suing businesses. Torts represent less than 10 percent of most states' civil caseloads. And in fact, when you exclude asbestos-related suits, product liability suits have decreased by some 40 percent over the last 5 years. Victor Hugo said that, "An invasion of armies can be resisted, but not an idea whose time has come." Well, here is an idea whose time has not come—an idea which is not needed based on the objective data. We should resist it.

There is also the argument that product liability increases liability insurance costs. If that is the problem, this legislation is not the way to solve it. A representative of the American insurance industry said that a predecessor of this legislation "is likely to have little or no beneficial impact on the frequency and severity of product liability claims," and is "not likely to reduce insurance claim costs or improve the insurance market."

I have further concerns that this bill would alter workers' compensation subrogation standards without having been considered by the Committee on Labor and Human Resources, of which I am a member. Proponents of this legislation claim that they are the victims of delaying tactics, yet they are unwilling to properly refer this bill to committees of the Senate with experience and knowledge of the matters it concerns. The reason the committee system exists is to ensure legislation will receive proper scrutiny. The proponents of this bill have decided to dodge around the campaign system to avoid such scrutiny.

The effect of this legislation is to increase the cost and risk for people suing for serious injuries or deaths attributable to faulty and dangerous products. For instance, this legislation contains a provision designed to blackmail claimants into accepting a company's offer of settlement. If a claimant refuses a company's specific settlement offer, and receives a verdict after trial equal to or less than that offer, then the claimant is responsible for the company's attorneys' fees.

Imagine a person who is permanently disabled by a defective product, who reasonably believes that his injuries deserves to be compensated by an award of $250,000. And suppose the company responsible for the injury offers only $200,000 in compensation. The victim has a choice: Accept an offer that he believes is only 80 percent of the compensation he deserves, or refuse the offer and risk that a jury will return a judgment below the offered amount, which could reduce the award by a third or more. In other words, this plaintiff would have to choose between receiving $200,000, or risk getting a fraction of his actual damages.

Many claimants with serious, actionable injuries inflicted on them by faulty products will be deterred from seeking their full measure of damages from the responsible party by this provision. But that result is apparently the goal of the proponents of this legislation. Manufacturers may save money if this amendment is enacted, but that money will be coming out of the pockets of people who are seriously injured by faulty products, or out of all of our pockets, when injured people are unable to make it on their own as a result of their injuries. I think that the people responsible for injuries should pay their costs.

In a recent New Jersey case, Judge Lee Sarokin eloquently summed up the issue before us. Here is what he said:

> All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity?

That is what is at issue here. Those who would weaken the deterrence of

our product liability laws must take responsibility for an increase in dangerously faulty products, and the additional deaths and injuries that will follow. I urge my colleagues not to act precipitously. This legislation is not needed and will injure the rights of consumers. We should send this legislation to the committees of the Senate that have responsibility for the issues it raises. We should table this amendment, to allow the Senate Judiciary Committee the opportunity to consider this legislation.

Mr. SANFORD. Mr. President, like a number of my colleagues on both sides of the aisle who support the National Voter Registration Act and the Product Liability Fairness Act, I rise with a sense of frustration that two important and necessary pieces of legislation are being linked together in a way that could kill both bills.

Eliminating roadblocks to voting for all Americans is the essence of our democracy. All of us express concern with low voter turnouts because we know that when "none of the above" wins, it jeopardizes our ability to govern effectively. We seek the input from our countrymen and women, ask them to participate in the governing process, and listen to what they say. All of us in this body are here by the popular choice of our citizens. Therefore, I regret that the so-called motor-voter bill has become a partisan issue.

I also regret that a bill which I support—indeed, have cosponsored—is being offered as an amendment to this important voter registration bill. It is not product liability reform that we are debating. Instead, product liability is being used as a procedural means to object to motor-voter without having to say so.

I've already received too many calls and letters from constituents who believe that because I support motor-voter, I've changed my mind on product liability reform. Nothing is further from the truth.

Because motor-voter and product liability reform have different supporters does not mean that each does not deserve a fair debate on their individual merits. I am an original cosponsor of the Product Liability Fairness Act. I know that its leading proponents have been working for years to get it before the Congress. I will continue to support it. But the National Voter Registration Act has also taken years to get here and now is the time to debate it on its merits. Both are important, for obviously different reasons, but they are unrelated and do not deserve joint consideration.

The supporters of product liability reform know that this vote is not on its merits and know that even if this amendment passed, it would not make product liability reform a part of the law.

Therefore, Mr. President, I will vote to table this amendment so that we can get to the real issue before us, the National Voter Registration Act. And when the Product Liability Fairness Act is brought before this body for a debate and vote on its substance, I will continue to support it.

Mr. DURENBERGER. Mr. President, I will cast a "no" vote on the motion to table the amendment offered by the distinguished Senator from Wisconsin [Mr. KASTEN]. In so voting, I do not mean to imply that I support every provision in the product liability reform bill or that I would vote in favor of this bill in its current form.

However, I believe that the Senate should have the opportunity for a full and fair debate on this legislation, including the opportunity to amend this bill. The sponsors have been waiting for years for this debate to take place. It is only fair that they have their day in the Senate.

Mr. President, the issue of overriding 50 State product liability laws represents a fundamental change in our country's tort system. It should not be taken lightly. At the same time, we are aware for fear of product liability lawsuits. Some measure of balance must be achieved to ensure that consumers are protected against unsafe products and manufacturers are not subjected to burdensome lawsuits.

I am willing to work with consumer and industry representatives to achieve a compromise that will satisfy the competing interests in this debate. I hope the motion to table is defeated so that we can finally begin this debate.

Mr. LEVIN. Mr. President, in light of the national and interrelated nature of the marketplace, there is some value in uniformity of laws affecting product liability. That value has to be weighed against the fact that throughout our Nation's history this has been an issue within the purview of the States.

However, we never even get to that weighing process here because the amendment before us does more than make the Nation's product liability law uniform. It establishes for all of the States some rules that only a minority—sometimes only a small minority—of the States follow. Any proposed Federal product liability reform should focus on the desirability of uniformity and not use the desire for uniformity as a vehicle for imposing a minority rule on a majority of the States.

Mr. SPECTER. Mr. President, I am voting to table Senator KASTEN's amendment adding the Product Liability Fairness Act, S. 640, to the motor-voter bill, S. 250, because I do not believe it is realistic to pass product liability legislation as an amendment to the motor-voter bill and I do not believe that it is appropriate to sidetrack the motor-voter bill in that manner.

As to the motor-voter bill itself, I believe it is entitled to serious consideration if the problems on potential voter fraud can be solved. I have had recent discussions with Senator WENDELL FORD, the principal sponsor of S. 250, with a view to amending the bill to contain appropriate safeguards against fraud.

While I understand the frustration in not being able to get S. 640 to the floor on its own, I do not believe it is realistic to get it passed as an amendment to S. 250. The Senate Judiciary Committee has not yet had an opportunity to review S. 640. When the product liability bill was in the Judiciary Committee in the last Congress, we worked through the issue and reported it out for floor action even though that was done without recommendation.

In the last Congress, I spent considerable time in discussions with two lawyers on each side of the product liability issue and found that there could be significant areas of agreement. I recently met with Mr. Ken Davis, director, Government relations, Rohm and Haas Co., together with other representatives of the Pennsylvania business community on the issue of product liability. As a result of that meeting, I am scheduling a meeting with representatives of both sides with a view to finding areas of agreement, which I believe is possible.

I am committed to investing time and effort to try to achieve reform in our product liability law. I do not believe it is realistic to enact such legislation in both Houses of Congress unless we do have a general consensus on the issues, although we will obviously never get a total agreement.

I am opposed to the parliamentary maneuvering for test votes for the score sheets by adding such product liability legislation to the motor-voter bill; but I am prepared to work to try to get a bill through the legislative process with an appropriate referral to the Senate Judiciary Committee and the kind of negotiation necessary to enact legislation on this important subject.

The PRESIDING OFFICER. The Chair informs Senators that the time has expired.

Under the previous order the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for the purpose of making a motion.

Mr. ROCKEFELLER. Mr. President, I move to table the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the amendment of the Senator from Wisconsin.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. METZENBAUM], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], is necessarily absent.

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

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—53

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

NAYS—45

| | | |
|---|---|---|
| Bentsen | Garn | McConnell |
| Boren | Gorton | Murkowski |
| Brown | Gramm | Nickles |
| Burns | Grassley | Pressler |
| Chafee | Hatch | Riegle |
| Coats | Helms | Roth |
| Cochran | Jeffords | Rudman |
| Cohen | Kassebaum | Seymour |
| Craig | Kasten | Simpson |
| D'Amato | Kohl | Smith |
| Danforth | Lieberman | Stevens |
| Dodd | Lott | Symms |
| Dole | Lugar | Thurmond |
| Domenici | Mack | Wallop |
| Durenberger | McCain | Warner |

NOT VOTING—2

| | |
|---|---|
| Bond | Metzenbaum |

So the motion to lay on the table the amendment (No. 1799) was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I commend the Senator from Wisconsin for his tenacity and for his hard work on this issue.

I believe that this is a topic that does need to be addressed by the Congress in a very thoughtful and in a very thorough manner.

Had the vote on product liability been solely on the merits of the legislation, I would have voted to table since I strongly believe that this issue—which goes to the heart of our judicial system—should be reviewed by the Judiciary Committee. The Judiciary Committee has a duty to examine this issue thoroughly. I believe we should do that, and we should be prompt about it. I have the privilege of serving on that committee and have full faith in my committee colleagues. I know the committee would give this legislation fair and serious consideration and would act in a conscientious and timely manner.

But, Mr. President, that is not what we were about this morning. It is clear that this vote had nothing much to do with the merits of product liability legislation.

The vote to table the Kasten amendment was indeed a curious exercise in partisan politics. Cosponsors of the legislation were voting to kill their own bill. Why is that?

I do not know the precise motives of the cosponsors of this legislation who voted against their own bill. It is possible that they thought they were supporting the sacrosanct underlying legislation—the so-called motor-voter bill—which I call the auto-fraudo bill. It may be that they do not want a Republican, especially one who is up for reelection this year, to have his real chance to force a vote on the merits of a bill that is one of his top legislative priorities.

Whatever the motive, what could have been a vote on the merits became a purely partisan vote. Those who would have otherwise supported this legislation took the lead in voting to kill it.

Mr. President, I, too, have major concerns about the merits of enacting Federal product liability legislation. It may sound good, but I don't feel that it is. However, since the merits of the bill became secondary in a larger partisan struggle, as assistant Republican leader, I was part of the leadership to vote along with my Republican colleagues.

The PRESIDING OFFICER. The majority leaders is recognized.

## RECESS UNTIL 2 P.M.

Mr. MITCHELL. Mr. President, following consultation with the Republican leader, in view of the events about to commence momentarily involving former President Gorbachev of the Soviet Union, I now ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate at 11:59 a.m., recessed until 2:01 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. DODD].

## MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that we go into morning business until 2:30.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

## TAX BREAKS FOR PHARMACEUTICAL COMPANIES

Mr. COHEN. Mr. President, today the chairman of the Aging Committee, Senator PRYOR, is releasing a GAO report that once again underscores the tremendous tax breaks that the pharmaceutical companies are reaping from operating in Puerto Rico. These huge tax subsidies are being given to drug companies at the direct expense of millions of Americans who have to pay skyrocketing costs for their prescription drugs.

The GAO report provides alarming evidence of the extent to which the American taxpayer is subsidizing the pharmaceutical industry through tax breaks while pharmaceutical companies are increasing their prices beyond the reach of average Americans, particularly senior citizens.

As my colleagues know, current tax law gives U.S. companies tax credits for doing business in Puerto Rico. While this tax provision was originally designed to spur the economy of Puerto Rico, the pharmaceutical industry has turned this tax provision on its head, and has used it to hoard huge profits at the expense of consumers who have nowhere else to go to obtain their life-sustaining medications.

GAO estimated, for example, that during the 1980's, the drug industry received a total tax savings of $8.5 billion through its operations in Puerto Rico, and was able to shield over $20 billion in revenue from Federal income taxes.

While the purpose of the section 936 tax credit is to spur the Puerto Rican economy, the pharmaceutical industry has found a way to elude this principle. The GAO study found, for example, that the drug industry is disproportionately benefiting from these tax credits, while creating relatively few jobs. In 1987, for example, the drug companies collected over half of all the tax benefits provided by section 936, but employed less than 20 percent of the Puerto Rican workers in all industries claiming the tax credit.

Further, the report demonstrates that major drug companies are collecting tax credits in amounts far above the costs of employing workers. Although the average salary paid to a drug company worker in Puerto Rico is $26,000 a year, the average tax savings claimed by these companies is over $70,000 per employee. In fact, two major drug companies even had tax savings of over $100,000 per employee—or four times the cost of hiring each worker.

Mr. President, this is no longer just a tax incentive to spur investment in Puerto Rico. It has become a major tax haven at the expense of the most vulnerable members of our society, and even worse, a tax incentive that rewards the spiraling escalation of drug prices. Because this tax credit is based on profits, the higher the drug companies' prices, the greater the amount of tax credits the drug companies can claim.

In short, our Federal tax policy says, "The Federal Government will pay you to increase your drug prices."

The public is hit again and again by the strategic moving of the drug company operations to Puerto Rico to take advantage of tax benefits. GAO found that 17 of the 21 most prescribed drugs in the United States, including critical medications for heart disease, epilepsy, diabetes, ulcers, and pain, are approved for manufacture in Puerto Rico. The public has helplessly watched the prices of these major drugs climb well beyond their financial reach.

Mr. President, the real tragedy is what lies behind the numbers and statistics, and the annual profit reports of the drug companies.

Last month, I held field hearings in my State of Maine on the effects of high drug prices on senior citizens, and the stories we heard were heartrending, to say the least.

Mrs. Lillian Trumble of Lisbon Falls, who is 79, testified that the $200 per month she and her husband spend on medications takes a major portion out of their limited monthly income from Social Security. Because of their drug expenses, she and her husband have had to depend on neighbors and friends to help pay for food and fuel to make ends meet.

We heard from George Roy of Biddeford who spent over $7,000 last year on prescription drugs. Since 1986, he has spent an astounding $48,000 on medications, and his wife now takes 48 pills daily. Mr. Roy summed it up well when he said, "I don't want to sell my house; I need a place to live. I hope that I can get some relief to help me, because we have to take these medications. * * * Right now, I am running out of money, and I need some help."

We heard from doctors, nurses, and pharmacists who told of patients who are not taking their medications properly, or who are going without drugs entirely because they simply cannot afford them. We heard about a terminally ill man who endures the pain of his illness because he is afraid to leave his family financially devastated due to the costs of his drugs.

More and more of our Nation's elderly and families are suffering from the high costs of prescription drugs, while the drug companies reap their excessive tax benefits.

We must act now to stop drug companies from taking advantage of the American public through excessively high drug prices. I have joined with Senator PRYOR in sponsoring legislation to curb the egregious profits these companies are collecting at the expense of the American consumer and taxpayer, and this GAO report provides strong evidence in support of our legislation.

I urge my colleagues to join Senator PRYOR and myself in supporting S. 2000, the Prescription Drug Cost Containment Act, to release consumers from the financial chokehold of the pharmaceutical industry.

Very simply, Mr. President, S. 2000 calls for a reduction in the section 936 tax credit, that is given to the pharmaceutical companies, if they continue to refuse to exercise any control over the ever-escalating costs of prescription drugs.

## THE PRODUCT LIABILITY LEGISLATION

Mr. COHEN. Mr. President, if I might, I would like to turn for a moment to a discussion of the product liability legislation that was debated a short time ago.

When dealing with product liability law, we are really talking about the allocation of responsibility. Who is in the best position to bear the responsibility for injury when it takes place out in the marketplace? Historically, we have placed the burden upon those who have introduced the products into the marketplace.

Obviously you weigh the equities—injured consumers versus those in business that produce the products. The person or interest that best should bear that responsibility is the one who introduces the products.

I have heard a great deal about the evils of product liability in terms of awards, and I would like to take a few moments to explain my own position. I supported Senator KASTEN's effort to at least bring his amendment to a vote. I indicate for the record I would have voted against Senator KASTEN's amendment had it come to a vote, but I think he is entitled to have it considered. I hope it is referred to the Judiciary Committee and that we can have full and extensive hearings on the subject matter.

I would like to explain to some of my constituents why I have historically opposed the attempt to mandate a certain standard upon the States and preempt State law.

My own experience goes back many, many years. As early as 1965 or 1966, I can recall there was something like 80,000 people who were injured every year from lawn mowers because of the absence of any kind of protective device. These lawn mowers were simply picking up a paper clip, a piece of glass, a stone, and really accelerating it out at enormous rates of speed into the eyes, the head, knocking out teeth, causing even brain damage in some instances. And all it would take was a simple device to prevent that kind of projectile from being ejected from under the lawn mower. It took lawsuits to bring that kind of safety device about.

The same thing can be said of snow blowers. When they first came on the market, we had tremendous numbers of injuries from snow blowers, because of the absence of protective shields that did not cost a great deal to manufacture, and yet they were not manufactured.

I recall the days of Ralph Nader who individually took his case about the unsafe Corvair, "unsafe at any speed", to the public. As a result of his efforts, he did in fact help to bring about a safety consciousness on the part of the automobile manufacturing industry.

So I think it has had a very salutary impact upon the overwhelming majority of the American people, that we allow suits against manufacturers for defective products. And I could take a long period of time today to discuss a variety of other examples where this has had a positive impact upon safety in our country.

I just want to touch upon one of the facets that was not dealt with in the amendment from my colleague from Wisconsin, and that is the issue of contingent fees.

There is a very strong anti-lawyer sentiment, that is pervasive in this country, and as one who used to practice law, I can understand that. It is historic. It goes back certainly to the days of Shakespeare with his suggestion hanging all the lawyers, or Carl Sandberg's poem when he talked about hearing the snicker when the first hearse passed by with the bones of a barrister.

It is a common theme throughout literature that people have a healthy dislike for lawyers except their own when it comes time for them to bring a lawsuit to protect their interest.

Nonetheless, there is an all out assault waged over the notion of contingent fees. The contingent fee is the poor man and woman's key to the courthouse. Without the availability of contingent fees, the poor people of this country, the average person in this country, will never get to enter that temple of justice. It will be reserved for the wealthy only or the very poorest who have public interest groups or lawyers appointed for them. That is not a situation we want to encourage in this country.

So while everyone seems to be beating up on the legal community and contingent fees, that may be the only way that the average person in this country will ever have hope of achieving a sense of justice for a wrong that is done to him or her.

At the same time, I do not think anyone can say no reforms should be made. I hope the Judiciary Committee will listen to the arguments. I may, in fact, propose an amendment at some future time which would say the following or something to this effect:

We are hearing a great deal about economic projections, costs and benefits, and how much has been added to the costs of products and how much it costs to get product liability insurance. Perhaps we ought to consider an amendment that would mandate a sunset provision. For example, at the end of a 3- or 5-year period, any reform in the area of product liability law would

be sunsetted unless we could show, let us say, a 20- or 25-percent reduction in insurance premiums across the board. That is something we ought to give serious consideration.

If, in fact, the product liability lawsuits are producing such extraordinary premiums, and if we reform the system, then it seems to me that the insurance industry cannot have it both ways. Business cannot have it both ways and keep prices high and say it is because of product liability. We have to see a corresponding reduction in the insurance premiums and also perhaps in the cost of products themselves. These are issues to be explored and debated.

Again, I did want to indicate for the RECORD that, while I did not support the motion to table the Kasten amendment, unless the amendment was substantially changed to take into consideration some of the factors I mentioned here this afternoon, I would have opposed it.

With that, 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. WELLSTONE. 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. WELLSTONE. Mr. President, I thought as long as we have a little bit of time, I would ask unanimous consent for 5 minutes in morning business so that I might talk about S. 250, the motor-voter bill.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. WELLSTONE. Thank you, Mr. President.

## THE MOTOR-VOTER BILL

Mr. WELLSTONE. Mr. President, I thought that there might be some debate on this legislation at the moment. Since there is not, maybe I will just add to some discussion that we have already had on the floor.

Mr. President, I want to point out for those that are here or those that might be following the proceeding on the Senate floor that we are talking about a piece of legislation that would probably add about 65 million Americans onto the registration rolls that would be now registered to vote. Mr. President, that would raise the level of Americans who are registered to vote from 60 percent to 95 percent.

I suggest to you that in the aftermath of Los Angeles and all that we have witnessed and all that we have observed in our country and all the discussion that has taken place, there probably is not a more important piece of legislation, at least so far as citizen involvement is concerned, before the Senate.

Mr. President, the National Voter Registration Act, introduced by Senator FORD, from Kentucky, and Senator HATFIELD, from Oregon, is a piece of legislation that, first and foremost, would enfranchise youth. Fewer than 40 percent of 18- and 19-year-olds in our country today are registered to vote. And yet, who are the Americans, women and men, who suffer the most from our lack of commitment to education?

I met with a group of Close-Ups students from Minnesota this morning. When I asked them what issues they were concerned about, all of them talked about a lack of commitment to education.

I just simply want to say this national voter registration bill before the Senate is an important piece of legislation because the Government would play not a partisan but a nonpartisan, affirmative, positive role in reaching out and enabling young people to register to vote so that they can vote for their economic rights. It is far better when there is anger.

I think of the gathering, Mr. President—I am sure you have been at such gatherings in Connecticut—at an inner-city school in St. Paul in which a number of the students, African-American and Hispanic as well as white and, also, a real strong Asian population at the school, stood up and said—and it kind of broke my heart—that they do not have that much confidence or faith in "the system"—I have heard that before in my lifetime—and that they really are beginning to give up hope about what could be done.

I said to them that what my father would have said, who was a Jewish immigrant from what used to be the Soviet Union, that we have an unfair system, but it is not an unfair closed system. It is an unfair open system and we have the possibility, in a representative democracy, for people to register to vote. And this piece of legislation encourages citizens, young people especially, to do exactly what we all hope all Americans will do, which is to be able to register and vote and make this a better country.

Moreover, this National Voter Registration Act enfranchises disabled Americans. Many disabled Americans, given the Byzantine rules and regulations that exist from State to State, have a very difficult time registering to vote. Again, all too often you cannot register by postcard. You have to be able to go somewhere to register to vote. Quite often, it is a long drive. Quite often, you do not know where it is. We make it very difficult for people to register to vote.

Mr. President, in my State of Minnesota, we have same-day registration. People can vote election day. We have motor-voter. People can come in when they apply for their driver's license or they get an ID card, the registration form is right there. And we have agency-based registration. Social services agencies, in a scrupulously nonpartisan way, have voter registration material available and register people right there. And we have the highest voting participation in the United States of America.

I think it is the role of Government to encourage and to promote voter registration and voter turnout. I do not think there is a more important piece of legislation.

I have heard some people on the floor say, "What does voter registration have to do with economic problems in our country?" It has a lot to do with economic problems in our country, because the very people who are most affected by our willingness to pass public policy for jobs and health care and schools and education and neighborhoods and communities are the very people who, disproportionately, are not registered to vote; the very people who all too often in State, after State, after State we make it difficult for them to register and vote. There could not be a more important piece of legislation before the floor of the Senate.

Mr. President, let me also point out that this National Voter Registration Act enfranchises minorities. Again, if you look at the last Presidential election, barely 50 percent of the people voted, and if you look at that hole in the electorate and try to analyze what that hole is, you will find that disproportionate among those people who did not register and did not vote were people of color and low-income people.

Again, 85 percent of the people who are registered to vote turn out. The issue is not turnout. The issue is making sure that people are able to register and vote.

So, Mr. President, just to summarize, I am pleased that we are back on this bill, S. 250. I think it is an incredibly important piece of legislation. I certainly hope that we will respond to the economic pain in our country, that we will respond to the bread and butter economic issues, that we will do a lot on employment, we will do a lot on health care, that we will do a lot on housing, and we will do a lot in the subcommittee that you have so admirably chaired, we will do a lot in the area of beginning to nurture and support our children and our families.

But I think the way that we get there is to have a citizenry that is engaged, a citizenry that is enfranchised, a citizenry that is empowered; and to have women and men in our country, from the very young—I mean 18 years of age and older—to the very old, who say to themselves the way that we make the change in our country is we register to vote, we turn out at the voting booth, we vote for what we believe in and we make the United States a better Nation.

Mr. President, for now, until we get into a more engaged debate on this particular bill, I conclude my remarks.

## SENATOR CHAFEE RECEIVES AWARD FROM LEAGUE OF WOMEN VOTERS

Mr. PELL. Mr. President, I rise today to recognize and congratulate my colleague from Rhode Island, Senator CHAFEE, on his receipt of the 1992 Leadership Award from the League of Women Voters—Education Fund. On Tuesday evening May 12, 1992, the league presented the award to Senator CHAFEE citing his "outstanding national leadership which fostered greater citizen participation in the democratic process." I have great respect for my friend and colleague from Rhode Island and congratulate him on this honor.

The League of Women Voters said Senator CHAFEE was selected for the award because of his many legislative contributions in health care, women's issues and the environment. Among the accomplishments the league cited were the leadership role Senator CHAFEE has taken to repeal the gag rule to ensure that poor women have access to family planning services, his efforts to assure that all Americans have access to affordable and quality health care, and his work to protect the global environment against ozone depletion.

Many of my colleagues are familiar with Senator CHAFEE'S deep dedication to these issues and I commend the League of Women Voters for recognizing his many achievements.

I was also delighted that my good friend and distinguished colleague from Kentucky, Senator FORD, received a Leadership Award from the League of Women Voters for his outstanding national leadership to encourage citizen participation in our political process. We are all familiar with Senator FORD'S role in the battle for campaign finance reform, and I am delighted that his untiring work has been given this recognition.

I know my colleagues join me in congratulating both Senator CHAFEE and Senator FORD.

## DECLINE IN DOMESTIC OIL AND GAS INDUSTRY

Mr. JOHNSTON. Mr. President, I rise today to talk about the serious decline in our domestic oil and gas industry. A very bad situation for our country has now reached crisis proportions. Every day we are confronted with headlines such as "Drilling Outlook Dims," U.S. Crude Output During 1991 Was Lowest Since 1950," "More Bleak Reports From Oil Companies," "Hard Times: the Great Energy Bust."

Our oil and gas industry is in very serious trouble. Hundreds of people are being laid off. An economist at Louisiana State University estimates that 2,500 oil field workers in my State alone will lose their jobs this year.

Exploration budgets are being slashed. A total of 157 companies expect to spend $1.9 billion, or 10.7 percent, less this year on oil and gas drilling in the United States.

Opportunities for "Made in America" energy are being passed up, and the industry is being forced overseas. Major companies are expected to increase spending overseas by over 9 percent this year, to $11.8 billion, at the expense of domestic exploration and production. Similarly, independents are expected to spend about 4.2-percent less in the United States this year.

All of this bad news was brought home to me again yesterday by a disturbing development.

The Department of the Interior conducted an Outer Continental Shelf lease sale yesterday in the central Gulf of Mexico, offshore Louisiana. The results of that sale were disappointing to say the least. Out of 5,213 tracts offered for sale, only 151 actually received bids. Total bonus high bids were $56 million. This is the lowest amount bid in over 20 years.

The level of interest in yesterday's sale compares poorly with the sales conducted in recent years. Last year, for example, almost five times the amount of bonus high bids was received on a roughly comparable sale. In 1985, fewer tracts were offered, 4,531 in all, and $1.1 billion in bonus high bids was received. I will ask unanimous consent that a table with pertinent information regarding OCS lease sales in the central Gulf of Mexico be printed in the RECORD following my statement.

Mr. President, the climate in this country is not favorable to oil and gas development. Years of strife over the OCS leasing program have been devastating to efforts to produce on the OCS with the exception of only a few limited regions. Legislation pending before the House would drive the last nail in the coffin of the OCS Leasing Program in many areas. Current tax policies should be much more favorable in promoting domestic production.

The recession that has been plaguing our economy has perhaps hit the oil patch hardest of all. This adds up to one alarming result: The oil and gas industry is abandoning the United States.

This situation has grave implications for our national energy security. We must take action now to address this problem. The first step is for the Congress to enact comprehensive energy policy legislation. The Senate was successful in passing a balanced and responsible bill, S. 2166. I hope that the House of Representatives will act soon on energy legislation with equally constructive results.

I ask unanimous consent that the table to which I earlier referred be printed in the RECORD.

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

COMPARISON CENTRAL GULF OF MEXICO OCS SALES (1984–92)

| Sale No. | Date | Tracts offered | Tracts bid on | Approx. total bonus-high bids |
|---|---|---|---|---|
| 81 | 1984 | 6,502 | 529 | $1,400,000,000 |
| 98 | 1985 | 4,531 | 444 | 1,100,000,000 |
| 104 | 1986 | 5,837 | 114 | 146,000,000 |
| 110 | 1987 | 5,881 | 313 | 290,000,000 |
| 113 | 1988 | 6,229 | 684 | 404,000,000 |
| 118 | 1989 | 5,970 | 591 | 397,000,000 |
| 123 | 1990 | 5,667 | 538 | 427,000,000 |
| 131 | 1991 | 5,420 | 464 | 260,000,000 |
| 139 | 1992 | 5,213 | 151 | 56,000,000 |

## CONGRATULATIONS TO LISA VEHMAS

Mr. JOHNSTON. Mr. President, I rise today to extend my congratulations to Lisa Vehmas, a member of my staff, upon her graduation from Georgetown University Law Center. Graduating from law school is a milestone and a significant accomplishment. Undertaking the study of law at night while at the same time tirelessly performing the duties of a professional committee staff member warrants special recognition.

Lisa has served as a professional staff member on the Senate Committee on Energy and Natural Resources for the past 5 years, where she has handled mining and minerals issues. Her work at the committee has been exemplary. Lisa played an important role in passage of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, amendments to the Geothermal Steam Act of 1970, amendments to the Surface Mining Control and Reclamation Act of 1977, and in the passage of several other bills which have become public law.

Lisa has also developed expertise in issues relating to trade, coordinating the committee's efforts last Congress with respect to the Canada Free-Trade Agreement and working this Congress on the North American Free-Trade Agreement. She has been assigned to issues relating to the reform of the Mining Law of 1872, which she has handled with skill. Her assistance on amendments relating to the Outer Continental Shelf Oil and Gas Leasing Program during Senate consideration of the National Energy Security Act of 1992 was invaluable.

Lisa has carried out her responsibilities at the committee with a high level of competence and professionalism. I am confident that a challenging and successful legal career lies ahead of her. I look forward to her continued good work on the committee staff.

Lisa's personal warmth and good humor have endeared her to her colleagues. We need her to continue in public service.

I hope she will take to heart the words of Winston Churchill at another hallmark occasion:

This not the end. It is not even the beginning of the end. But it is perhaps the end of the beginning.

## TRIBUTE TO MARTHA SIMMS

Mr. HEFLIN. Mr. President, the University of Alabama Alumni Association in Madison County recently established an endowed scholarship fund to honor Alabama's first woman, Martha Holliman Simms. Described as being first in many areas, she is a Huntsville native and University of Alabama in Huntsville alumna who has served on the University of Alabama System Board of Trustees since 1979.

Martha Simms' record of firsts is indeed impressive: the first woman and the first UAH alumna to serve on the UA System Board of Trustees; the first chairman of the Madison County Democratic Women's Division; the first woman on the board of directors of the Birmingham branch of the Federal Reserve Bank of Atlanta; the first woman on the board of directors of the First National Bank of Alabama in Huntsville; the first woman on the board of directors of First Bank Group of Alabama, Inc.; the first president of the Arts Council, Inc.; and the first woman on the board of control of the Von Braun Civic Center, where she presently serves as chairperson.

Martha is the widow of Leroy A. Simms, longtime publisher of the Huntsville Times. She has two sons, Schuyler Harris Richardson III and James Holliman Richardson, both attorneys. She received a bachelor's degree from Randolph Macon Woman's College in 1948 and MAS degree from UAH in 1971.

Mr. President, Martha Simms has dedicated her life to advancing education, the arts, and her community. She was a prime instigator of the development of the Von Braun Civic Center. Local arts, historical and civic organizations benefiting from her involvement include the Huntsville Symphony Orchestra Guild, the Antiquarian Society, the Huntsville Historical Society, the Junior League of Huntsville, the Huntsville Museum of Art, the Alabama Historical Society, Huntsville Garden Club, and the Twickenham Town chapter of the Daughters of the American Revolution.

She has served on many boards, including the Marshall Space Flight Community Advisory Committee and Governor's Commission on the Status of Women, and has received numerous awards for her continuous service to the community and State. She has been cited twice by the Alabama Legislature.

I join the University of Alabama Alumni Association in commending Martha Simms for her outstanding contributions through the Martha Simms Scholarship Fund, which creates a perpetual investment vehicle that provides scholarships to students attending the University of Alabama.

## VERDICT WAS FLIMSY EXCUSE FOR MAYHEM

Mr. HELMS. Mr. President, first a word about the man whose byline identifies him as James Jackson Kilpatrick. Nobody who knows him ever calls him James or Jim. Most of his friends call him Jack—or "Kilpo"—but, by whatever name, he is regarded by millions as a top-flight newspaperman. In my book he is the top newspaperman in America today.

I first met Jack Kilpatrick years ago when he was editor of the Richmond, VA, News Leader. I subscribed to his paper because I marveled at his talent as a writer and his enormous ability to analyze the issues of the day.

Jack not only loves the English language; he always insists upon good grammar, a quality which is so embarrassingly absent in the ranks of journalists today.

Obviously, Mr. President, I admire Jack Kilpatrick. I thoroughly enjoy his syndicated columns, not merely for what he says but how he says it. And I treasure him as a friend.

All of this came to mind when I read Jack Kilpatrick's column as published in Tuesday's Greensboro, NC, News & Record. Jack's analysis of the violence in Los Angeles is remarkably on target, at least in my own view of things. I decided that this column should be made a part of the CONGRESSIONAL RECORD.

Therefore, Mr. President, I ask unanimous consent that Mr. Kilpatrick's column, headed "Verdict Was a Flimsy Excuse for Mayhem," be printed in the RECORD at the conclusion of my remarks.

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

[From the Greensboro (NC) News & Record, May 12, 1992]

VERDICT WAS A FLIMSY EXCUSE FOR MAYHEM

(By James J. Kilpatrick)

The fires of Los Angeles are out. The last troops are leaving. Now the faultfinding begins anew. Liberal voices will be heard in one more chorus of the same old song. White society must bear the blame. We brought it on ourselves.

This is nonsense. Rubbish! I am sick to death of this drooling "compassion" that lacks every element of true compassion.

No one is responsible for this appalling spectacle but the blacks—and whites—who looted the stores, set the fires and killed with senseless abandon. Sociology be damned. Let the academics wail over the residual psychological consequences of 19-century slavery. This is hokum. Let us talk of grand larceny, arson and murder.

How are these crimes to be excused? They cannot be excused. They cannot be justified. If individual criminals can be identified from television tape, they ought to be rounded up and promptly put to trial.

It was the jury's verdict in the case of Rodney King that sparked the rioting. If the verdict had gone the other way—if the cops had been found guilty of assault—riot might have erupted out of jubilation rather than despair. The verdict was a flimsy excuse for a mob to hit the streets.

What about the verdict? Right or wrong? We have now heard from a hundred million second-guessers, none of whom had access to the evidence actually put before the California court. Did the state prove its case—prove it beyond a reasonable doubt? I have no idea. The jurors saw the famous TV tape, frame by frame. They gave the evidence the kind of scrutiny no one else has given it.

Out of that careful judicial process came the acquittal. This was no hung jury, irreconcilably split between conviction and acquittal. From the beginning of their deliberations, the jurors reportedly were of one mind. The evidence was not enough to overcome their reasonable doubts.

The American judicial process is not perfect. It is merely better than any other process yet devised. Yes, it is still flawed by racial bias. I am a reporter. Fifty years ago I was covering trials in Police Court and Hustings Court in Richmond, Va. Blacks were treated unconscionably then.

But during my years in Richmond I witnessed a tremendous change in the administration of justice. The worst abuses were eliminated. Every city in the South, to the best of my knowledge, has gone through the same experience. Beyond the South, courts function, for the most part, with an even hand.

Apologists for the black rioters complain that proportionately more blacks than whites are in jail. This is true. Why should this be so? The blunt answer is that blacks commit more crime, per capita, than whites. Yes, there are plenty of white robbers, muggers, skinheads, arsonists. No one excuses their conduct. They have no excuses either.

How can future outbreaks of mob violence be deterred? It may prove impossible to deter them. For the short haul, taxpayers in urban areas should prepare themselves to pay whatever is necessary to maintain order, for order is essential. Without order nothing can be accomplished. This will mean more police, more judges, more jails. So be it.

For the long haul—and it will be a very long haul—the community must rely upon black leadership. Legislators have yet to address themselves to the root causes of black crime; they do not yet understand that most programs of public welfare have served to make bad matters worse.

In my lifetime I have observed the disintegration of the black family and the black community. It never used to be this way. Most black children grew up with mothers and fathers who instilled in them the values of a Judeo-Christian ethic. Black ministers served effectively. Segregated schools were morally indefensible, but black teachers taught black children to be respectful of their elders.

The task of changing attitudes is immense. White society offers little help. What a sterling example has been set by Congress! What role models we provide! How can whites criticize black illegitimacy when white entertainers flaunt their own bastard offspring?

Our intellectual leaders condone pornography. Television screens resound with violence. Movies exploit sexual relations shorn of love. Without return to the old virtues, the lawless mobs of May will form again. Our social fabric rots.

## S. 640, PRODUCT LIABILITY REFORM

Mr. BURNS. Mr. President, I wanted to make a few comments about the vote earlier today on Senator KASTEN's amendment which embodied S. 640, the Product Liability Fairness Act. I voted for this amendment and I am disappointed that it did not pass. I first want to thank Senator KASTEN for his leadership on this issue—no one has been more diligent in seeking reform than he.

I voted for the Kasten amendment primarily because I believe that the Congress needs to act now to remove some of the barriers to economic growth in this country. I gave a speech on the Senate floor last September outlining issues that I believe the Congress should address to get the economy growing again. One of the issues I named was product liability reform.

Well, the economy has rebound some on its own since then, but the need for Congress to take action has not diminished. In fact, the need to reform our product liability system becomes more urgent everyday. The current system drives up costs in nearly every sector of our economy, and does very little to improve quality or increase safety.

This is a competitiveness issue and a jobs issue. Currently, the typical American manufacturer faces product liability costs that are 20 to 50 times higher than its foreign competitors. This additional cost makes American companies less competitive; they lose market share to foreign competition, so they raise prices and lay off workers which in the aggregate spells recession. This is not just a big business issue either. It affects small businesses as much, if not more, than large ones. The 1,100-percent rise in the number of Federal product liability cases in the 1970's and 1980's has driven up the cost of liability insurance. The burden of this increased cost is proportionally much greater for small businesses. It can be a make-or-break issue for them.

This issue is most often presented as a consumer issue, Mr. President. "If you are for product liability reform," some say, you are against the consumer." Well, I disagree. Consumers don't benefit when the business community has to protect itself from runaway lawsuits—they pay for it. The additional costs are passed on to the consumer. The people who benefit the most from the current system are the lawyers. The General Accounting Office recently noted that more half of jury awards in product liability trials go to attorneys. Other studies say that 50 to 70 cents of each dollar a jury awards to an injured person goes to lawyers. This hardly seems like a system that benefits the consumer!

The Kasten amendment would have reformed the current system to make it more effective. We must protect people from careless manufacturers and defective products—the Kasten bill does not compromise that objective. It just insurers that we do so in a fashion that still allows American businesses to compete and grow in the global economy. I hope that the next time Congress is given the opportunity to reform our product liability system, we will do it.

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## THE TRUTH ABOUT ISRAEL'S TRANSFER OF AMERICAN TECHNOLOGY

Mr. MCCAIN. Mr. President, Israel is a close ally and a proven friend. That does not mean that it is perfect, anymore than we are perfect. It does not mean that we agree on every issue, or that our relationship is free of tension. It does mean, however, that we have the obligation to Israel of avoiding false charges and accusations. It means we must never confuse real issues with false ones. It means that we must treat each other with honor and respect.

During the last few weeks, there was charge after charge that Israel has transferred classified or sensitive United States military technology to other nations. Then, suddenly, there was silence. The stigma was left that Israel was guilty of at least some of these charges in spite of the denials of its highest officials.

I have just read an article in the Washington Journalism Review that breaks this silence. I cannot comment on any of its content that touches on classified material, but I believe that it is vital reading for every member of this body, and I respectfully request that it be included in the RECORD.

In fact, I hope that all of Washington and our Nation's media will read this article. It is a warning of what can happen when leak and rumor substitute for truth. It is a warning of what happens when we rush to judgment without all the facts. Above all, it is warning of what can happen when we treat a friend and an ally carelessly and without regard to years of close cooperation and shared trust.

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

[From the Washington Journalism Review, May 13, 1992]

OFF TARGET

(By Steven Emerson)

In mid-March, an already tenuous relationship between Israel and the United States was rocked by a series of shocking news reports alleging that Israel had illegally sold vital U.S. technology to other countries. First came a story that Israel might have transferred a Patriot missile to China. Another article said that, among other illicit acts, Israel secretly sold U.S.-designed weapons systems to China and South Africa. But the most extravagant accusation was that Israel was planning to sell U.S. "stealth technology" to China.

Many of these charges were broadcast on television news shows and printed in newspapers throughout the United States. The allegations also generated an acrimonious debate between A.M. Rosenthal of the New York Times and syndicated columnists Rowland Evans and Robert Novak, who were making their own serious accusations against Israel.

When the smoke cleared, however, it turned out that some of the charges were patently false and others highly questionable. In their zeal to get a "good story," did veteran U.S. journalists fail to obtain corroborative evidence to substantiate such serious allegations?

On the morning of March 12 the Washington Times, a newspaper known for its access to intelligence reports, ran a front-page banner headline proclaiming "China may have Patriot from Israel." The article, written by Bill Gertz and Rowan Scarborough, reported that the "Bush administration is investigating intelligence reports that Israel secretly supplied a U.S. Patriot missile or its technology to China. . . ."

If true, it was an extraordinarily shocking revelation. Disputes between Israel and the United States are always hot news. But coming at a time of extremely strained U.S.-Israeli relations and only days before a U.S. visit by Defense Minister Moshe Arens, the Patriot story spread quickly around Washington. The true test of whether it would become a high-profile national issue would come several hours later at daily briefings at the White House, State Department and Pentagon.

As a rule, Bush administration officials have refused to comment on intelligence reports. Moreover, the administration has demonstrated an aversion to leaks based on unverified raw intelligence reports, as illustrated by its bitter denunciation of the FBI reports leaked to reporters regarding allegations against Supreme Court nominee Clarence Thomas.

But on March 12, the Bush administration seemed to go out of its way to confirm this leak. At the State Department, Defense Department and White House, officials carefully stated on the record that they would "not comment." yet ubiquitous but anonymous "senior officials," which included the briefers and top policymakers, made themselves available on "background" for reporters at daily briefings to "confirm" the existence of the allegations. For example, according to reporters present, Assistant Secretary of State Edward Djerejian vouched that the allegations were "serious." His comments, like those of his colleagues, guaranteed that the Washington Times story had legs.

In classic Washington cover-your-tracks style, however, Djerejian on March 17 publicly criticized leaks about alleged Israeli arms transfer. Before a congressional committee, Djerejian declared, "What is regrettable is there have been these irresponsible leaks by unnamed officials which have come into the press. . . . (When asked about his March 12 background comments, a spokeswoman for Djerejian said the State Department would not comment on "anything Secretary Djerejian may or may not have said on background.")

By the end of the day on March 12, the story was publicized worldwide. While Israeli officials unequivocally rejected the Patriot missile charges and claimed they were leaded before being investigated by the Bush administration or before Israel had a chance to respond, neither they nor the U.S. media were privy to the intelligence report that generated the allegation. And if they couldn't see the report, how could they re-

spond to the charge? It was a Catch-22 situation typical of the intelligence world.

In retrospect, it became apparent that the Washington Times had exaggerated the allegations against Israel to include the charge that Israel had possibly transferred a complete Patriot missile to the Chinese. Bush administration officials said that the "intelligence report" received by the administration raised only the possibility that China had acquired Patriot technology from Israel, not the missile itself. Nevertheless, by elevating the allegation to including the transfer of hardware, the Times helped raise the story to another level. And because anything is possible in the intelligence world, the notion of a missile transfer could not be dismissed out of hand. The Washington Times' Scarborough said in an interview that his article was accurate. "I'm firmly convinced that the intelligence report mentioned the possibility that the Patriot itself had been transferred," he said. "We confirmed this through several sources in the administration."

The story also was fueled by the fact that Israel had developed an extraordinarily close relationship with China over previous years—much of it cloaked in secrecy—and that Israel officials had recently confirmed publicly that their government had sold Israeli weapons to China. If Israel had sold China weapons that did not use U.S. technology, that would be a different story and clearly not as compelling.

MORE ALLEGATIONS ABOUT ISRAEL

On March 13, the Israel-China story picked up steam when veteran investigative reporter Edward T. Pound of the Wall Street Journal published a front-page report in which senior U.S. officials alleged improper Israeli transfer of U.S. technology to China, Ethiopia, South Africa, and Chile. The result of a six-week investigation, the Journal story was extensively documented and included references to a classified draft of an upcoming report on technology transfer to Israel by State Department Inspector General (IG) Sherman Funk.

The Journal cited "American officials" who charged, among other things:

Israel sold the Python-3 air-to-air missile to China and possibly South Africa even though the Python-3 "is listed in intelligence reports as having a 'high degree' of U.S. technology and was adapted from the U.S. AIM-9L Sidewinder [air-to-air missile]." In turn, the story reported, the Chinese exported their own version of the Python-3, called the PL-8, to Iraq;

Israel sold U.S.-designed cluster bombs to Ethiopia;

Israel sold the Mapatz antitank missile, alleged to be a "close copy" of the U.S.-made TOW-2 missile, to South Africa and possibly China.

The article further reported that government officials "suggest Israel uses several schemes to transfer" U.S. technology, including repackaging American components in systems exported by Israel and "reverse-engineering"—disassembling U.S. weapons to appropriate their secret designs.

For journalists, Pound's story seemed to indirectly confirm the Washington Times story, even though the Journal didn't focus on the Patriot missile allegations, if only because it alleged that Israel was selling other advanced U.S. technology without permission. The Journal story was particularly damning because its description of purported Israeli deception and scheming made any charge of Israeli duplicity more credible.

Israel's response to the Journal story seemed equivocal. An Israeli government spokesperson said that the stories about alleged sales to China and other countries "are sensitive matters which are subject to negotiation" between Israel and the United States. Was that an implicit acceptance of the U.S. allegations, as some reporters believed and indeed wrote?

THE MURKY AREA OF TECH TRANSFER

The issue of a foreign nation reexporting U.S. parts in weapons it produces is not black and white. Indeed, the question of what is allowed under U.S.-imposed export restrictions is often the subject of intense and complicated negotiations. It can be a bit like determining whether a Honda produced in the United States is foreign or American-made. Or like determining the ownership, if any, of intellectual property. What happens if there is cooperative development of technology? Can one country lay claim to the entire weapons system when both countries participate in its development?

In recent years, flaps have developed over interpretations of reexport and technology-transfer rules with Brazil, Germany, Great Britain, Japan, Singapore, Sweden, Switzerland and Thailand. During the past five years, more than a dozen reports by the General Accounting Office, the investigative arm of Congress, and congressional committees focused on disagreements over reexport and allegations of transfer of U.S. technology. Yet none generated nearly as much attention or uncritical publicity as the State Department's IG report dealing with Israel.

The fact that journalists had paid relatively scant attention to previous disputes over technology transfer did not make the charges against Israel any less newsworthy. Although U.S. officials did not inspect Israeli military systems, Pound concluded in this Wall Street Journal article that "the intelligence reports have been so prevasive as to leave no doubt in the intelligence community that Israel has repeatedly engaged in diversion schemes."

Yet contrary to the portrayal of an intelligence community holding a monolithic view on alleged Israeli diversion, a series of interviews with officials in the Defense Department, State Department and CIA leaves no doubt that there are major and bitter disagreements about whether the intelligence reports about Israel were as conclusive as some claimed. For example, a senior Defense Department official who examined both the classified and unclassified versions of the IG report, as well as the raw intelligence reports collected by Funk to assemble his study, said firmly that the "IG abjectly misrepresents the intent and bottom line of the documents upon which his report was based." And a former government official who had access to the raw intelligence charged that the IG report was politicized. "The IG report," he said, "was a dumping ground for anyone who wanted to get their digs in on Israel."

Pound cannot be faulted for accurately reporting what various intelligence officials had told him and what had been confirmed by government documents. Yet the debate about Israel in the intelligence community often parallels the debate about U.S. Middle East policy. Officials collect, interpret and even generate "intelligence" designed to promote their views. Were the sources interviewed for this story simply providing the opposite of what Pound's sources told him?

Perhaps. But in reporting on the IG document, the unclassified version of which was released April 1, journalists largely overlooked evidence that raised doubts about the accuracy of the IG's conclusions. Moreover, the media generally disregarded the same independent Israeli military analysts who are quoted extensively when they criticize Israeli policies. This time, these Israeli analysts rejected the technology-transfer charges as entirely unfounded and a "smear" against Israel.

Ze'ev Schiff, the veteran defense correspondent for Ha'aretz, an independent Israeli daily newspaper, said he was "shocked by the American media's acceptance of the IG report without checking it out. I checked it out in great detail and I can tell you that it is inaccurate and false. This is not the way we work here. When I got a piece of information from [Prime Minister Yitzhak] Shamir that no settlements were built, I found out that it was bullshit and wrote that the Americans were right [in their criticism of Shamir]. But on the charges of Israeli tech transfer, I can tell you that American reporters simply shot from the hip."

In an interview, Pound said he repeatedly tried to get Israel's response to the allegations but that Israeli officials refused to talk to him. He said he called the Israeli Embassy in Washington "many days before the story ran" and even offered to go over "specific [weapons] systems" to no avail. "Anyone who has dealt with me on this story . . . will tell you that I have tried to get their side," he said. "I'm not responsible for them if they don't care to give me their side."

Although no Israeli officials would speak on the record about Pound, they admitted they decided not to cooperate with the Journal reporter. "Why should we legitimize his story?" asked an Israeli diplomat. Another official said that Israel decided to avoid a "pissing match with the United States." We can't win," he added, "no matter what."

A PYTHON IS NOT A SIDEWINDER

One of the few American reporters to delve into the issue beyond merely restating charges along with Israeli denials was Jackson Diehl of the Washington Post. In a March 18 story, Diehl reported from Jerusalem that "as Israeli sources explain it, the dispute over technology is, in fact, a tangled and technical one that reflects the degree to which the military establishments of the two countries became meshed in recent years." Diehl's point lay at the heart of the issue: Israel and the United States have been involved in joint research and weapons development for the past 25 years. Some of the research is so intertwined, according to U.S. and Israeli defense officials, that it is impossible to determine the exact nature of its parentage.

Another factor, which most reporters missed, is that because of the huge decline in international arms sales, the United States and Israel are now beginning to compete in an increasingly desperate search for arms buyers. What better way to undercut Israeli competition than to assert U.S. parentage of technology?

As for accusations that Israel had exported Python-3 missiles with U.S. technology, Diehl reported that "Israeli officials...[point] out that the Python-3 missile built by Israel's state-owned Rafael factory differs substantially in its dimensions, weight warhead and other features from the U.S. Sidewinder AIM-9L missile." Furthermore, Diehl reported, the United States and Israel collaborated for many years on air-to-air missiles, resulting in each country's separate development of them—for Israel, the Python, and for the United States, the Sidewinder. Diehl also reported that in order to avoid violating U.S. rules regarding use of U.S.-licensed components in Israeli-produced weapons. Is-

rael manufactured two versions: one for domestic use with U.S. components and another for export made with clones from Israel or Europe.

Israeli military analyst Schiff said that not only is the Python technologically different from the AIM-9L Sidewinder, but that the first sale of Pythons to China occurred before Israel obtained the AIM-9L. Charging Israel with stealing missile technology, he said, is "like the U.S. going to the Japanese and telling them they cannot produce their cars because the U.S. was the first in the world to make cars."

Pound pointed out in an interview, however, that the United States turned down Israel's export license applications for the Python components because Israel refused to disclose its sources for non-U.S. hardware. "Israel maintains to the State Department that there are two Pythons: one used for export without U.S. components," he said. "But they won't tell the U.S. what's in them."

Israeli officials contend that they did not reveal their non-U.S. suppliers to the Bush administration because it had previously tried to block Israel from purchasing hardware from third parties.

As for the allegation that Israel sold cluster bombs to Ethiopia, the charge was an outdated one. According to classified Defense Department reports, Israel has not sold cluster bombs to Ethiopia in at least seven years. In fact, when Ethiopia demanded weapons during the past two years from Israel in exchange for releasing Ethiopian Jews, Israel adamantly refused, according to both Israeli and U.S. diplomats. Defense Department officials unequivocally state that the cluster bombs found in Ethopia's possession were provided by Chile's Cardoen Industries.

The Journal's Pound also failed to report that Israel's Mapatz antitank missile is directed by lasers while the American TOW is directed by cable, thus raising questions about the allegation that Israel transferred TOW technology to South Africa. And according to Israeli defense officials, the United States in recent years has requested in writing permission to acquire Mapatz missile technology.

In addition to the evidence supporting Israeli claims that it developed its own weapons systems, reporters missed another key element that would have demonstrated why the entire affair was much more gray than black and white. In recent years, the United States has exported weapons systems that have incorporated advanced Israeli technology to Arab countries such as Egypt, Jordan, Saudi Arabia and Kuwait. This hardware includes enhanced F-15 fuel tanks, helicopter altitude warning systems and F-16 avionic and structural improvements.

GUNNING FOR ISRAEL?

As happens so often in Washington journalism, the allegations of Israeli transfer of technology had provided a hook for other reports about Israeli wrongdoing. By this time, the invisible critical mass—the journalistic threshold that results in pack reporting—had been reached. Now it seemed as if almost any allegation related to the Israel-China nexus was fair game, regardless of its accuracy, as long as it could be pinned on anonymous "U.S. intelligence sources."

In a segment on ABC's "World News Tonight" on March 16, John McWethy reported that Israel had secretly transferred a laser-guided artillery shell called the Copperhead to China. But there was a serious problem with the story: It wasn't true. According to Defense Department and congressional officials, Israel has not purchased any Copperheads (whereas dozens were sold to Arab countries). A spokesman for "World News Tonight" said in an interview, "We stand by our report."

Meanwhile, some editorial writers presumed the error-filled reports were true instead of questioning the leaks of unverified intelligence or raising questions about the accuracy of the charges. For example, the March 20 lead editorial in the New York Times blasted Israel in unusually harsh rhetoric for the "alleged sale of Patriot technology" to China and for "installing U.S. components" in Israeli-exported weapons systems. The editorial said that "stern sanctions" should be imposed on Israel if the reports proved to be true. At the same time, Times columnists Leslie Gelb and A.M. Rosenthal questioned the truthfulness of the allegations and the political agenda behind the leaks.

Columnists Rowland Evans and Robert Novak reported yet another alleged Israeli technology transfer to China. In their March 16 column they charged that Israel, according to U.S. "officials" and a "diplomatic insider," had been secretly negotiating to sell China its STAR missile, which contains "priceless high technology used by the United States on the first day of the gulf war in a missile called the HAVE NAP." The Israelis, the columnists alleged, "obtained this technology from open-handed Uncle Sam under a written pledge not to sell it or give it to another country without U.S. approval."

The allegation that Israel was planning to send one of the U.S. military's most secret and vital weapons to China was nothing short of startling, and it came from columnists known for their inside access to senior Bush administration sources. In exchange for Israel's supply of illicit American technology, the columnists reported, Israel might be getting "space-launched satellite technology" from China.

New York Times columnist Rosenthal found problems with the Evans and Novak story. In his March 20 column, he reported that HAVE NAP, according to a U.S. Air Force official, was actually based on technology Israel had developed for its own air-to-ground missile called Popeye. The U.S. Air Force, Rosenthal wrote, "was so impressed by this missile that it bought it off the shelf from the Israelis" and it was now being co-produced by an Israeli company called Rafael and the U.S. firm Martin Marietta. In interviews, Air Force officials, Defense Department officers and congressional officials corroborated the fact that the HAVE NAP missile was developed by Israel.

In their March 25 column, Evans and Novak reiterated their claim that a "key part" of STAR missile technology was secretly American in origin. The columnists conceded that the STAR was made in Israel and patterned after the Israeli Popeye. Yet they claimed the United States had secretly added "stealth technology" to the Popeye, which Israel could steal and sell to China. Both the United States and Israel were aware of the stealth enhancement, the columnists said, but agreed never to disclose it: "The STAR missile's origin is in fact 'black,' that is clandestine, not to be publicly admitted by the United States or Israel."

Rosenthal responded immediately. In his March 27 column, he wrote that Evans and Novak had now shifted their allegation from the STAR being an Israeli rip-off of U.S. technology to the charge that the United States had enhanced the Israeli-made STAR with U.S. stealth technology. Rosenthal cited American specialists who derided the notion. "A missile is not a turkey that can be plumped up simply by sliding in more stuffing," Rosenthal wrote. (Officials at Martin Marietta, Rafael, the U.S. Air Force and the Pentagon said in interviews that Israeli-developed Popeye/HAVE NAP has never been enhanced with stealth technology.) Rosenthal also charged that Evans and Novak's allegation that the United States used HAVE NAP missiles against the Iraqis was also false, a fact confirmed by the Pentagon.

Days later, in their April 1 column, Evans and Novak responded again—and once again, they shifted their allegations. Citing a March 24 memorandum written by Henry Sokolski, an official in the Defense Department's Office of International Security Affairs, the columnists reported that the Israeli missile Popeye "does contain U.S. technology [and] uses advanced high-accuracy [U.S.] guidance systems." Thus Evans and Novak didn't repeat their allegation that the Popeye contained "stealth technology or that the STAR missile was derived from HAVE NAP. Instead they charged that Israel used other unidentified U.S. components and, again citing the Sokolski memo, said the HAVE NAP "may contain as much as '99 percent' U.S. technology." But they did concede that they had erred in reporting that the HAVE NAP missile had been used in the Persian Gulf War.

Defense Department and congressional sources have uniformly ridiculed the Sokolski memorandum as being inaccurate. One senior official called it "flat-wrong and designed to mislead policymakers." Sokolski could not be reached.

In an interview, Evans stood by the accuracy of the Sokolski memo and the other allegations he and Novak reported. Asked whether they still maintain that the STAR is derived from the HAVE NAP, Evans said, "Missile technology is very complicated. . . . In writing about these programs, there are black elements and it's very hard to be precise. Yes, I am told that the STAR incorporates U.S. technology and the STAR is the only missile we have ever written about involved in allegations of Israeli-Chinese negotiations."

Asked whether the two columnists also affirm their allegation that the HAVE NAP was equipped with stealth technology, Evans answered, "Yes, that's accurate. . . . If you want to be precise about this, you have to find out what is a stealthy characteristic, [such as] types of paint. I'm not a scientist; I know nothing about the technology involved in all this stuff. But that's what one intelligence source told us."

NO EVIDENCE

In early April the Israeli-Patriot-China story came to a conclusion. A special 17-member U.S. military inspection team had been dispatched to Israel—a development that had reinforced the credibility of the initial charges but which had originated at Israeli insistence—to investigate whether any of the Patriot missiles in Israel had been tampered with. On April 2, the State Department announced that the investigators found "no evidence that Israel had transferred a Patriot missile or Patriot missile technology" to China and that "the Israeli government has a clean bill of health on the Patriot issue."

The day before the United States exonerated Israel, State Department Inspector General Funk released an unclassified 69-page report alleging a "systematic and growing

pattern of unauthorized transfer of sensitive United States items and technology" by an unidentified country that was unambiguously Israel. In interviews with reporters, however, Funk revealed, according to David Hoffman's account in the Washington Post, that State Department "auditors had never actually tracked any transfer of U.S. technology by Israel, but rather established that intelligence reports about such transfers were credible."

In the end, journalists were left to report unverified allegations about possible technology transfers. Every day government officials receive scores of such intelligence reports, but often they consist of nothing more than an allegation by an informant, often with a political agenda, who reports it to a U.S. intelligence agent or diplomat. Most reports don't check out. Consider the famous 1981 report of a secret Libyan hit squad stalking President Reagan. The report, it turned out, was not true; the informant had misled U.S. officials.

The New York Times and the Washington Times acknowledged publishing tainted intelligence reports on Israeli weapons transfers and blamed their sources. On April 4, the New York Times tried to make amends for its premature editorial that had blasted Israel. Noting that Israel was found "not guilty" of the Patriot missile transfer charge, the Times editorialized that the "U.S. officials who hurried to publicize the allegation before all the facts were in owe Israel an apology.

On April 13, the Washington Times published a lead editorial that also criticized government leakers for feeding the press false information. The editorial, which conceded that the paper had printed the original unsubstantiated report on the Patriot transfer, enumerated the charges and countercharges that had been reported subsequently in the Wall Street Journal and in the Evans and Novak-Rosenthal exchanges. "The blame," the Washington Times concluded, "lies not with the press, which is reporting what it finds out, but with whomever is doing the leaking of spurious accusations."

The Washington paper also chastised the "highest officials" in the Bush administration for failing "to say anything on Israel's behalf to counterbalance the feeding frenzy in the press that the [original] leak set off. They now owe Israel an apology for allowing the erroneous report to further undermine relations between the two countries."

To be fair, perhaps the New York Times, the Washington Times—and much of the Fourth Estate—should apologize as well.

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

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

Mr. STEVENS. Mr. President, parliamentary inquiry. Is it now in order to offer an amendment to the National Voter Registration Act?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair notifies the Senator from Alaska that morning business is now closed.

## NATIONAL VOTER REGISTRATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is S. 250.

AMENDMENT NO. 1821

(Purpose: Substitute amendment)

Mr. STEVENS. Mr. President, I have an amendment at the desk to S. 250, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. DOLE, proposes an amendment numbered 1821.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Voter Registration Enhancement Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the right to vote is a fundamental right;

(2) it is the responsibility of each citizen to exercise that right;

(3) it is the duty of the Federal, State, and local governments to promote the exercise of that right;

(4) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office;

(5) such laws and procedures can disproportionately harm voter participation in such elections by members of various groups, including racial minorities;

(6) all citizens of the United States are entitled to be protected from vote fraud and from voter registration lists that contain the names of ineligible or nonexistent voters, which dilute the worth of qualified votes honestly cast; and

(7) all citizens of the United States are entitled to be governed by elected and appointed public officers who are responsible to them and who govern in the public interest without corruption, self-dealing, or favoritism.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase registration of citizens as voters in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to enhance voter participation in elections for Federal office;

(3) to protect the integrity of the electoral process;

(4) to ensure the maintenance of accurate and current official voter registration lists; and

(5) to guarantee to the States, and to their citizens, a republican form of government, including elections conducted free of fraud, and governmental processes conducted free of corruption, self-dealing, or favoritism.

**TITLE I—VOTER REGISTRATION ENHANCEMENT**

**SEC. 101. FEDERAL COORDINATION AND BIENNIAL ASSESSMENT.**

The Attorney General—

(1) shall be responsible for coordination of Federal functions under this Act;

(2) shall provide information to the States with respect to State responsibilities under this Act; and

(3) shall, not later than June 30 of each even-numbered year, submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2 calendar years and providing recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act.

**SEC. 102. RESPONSIBILITY OF CHIEF STATE ELECTION OFFICIAL.**

The chief State election official of each State shall be responsible for coordination of State functions under this title.

**SEC. 103. VOTER REGISTRATION ENHANCEMENT BLOCK GRANTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General—

(1) for making grants under this section for fiscal years 1992, 1993, and 1994, a total of $25,000,000; and

(2) such additional sums as may be necessary for administrative expenses of the Attorney General in carrying out this title.

(b) BLOCK GRANTS.—(1) From the amounts appropriated under subsection (a) for any fiscal year, the Attorney General shall make grants to States, through chief State election officials, for the purposes of supporting, facilitating, and enhancing voter registration.

(2) To qualify for a grant under paragraph (1), a State shall match any amount of Federal funds dollar for dollar with State funds for voter registration enhancement activities, including—

(A) providing for voter registration for elections for Federal office at State departments of motor vehicles;

(B) providing for designation of, and the carrying out of, voter registration activities at State-related and (upon agreement with nongovernmental entities) appropriate private-sector locations for voter registration for elections for Federal office; and

(C) providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State, including the use of change-of-address information supplied by the Postal Service.

(c) ALLOCATION OF GRANTS.—(1) The Attorney General shall by regulation establish criteria for allocation of grants among States based on—

(A) the number of residents of each State;

(B) the percentage of eligible voters in each State not registered to vote; and

(C) other appropriate factors.

(2) In promulgating criteria pursuant to paragraph (1), the Attorney General shall give special consideration to State-sponsored programs designed to improve registration in counties with voter registration percentages significantly lower than that for the State as a whole.

(d) ADMINISTRATIVE REQUIREMENTS.—(1) The Attorney General shall by regulation establish administrative requirements necessary to carry out this section.

(2) To be eligible to receive a grant under this section, a State shall certify that the State—

(A) has in place legislative authority and a plan to implement procedures to promote and facilitate, to an extent and in such manner as the Attorney General may deem adequate to carry out the purposes of this title, voter registration for Federal elections—

(i) in connection with applications for driver's licenses; and

(ii) if the State so elects, at voter registration centers located conveniently to prospective voter registration applicants;

(B) agrees to use any amount received from a grant under this section in accordance with the requirements of this section;

(C) agrees that any amount received through a grant under this section for any period will be used to supplement and increase any State, local, or other non-Federal funds that would, in the absence of the grant, be made available for the programs and activities for which grants are provided under this section and will in no event supplant such State, local, and other non-Federal funds; and

(D) has established fiscal control and fund accounting procedures to ensure the proper disbursement of, and accounting for, grants made to the State under this section.

(e) REPORTS.—(1) The chief State election official of a State that receives a grant under this section shall submit to the Attorney General annual reports on its activities under this section.

(2) A report required by paragraph (1) shall be in such form and contain such information as the Attorney General, after consultation with chief State election officials, determines to be necessary to—

(A) determine whether grant amounts were expended in accordance with this section;

(B) describe activities under this section; and

(C) provide a record of the progress made toward achieving the purposes for which the block grants were provided.

**SEC. 104. DEFINITIONS.**

For the purpose of this title—

(1) the term "chief State election official" means, with respect to a State, the officer, employee, or entity with authority, under State law, for election administration in the State;

(2) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(3) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)); and

(4) the term "State" has the meaning stated in section 301(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(12)).

## TITLE II—PUBLIC CORRUPTION

**SEC. 201. ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.**

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 225. Public corruption**

"(a) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the honest services of an official or employee of the United States or the State, political subdivision, or Indian tribal government shall be fined under this title, imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the jurisdiction in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned for not more than 20 years, or both.

"(c) Whoever, being a public official or an official or employee of the United States, a State, a political subdivision of a State, or an Indian tribal government, in a circumstance described in subsection (d), defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the right to have the affairs of the United States, the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title, imprisoned for not more than 20 years, or both.

"(f) 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, a State, a political subdivision of a State, or an Indian tribal government, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) For the purposes of this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or 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 such person will be so nominated, appointed, or selected;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201(a) and shall also include any person acting or pretending to act under color of official authority;

"(3) 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

"(4) the term 'under color of official authority' includes any person who represents that such person controls, is an agent of, or otherwise acts on behalf of an official, a public official, or a person who has been selected to be a public official.".

(b) TECHNICAL AMENDMENTS.—(1) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (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 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

**SEC. 202. FRAUD IN INTERSTATE COMMERCE.**

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—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 "in connection with intrastate, interstate, or foreign commerce, engages the use of a 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

striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

Mr. STEVENS. Mr. President, this is an amendment that is intended to be a substitute for S. 250. S. 250 has been presented as an innovative Federal leadership concept in dealing with voter registration.

I believe that an examination of the existing system throughout our country will demonstrate that the concept that we call motor-voter was developed by the States and is now being implemented in most States. Twenty-seven States, plus the District of Columbia, already provide citizens an opportunity to register to vote when applying for a driver's license. That means 28 of our jurisdictions already have this system. Legislation has been introduced and is now pending before the legislatures of 17 other States to establish the motor-voter concept and other agency registration systems. In other words, 44 States and the District of Columbia adopted the concepts included in S. 250 or have considered doing so in the legislatures in those States.

All of the State action has been without the costly Federal mandates contained in S. 250. It is not just a case that the Federal Government is behind the curve in providing the leadership for this system. I believe that what we need is a bill that simply indicates the support of the Federal Government for the ongoing policies that are being pursued by the individual States, and I further believe it is still the States' responsibility to determine the system for qualification for voting in this country, except for violations of the Voting Rights Act.

S. 250 goes beyond a restatement of the policies that have been pursued in these States, policies that they are already following and have been passed by their individual legislatures.

S. 250, in effect, meddles with those existing programs and drives up their costs for even those States that already have such a system. I do not think that the States can really afford this meddling by the Federal Government. The National Governors Association has told us that 35 States currently face billions of dollars in revenue shortfalls. Over the last 2 years, the individual States have raised taxes by $25 billion and they have cut their spending by nearly $8 billion.

Many of the problems that the States face now can be traced to mandates imposed by the Congress that were not funded. Unfunded mandates order States to do something the Federal Government wants them to do without giving them the money to do it, and that is exactly the approach of this bill, S. 250.

It is not just increased program spending that States will face with S. 250; it is the real threat of a host of lawsuits under Federal law that the States will face if this bill passes. My good friend from Kentucky has managed the bill and we have worked together on this bill in the Rules Committee. He knows what my feelings have been all the way along. The bill's proponents assume that States will register 95 percent of the eligible voting population of each State under this bill, but if they do not, the individual States will find themselves in Federal courts being sued by advocacy groups to mandate compliance with this bill.

The bill, for the first time, will give standing to sue in a Federal court to an aggrieved person. "Person" will include advocacy groups under the bill.

If the States do not achieve 95 percent registration, it is my feeling that advocacy groups will use the provisions of this bill to take the States to Federal court, and the courts are going to be jammed with lawsuits brought by these advocacy groups under this bill.

As I said, this is a first. States today can be sued under the voter registration violations only if there is some form of discrimination contrary to the Voting Rights Act. For the first time, this bill will provide for suits against the States under this concept of motor-voter but discrimination need not be a basis for those suits. It will be simply a failure to pursue the registration concepts under this motor-voter proposal.

I quoted this to the Senate before, and I want to reiterate it. This is the quote from one of the advocacy groups:

The prudent approach, it seems to us, is to support passage of the Federal bill and then litigate if States fail to implement it.

I believe that passage of this bill means the Senate thinks that the key to increased voter turnout will ultimately lie with the Federal courts especially since those advocacy groups will have access to the Federal courts to enforce compliance under S. 250.

I really do not think this is the right approach for increased voter registration which, as I have said before on this floor, we all support. But imposing these new costs and liabilities on States are unjustified because this bill will just not do what it is introduced to achieve.

There is simply no evidence that the registration programs required by S. 250 will actually increase voter participation at the polls. The Congressional Research Service looked at what happened in those States which actually have already adopted motor-voter programs. In 7 of the 10 States with motor-voter participation, already the turnout actually dropped. For all 10 States, voter turnout went down by 2.68 percent. For the five States that have a more active form of motor-voter participation, somewhat similar to what is in this bill, by the way, the turnout in Presidential elections, for instance, dropped by 6.21 percent. For non-Presidential elections, those States experienced a small increase of one-half of 1 percent, following the adoption of this kind of registration.

My amendment is designed to make this whole approach flexible. It eliminates the automatic voter registration feature. Under the automatic registration feature, States would have to register everyone who applied for a driver's license, unless the person declined to be registered, in writing. The automatic registration is one of the reasons, States told the Rules Committee, that this bill would be so expensive. Eight States told us that S. 250 would cost them over $80 million in increased costs to run their elections.

My amendment will strike that automatic registration provision requirement and will be far less expensive. It will eliminate the problem of ineligible and duplicate registrations which the automatic registration concept would generate.

Under this amendment, which as I said is a substitute really, participating States agree to set up motor-voter programs and will receive Federal support to do so.

Under my amendment, unlike S. 250, the States would not be required to do anything more unless and until the Federal Government helps to fund it. There is no mandate unless the Congress comes up with the money to pay for the system.

My amendment will also eliminate S. 250's requirement for a nationwide mail registration. Mail registration mandated on a nationwide scale system just will not work. We have had example after example that the mail registration concept ends up with fraud. As I mentioned last week, a grand jury in West Virginia last June recommended that the State end its mail registration system. The prosecutor in that case said this: "One of the conclusions of this grand jury was that the mail-in registration system should be abolished as soon as the State legislature can take action." Actually, S. 250 would prohibit West Virginia from taking the action that has been recommended by its grand jury. This State action is supported by the person who prosecuted the violations under the law.

If we enact S. 250, ending or even modifying the mail registration system in West Virginia or anywhere else in the country that has such a system would be a violation of this new Federal law.

Under the amendment I have offered, West Virginia would be permitted to follow the grand jury's advice and clean up mail registration.

Another grand jury in New York said, "Mail registration has become the principal means of perpetrating voter fraud in Kings County, NY," and the former U.S. Representative Elizabeth Holtzman, then the district attorney,

complained in an article that appeared in the New York Times how easy it is to vote illegally in New York. She called for the city to implement the grand jury recommendations there. And yet S. 250, this bill pending before us, would prohibit modifications to the mail registration system that was called for by the New York grand jury. The State would be forced to continue what has been called "the principal means of voter fraud" in that jurisdiction of New York.

Under my substitute amendment, the modifications called for by the New York grand jury would be permitted.

In both 1982 and 1986, in the Chicago mayoral elections, the U.S. attorney said that up to 200,000 fraudulent ballots were cast. If that was not bad enough news, the election officials from Illinois testified before our Rules Committee that the mail registration provisions of S. 250 would, in their words, "destroy the signature verification process already in existence in Chicago."

There was another special election down in Florida. The U.S. House of Representatives special election in Florida brought evidence that there was a significant number of aliens who had voted illegally.

The Immigration and Naturalization Service said that between 11 percent and 24 percent of the ballots they sampled were illegal because they had been cast by people who were not entitled to vote in this country, that are noncitizens.

One suggestion for combating this illegal alien voting in Florida was to ask for proof of citizenship when a person attempted to register. S. 250 would prohibit that. It would be unlawful for a person to be asked to produce evidence that he or she has a right to vote; for a person to be asked, who is suspected of being an illegal alien for proof of citizenship. That is one of the particular suggestions that was made in Florida after voter-fraud investigation.

The mail registration makes election fraud easier because it eliminates the need to find even a tombstone when ghosts are voting, Mr. President. In fact, mail registration allows the unscrupulous to do something that just is beyond reason to fathom. With mail registration, they do not even have to find a name of a person who was recently eligible to vote in order to vote illegally. They just register themselves knowing they are not legal to vote. I think that we ought to really permit States to require specific procedures that verify the right of a person to vote in mail registration.

This S. 250 goes beyond requiring mail registration. It specifically forbids State procedures that are designed to verify that a person registering by mail actually resides where they claim to reside or even one that would indicate that the registrant's signature is authentic.

Section 9(b)(3) of the bill specifically states that any mail registration form may not include any requirement for notarization or other formal authentication. States have the right—and indeed I think they have the responsibility—to ensure the integrity of their voter rolls. Yet S. 250 would erode the States' ability to secure the integrity of the ballot box that is so important to our national democracy.

The bill will also require public assistance offices to register to vote anyone applying for basic public assistance benefits unless they decline to be registered in writing. This automatic registration is the same requirement for the drivers' license offices, and it will be just as expensive. But requiring public assistance offices to engage in voter registration creates the perceptions that public assistance benefits are dependent upon political participation, and it is just one step further to say who they must vote for.

(Mr. ROBB assumed the chair.)

Mr. STEVENS. Some persons do not wish to register because in many jurisdictions that places them on the jury list; in others it gives them specific duties that people just do not want to take on.

A person should not be compelled to undertake public participation. I do not agree with those who don't want to participate. But it is our traditional notion of civil liberties that this view ought to be respected. Some people may not wish to reveal their party affiliation, particularly to public assistance workers. Such identity is necessary under many States' laws when a person registers. They have to state if they are a Democrat or a Republican. As a matter of fact, there is a big argument going on in my State right now that would require persons who register to vote to disclose their party affiliation.

I might say parenthetically that has not been the tradition in Alaska. Over 50 percent of Alaskan voters register as independents and do not choose to associate with either major political party.

Not only will this bill continue the appearance of improper links between basic public assistance benefits and registering to vote, but it will create opportunities for actual links to occur in that process which, as I said, I think is highly improper.

This bill will press nearly every public assistance office in the country into the process of registering voters when really we are hiring these people to assist those who need public assistance. It will greatly increase the chances of coercion by officials in charge of dispensing public assistance to those who are new voters.

I do not think the Congress should mix the requirement of public assistance and political participation, particularly since it involves those who are in great need as new members of our society.

During the campaign finance debate, speaker after speaker rose to condemn allegations that an employer had coerced an employee into making political contributions. These are very serious charges, and if proven true, they are in violation of current Federal law. But we are concerned about these accusations because they involve the exploitation of someone in an economically vulnerable position for crass political purposes and objectives. That is also one of my basic objections to S. 250.

My concerns are not theoretical. Last summer the St. Louis Post Dispatch reported allegations that public assistance workers routinely coerced benefit applicants into registering for specific parties and to support specific candidates. It is alleged that public assistance workers were even driving welfare applicants to the polls after they applied for their welfare assistance. Someone said it had been going on for many years.

To me that is a classic case of political manipulation of persons in an economically vulnerable position, and it is exactly the kind of political abuse that many Senators were denouncing just a few days ago during the campaign finance reform debate, as I said.

If the Senate will support this substitute, it will be voting to expand the opportunity to vote within a system of voluntary participation. If you vote for S. 250, in my judgment, it creates the opportunity for political abuse in every public assistance office in this Nation. It will mean that an increased potential for political manipulation of those in our society who are least able to protect themselves. It will become a Federal requirement that States that currently separate public assistance from voter registration will no longer be able to. I do not think that this is the right approach.

So my amendment eliminates the public benefits registration requirement.

It should not, in my judgment, be a matter of Federal law that the States must require those who come to seek public assistance register to vote unless they decline in writing to do so. It raises a lot of questions where there is a group of which we know many are illegal immigrants, but still entitled to some public assistance, to have them be forced to state in writing, no, I cannot register to vote because I am really not a citizen.

I think it puts a really double burden on this law to have the Congress mandate that those who dispense public assistance must require the applicant to register to vote unless they decline in writing to do so.

I think that probably is the worst provision in this bill.

Also this substitute I offered contains language to combat public cor-

ruption. it is strongly backed by the Department of Justice. It is one of the highest priorities for the Federal prosecutors. Many instances of local corruption are immune from Federal prosecutions. Federal prosecutors cannot reach a bribe of a local official because it may not involve interference with commerce or the use of the mails. As a result, it is extremely difficult for Federal prosecutors to take action, for instance, against a State judge who might be in the position of shaking down people who appear before him or her in a State court.

This is because such acts do not involve the use of mails or an effect on interstate commerce.

My amendment would enlarge the list of activities that could trigger Federal jurisdiction in the election process. The new list includes transmitting messages over interstate wires, transporting persons across State lines, and using any facility of interstate commerce such as the common fax machine.

My amendment would also permit prosecution in a Federal court regardless of whether Federal candidates are involved in the fraud or named on the ballot when the act of fraud occurred in the election process.

Current law requires that a Federal candidate be named on the ballot in order for a Federal prosecution of election fraud to succeed. Virtually all election fraud is undertaken for the purpose of influencing the outcome of local elections where the Federal candidates are not on the ballot.

My amendment would close that local election loophole and say to those participating in voter fraud that voter fraud is a national subject; it is a situation that demands the involvement of Federal prosecutors to assure that there is compliance with the concept and protections of our Constitution in local elections, also.

My amendment does this by permitting prosecutions for fraud in local elections if the local office for which the election is being held has control over Federal funds totaling $10,000 or more per year. In other words, if Federal funds are involved in that local jurisdiction, then we have a Federal interest in seeing to it that the elections are held lawfully. And that will extend to Federal prosecutors the right to pursue corruption and crime in connection with local elections.

The Senate, incidentally, voted for that provision in the antipublic-corruption language in connection with the crime bill and drug bill on several occasions, but it is not in S. 250.

My amendment would encourage States to continue to move to motor voter systems, and we support that concept of voluntary adoption by States of motor voter systems, if that will improve, in their judgment, voter participation and improve the controls against voter fraud, without imposing a great deal of Federal red tape, and without imposing new costs on the States, which the Federal Congress is not prepared to assume as far as the Federal budget is concerned.

I do believe that, if this substitute were adopted, we would have less voter fraud, we would have a sounder system, and we would encourage those States that have not gone to motor voter to go to it, to the extent they believe it will improve their system. But it is not a substitute that will bring about mandated expenses for State and local governments that will not be met by Federal funds following the mandate.

In closing, Mr. President, let me state to the Senate that I have been involved in opposing this for some time, primarily because of the opposition of my own State. Under both Democratic and Republican Governors, my State has opposed this concept. We are a State that has a great influx of people who come in to work for a very short period of time in the resource industries, and in the fishing industry, various jobs we have, including the tourist industry. People come in for 60, 90, 120 days a year, and they do drive motor vehicles. If they are to be there more than 30 days, they must obtain a driver's license in our State.

We do not use an automatic motor voter concept, because of the vast number of these people that come in, and because we do not want them to be registered to vote until they make up their mind to be permanent residents of our State. If they come in and want to register, they can do that. All they have to do is be there 30 days. The requirement is, if they are there more than 30 days, they have to get a driver's license. They can register to vote, if they want to become permanent residents. Most of them do not want to be. This bill would automatically register them.

My State has documented the cost of taking those people off of the rolls. We do not see any reason why the Federal Government should force a State like ours to incur the costs that this bill would require.

Again, I do not know if I have the list with me, but I put them in the RECORD in the Rules Committee. The former Democratic Governor opposed this bill. The current Independent Party Governor opposes this bill. The former Republican Governor opposed this bill. We do not know of any reason why States such as ours ought to be forced by the Federal Government to change our election laws. Nobody in our State is complaining about it. That is the situation for a sizable number of States.

One of those letters I have with me happens to be the letter of former Gov. Steve Cowper, who wrote to me on September 12, 1989. I ask unanimous consent that Gov. Cowper's letter be printed in the RECORD at this point to demonstrate the kind of viewpoint that I received, along with a letter sent on behalf of the current Governor from the Division of Elections on April 5, 1991.

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

STATE OF ALASKA,
*Juneau, September 12, 1989.*

Hon. TED STEVENS,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR TED: I appreciated your representation of Alaska's interests during the Senate Rules Committee hearings on S. 874, relating to "motor voter" registration.

I recognize that S. 874 focuses on registration for federal elections. However, like most jurisdictions, in Alaska, a single voter registration application qualifies voters for all elections, federal, state, and local. If the single application procedure is to be maintained, imposition of the arbitrary provisions of the federal legislation would extend far beyond federal elections and significantly infringe on the state's right to govern its own procedures for state and local elections.

Alaska already implements a statewide voter registration program which employs variations on many features suggested by the proposed legislation. These include our own "motor voter law," mailing registration procedures, widespread use of public agencies for distribution of registration materials, and nearly 3,000 appointed volunteer registrars who assist voters in registering.

The relevant state statutes governing voter registration programs were tailored specifically to meet the unique needs and desires of Alaska's vastly diversified population. The state's procedures will not necessarily be satisfied or improved by the legislation. For example, the proposed law assumes that most or all applications for driver's licenses are made in person. As you are aware, this is not the case in Alaska, where many applicants apply for or renew their licenses by mail. Another section of the legislation which would allow "mail-in" voter registration also appears defective because it has no attestation requirement. Alaska law already allows mail-in registration when witnessed by any two individuals over the age of 18 years. We believe that Alaska's attestation requirement does not impose a burden on voter registration, while at the same time it increases the registrant's awareness of the serious nature of the voting laws.

Additionally, the bill provides that a timely by-mail registration is one that is postmarked at least 30 days before an election. In Alaska, use of the postmark rather than a date of receipt has been found to be unreliable in verifying the timeliness of mailed registrations. The Alaska Division of Elections conducted a review of 1,800 absentee by-mail ballots and found that nearly 30 percent of them had no readable postmark. As a result, in response, Alaska law has recently been amended to provide that a timely by-mail registration must be received at least 30 days before an election. Prior to the amendment, the attestation date also served as alternative "proof" of timely registration when no postmark was evident. The proposed bill would impose an unreliable standard for determining timely registration, while at the same time removing the creditable alternative which the attestation provides.

In addition to my concern regarding federal intrusion into Alaska's voter registration laws, I am equally concerned about the

financial burden that passage of S. 874 would impose upon the state. We have determined that the combined annual administrative costs for the Division of Elections and the Department of Public Safety, would come to about $412,000. As an illustration of the financial burden this would impose, our current operating budget for the Division of Elections, exclusive of costs directly associated with the conduct of primary and general elections, is $1,454,300. The costs associated with S. 874 would be equivalent to a 28.3 percent increase in the Division of Elections' current operating budget.

In reviewing the registration and population figures prior to each general election since 1978, Alaska has consistently experienced a registration rate well above the national average. According to the state's figures, the lowest registration rate during that time was approximately 78 percent, and in most election years, the rate hovered around the low to mid-80th percentile. Until S. 874 is amended in a way that clearly recognizes and maintains the state's rights to prescribe the manner in which registration programs are to be implemented, I encourage your continued opposition to this bill. Thanks for your consideration of this correspondence.

Sincerely,

STEVE COWPER,
*Governor.*

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STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
*Juneau, AK.*

To: Mr. John Katz, Special Counsel, State/Federal Relations, Office of the Governor.

From: Elizabeth A. Ziegler, Deputy Director, Division of Elections.

Date: April 5, 1991.

Re: National Voter Registration Act of 1991.

The Division of Elections has reviewed S. 250, establishing national voter registration procedures for Federal elections. The State of Alaska already implements a statewide voter registration program which includes by mail and registration is available at all motor vehicle licensing offices. Alaska also makes considerable use of public agencies as well as nearly 3,000 appointed volunteer registrars who assist voters in registering.

In its present form, the "motor voter" provisions would seriously preempt the present effective voter registration programs already implemented in Alaska. Additionally, legislation would be required to modify our laws regarding voter registration, the purging of inactive voters, current law about witnessing of by mail registrations, interagency participation in voter registration and various other aspects of election management.

The division is also concerned about the costs associated with implementation of this legislation. The Division of Elections and the Division of Motor Vehicles estimate that the costs may exceed $40,000. This is a huge impact to a state with only 307,000 registered voters.

Mr. STEVENS. This National Voter Registration Act is an anathema to a great many people who manage elections in small States. This substitute will say anybody that wants motor-voter, go out and adopt it, and it gives encouragement to do that. It creates additional Federal crimes that we tried to create on two separate occasions previously. It will help bring about an improvement in our election process. But it will not mandate States who do not want to adopt motor-voter to do so. I do not have this list, but some State legislatures have turned down motor-voter. Now we have the Federal Congress coming in and saying, "Sorry, boys and girls, you have to put it into your laws anyway."

I think those of us who really believe in States rights ought to stand up and shout more against this bill. It is a bill which is contrary to the system of federalization as I understand it. We should not be imposing upon States and local governments provisions to change their election laws, which have already been turned down in their own process of establishing their own election laws.

Incidentally, this amendment is offered on behalf of our distinguished minority leader and myself. We hope there will be support for this concept. It is, in my opinion, a benchmark kind of an amendment, because it shows that we are trying to work with the majority and improve this approach to motor-voter. But we do not want to support a mandated motor-voter concept from the Federal level.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD the list that we prepared previously that sets forth the request we had from various states. It came to the minority in the Rules Committee from elections officers in individual States, asking that we oppose this bill on their behalf. I want the RECORD to show that it is not just Alaska, but a series of States asked that this law not be enacted. They do support the voluntary systems represented by my substitute.

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

Alaska, California, Florida, Illinois, Kansas, New York, New Jersey, Oklahoma, South Carolina, Virginia, Alabama, Minnesota, Missouri, and South Dakota.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I find myself somewhat uncomfortable, because the distinguished senior Senator from Alaska is my good friend. We have worked very closely as chairman and ranking member of the Rules Committee. And even though I will disagree on some aspects of his statement, and he will disagree with some aspects of mine, we are not going to be disagreeable.

Mr. President, what my good friend has attempted to do is instill fear into the people, if we have this piece of legislation—the fear of being sued. I am not a lawyer. Sometimes that is an advantage around this place, because you can use some common sense. But one time I had asked a lawyer a question. I said, "What do you think we ought to do about this point?" And he said, "Either way, and we will make a darned good case."

Well, that is what we have here. They are taking the other view and attempting, by legal language, legal threat, the cloud of litigation, to scare people into not being for this legislation. In fact, they want to go so far as to say to the States—and you talk about States rights—to interfere with local law and local elections, and have the big Government interfere with that, inject the Federal prosecutors into local elections.

Mr. President, if they are criticizing this bill for saying to the States under Federal elections you should have some uniformity, then their bill has gone much, much farther than ours. They say that Big Brother is going to be looking over your shoulder at every voting precinct in your State and they are going to be able to take you to Federal court for local elections.

I think, Mr. President, that my friend from Alaska has gone way too far. The fear of litigation, the fear of being sued, the fear of injecting the Federal Government into local elections is what is being attempted here.

I have never seen so much fear in legislation in my life. What is wrong with allowing the American people to participate in democracy in the easiest way we can find? I am not afraid of the people. But one of those on the other side said the other night, we are not for this bill because if this bill passes we will never be in the majority of the U.S. Senate again.

I want to tell you something: that increased my enthusiasm for this bill.

My good friend from Alaska says he picks out a couple of States that were reduced by 2 percent, 1 percent, or 3 percent, or something like that, after they put in the motor-voter. I do not know where he gets his figures, I guess you can find anything you want and stop there.

It reminds me of a little coffee shop in one of the communities I knew well at home. You go in at 10 o'clock, drink coffee with friends. When you hear the rumor you want to spread, you leave the coffee shop so you can go out and spread that rumor.

The voter turnout in 1986 versus 1990 in four States that started their motor-voter: in Maine, increases in voter participation of 13 percent; in North Carolina, increases of 20 percent in participation; in Minnesota, increases of 25 percent, 25 percent; and in the District of Columbia, 26 percent.

These are States and districts that have gone to motor-voter and their participation in selection of their leadership in their communities and States has increased from 13 to 26 percent across the board.

This does not sound like any downturn. You get interest in the political arena just like baseball. Right now I happen to be a Cincinnati Reds fan and a Cardinals fan. They are very close to my hometown, and every morning I

look in the paper to see how they did the night before. The Reds lost to the Cardinals the last two games. I am not too particularly happy about that, but because I am a Cardinals fan it did not bother me too much.

The point I want to make, and I made this on several other occasions, is the closer we get to the division title, the closer we get to the World Series, the more interest we get. The more interest we get, lo and behold the World Series arrives and you do not have a ticket. That is the way it is with politics.

Right now people are not too interested in what is going to happen in November. Sure, they have some thoughts; sure, they read the paper, but they are not zeroing in on issues and the individuals. So their desires or thoughts of registering to vote are not quite as keen as they will be later on this year. Once they want a ticket to the World Series, which in this case is the ability to vote for the leadership of this country, they find out they are not registered to vote 30 days in advance. So they fail to get a ticket to the World Series and they fail to have the ability to vote, which ought to be a right.

Ninety percent of the American people eligible to vote have a driver's license. Ninety percent of the people are eligible then to vote, and so we have a great opportunity, Mr. President.

And then we talk about the right to sue. I am not a lawyer. Dad always said get a good lawyer and stick with him. But I understand the right to sue is not based on the failure of the bill to increase the turnout. Listen to that now. It is not on the failure of the bill to increase turnout. Rather it is based on the failure of the State to comply with the act. If they complied with the act, there is no suit involved.

This is the same, and I underscore "the same," as the Voting Rights Act. What is wrong with that? It is working pretty well for a long time. So it is the same right as the Voting Rights Act.

Now my good friend from Alaska says that nobody up there is for this bill in his State, Democrat Governors, Republican Governors, Independent Governors, whatever it might be. They do not have any problem, they do not want this bill. Here is an editorial from the Anchorage Daily News. It even has my name spelled right in it, and I like that. "Can the Federal Government encourage voter registration and participation through legislation? Yes." That is the Anchorage Daily News, "* * * by passing the so-called motor-voter bill sponsored by Senator WENDELL FORD from Kentucky." There are some people in his State for this bill.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. FORD. I am glad to yield.

Mr. STEVENS. That is a delightful paper owned by McClatchy forces down in California. They automatically run their editorial opinion from the McClatchy paper.

Mr. FORD. Only a few people know that, and I am just going by the Anchorage Daily News, whether they are owned by California or Kentucky.

Mr. STEVENS. The paper endorsed two or three Governors I mentioned, and they, all three opposed it?

Mr. FORD. Yes. The papers that endorsed your Governors are still for this piece of legislation.

Mr. STEVENS. That is the same. It is owned by an out-of-State owner.

The PRESIDING OFFICER. Senators will address their remarks through the Chair.

Mr. FORD. Since nobody else is around here we will get along all right.

Now, since the Anchorage Daily News, even though they may be owned by out-of-State group—I do not know of many States that have major papers now owned by out-of-State groups. You come to my State, and the two major papers are owned by somebody else. They report local thoughts and input. They do not write something the people at home are bitterly opposed to.

So here in Anchorage Daily News—and I would grant to my friend it may be owned by somebody else outside the State, it is not unusual—and its says that the motor-voter is stalled for too long, stalled for too long. "Senators should give every American a reasonable opportunity to register by letting this bill motor into law."

Then we hear the letter or the statement by Elizabeth Holtzman. You know, it is strange that you just pick out things in letters that sound good for your side and you do not read all of it. That is part of the game, I think. So let us play the rest of the game or, as one of our national commentators would say, let us hear the rest of the story.

There seems to be some question as to what exactly the New York grand jury decided after a completed investigation that my good friend pointed out, the investigation into voter fraud in Brooklyn, NY.

To try and clarify this point, I asked the former district attorney who convened that grand jury for her opinion on this bill, S. 250. In a letter dated June 20, 1991, Elizabeth Holtzman, now the comptroller of the city of New York, wrote to me about her opinion. She is the one that called the grand jury, and this is her opinion of the grand jury on the bill and its relationship to the grand jury she convened. I think that her comments are very enlightening.

Mr. President, I ask unanimous consent that her letter be printed in the RECORD, and for my colleagues on the other side of the aisle let me quote a few relevant passages from Mrs. Holtzman's letter.

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

COMPTROLLER OF THE
CITY OF NEW YORK,
*New York, NY, June 20, 1991.*

Hon. WENDELL H. FORD,
*Chair, Committee on Rules and Administration, U.S. Senate, Washington, DC.*

DEAR SENATOR FORD: As a public official, I am writing to you to express my support for your efforts to expand the registration opportunities for millions of Americans. Like yourself, I am concerned when we see fewer and fewer citizens participating in the democratic process. That is why I support your efforts and those of Senator Hatfield in attempting to make registration procedures more convenient for citizens.

While I strongly believe that we as public officials should do all that we possibly can to make voter registration procedures convenient, we must also protect the integrity of the electoral process by protecting against the unscrupulous few who work to dilute it. During my tenure as Kings County District Attorney, a Brooklyn Grand Jury investigated fraud and illegality in certain primary elections in Kings County, New York. The Grand Jury's 1984 report documented deficiencies in the voter registration system and made recommendations for reform. The Grand Jury did not, as implied by the minority view included in the Committee Report accompanying S. 250 (at page 62), recommend repeal of the mail registration system.

The Grand Jury investigation revealed that a group of individuals over a fourteen year period, from 1968 to 1982, engaged in various fraudulent and illegal practices designed to influence the outcome of elections. These practices included the forgery of registration cards with the names of fictitious persons, the filing of these cards with the Board of Elections, the recruitment of people to cast multiple votes on behalf of specified candidates using these forged cards or the cards of deceased and other persons, and the forgery of voter registration cards after an election on behalf of the losing candidate in order to establish a basis for voiding the election.

Part of the Grand Jury's report did find that the advent of mail registration in New York made the creation of bogus registration cards even easier and less subject to detection. One of the major flaws of the system was that mail registration forms were distributed in bulk quantities with no identifying serial numbers. However, the Grand Jury also found many instances where forgeries were occurring within the Board of Election offices themselves. In fact, security was so lax in these offices, that the individuals engaged in the fraudulent activities were able to hide themselves in the ceiling of a rest room and accomplish their forgeries undetected after the close of business.

As a result of the Grand Jury's investigation, eleven recommendations were made. Of these eleven, two recommendations related to the registration procedure itself. The first was the recommendation of a study to evaluate various proposals and remedies to identify voters at the time of voting or registration, serializing and recording the serial numbers of all voter registration cards and insisting on greater accountability by organizations engaged in voter registration. The second recommendation called for a revision of the voter registration card affirmation to less legalistic language and printed in prominent boldface type so as to be easily noticed and to alert the applicant. The remaining nine recommendations related to security at the Board of Election offices.

The proposed National Voter Registration Act of 1991 would not preclude states from

taking these and other steps to protect the integrity of the electoral process. In fact, the Act could strengthen anti-fraud efforts. For example, one particular provision of S. 250 that was recommended by the Brooklyn Grand Jury is the inclusion of an attestation clause which sets forth the eligibility requirements and requires the applicant's signature under penalty of perjury.

The other registration procedures of S. 250, the "motor-voter" and agency-based provisions, appear to address concerns regarding fraudulent voting, as well. Under these procedures, the voter registration application process is simultaneous with the application for a driver's license or public benefits. If the same stringent requirements are applied to a voter registration application as are applied to a driver's license application or a public assistance application, I am confident that the opportunities for fraud can be restricted. In addition, S. 250 includes numerous requirements for the administration of the voter rolls that I believe will keep the voter rolls clear of "deadwood."

I recognize that you have given considerable attention to the concerns of local officials. S. 250 is not only a strong voter registration bill, but also has strong anti-fraud provisions. Voter registration reform is long overdue and I fully support your efforts.

Sincerely,

ELIZABETH HOLTZMAN,
*Comptroller.*

Mr. FORD. Mr. President, now this is quoting from the letter. The Senator has a copy of it, I am sure. And if you want to look at the middle of the second paragraph.

"During my tenure as Kings County district attorney, a Brooklyn grand jury investigated fraud and illegality in certain primary elections in Kings County, New York. The grand jury's 1984 report"—8 years ago—"documented deficiencies in the voter registration system and made recommendations for reform. The grand jury did not, as implied by the minority view included in the committee report accompanying S. 250, at page 62, recommend repeal of the mail registration system."

Now there is a conflict in what the minority view on this bill was referred to her position and she contradicts the minority's view which she says that "The grand jury did not, as implied by the minority view included in the committee report accompanying S. 250 at page 62, recommend repeal of the mail registration system."

Mr. President, a couple more statements from her letter:

"As a result of the grand jury's investigation, 11 recommendations were made. Of these 11, 2 recommendations,"—only 2, now, Mr. President—"related to the registration procedure itself. The first was the recommendation of a study to evaluate various proposals and remedies to identify voters at the time of voting or registration, serializing and recording the serial numbers of all voter registration cards and insisting on greater accountability by organizations engaged in voter registration. The second recommendation called for a revision of the voter registration card affirmation to the less legalistic language"—there we get back to all this legalistic language and threat of suits and that sort of thing—"and printed in prominent boldface type so as to be easily noticed and to alert the applicant. The remaining 9 recommendations related to security at the Board of Election office."

All of us have been hearing about what the grand jury did in New York, and all their recommendations, only two of them, only two of them, and they were minor in my opinion based on New York and the remaining nine recommendations related to the security at the board of elections offices.

One other point she made. "The proposed National Voter Registration Act of 1991"—this bill we are on now, the one my good friend is attempting to substitute and wipe out what we are doing—"would not preclude"—and I underscore not—"not preclude States from taking these and other steps to protect the integrity of the electoral process. In fact, the act could strengthen antifraud efforts."

Now that is Elizabeth Holtzman's statement as it relates to this. Let me repeat that. "In fact, the act could strengthen antifraud efforts."

She also states in this letter, "The 'motor-voter' and agency-based provisions, appear to address concerns regarding fraudulent voting, as well. If the same stringent requirements are applied to a voter registration application as are applied to a driver's license application or a public assistance application"—here is what she says, after going through all this grand jury, she says—"I am confident that the opportunities for fraud can be restricted."

Now here is an individual that was referred to calling a grand jury, giving certain impetus as to what the grand jury did, and when you get down to the fact of it, it really is not that way at all.

And she winds up, the last sentence of her letter, "S. 250"—that is the voter registration bill we are talking about now—"is not only a strong"—and I underscore strong—"voter registration bill, but also has strong anti-fraud provisions. Voter registration reform is long overdue and I fully support your efforts.

"Sincerely Elizabeth Holtzman, Comptroller, City of New York."

Mr. President, I do not know how much clearer you can be than that letter. I do not know how much clearer you can be with the facts. I do not know how much clearer you could say from the State of New York, the city of New York, that this is good for us and it will help reduce fraud.

But, no, the substitute says we want to go down into the precincts of Brooklyn, we want to go down in the precincts of Roanoke, we want to down in the precincts of Louisville. We want to take over your State elections. We want to take over your local elections. What is States rights about that? You are going all the way where the Federal Government and its prosecutors will be looking over the shoulders of every local community race, every county race, every State race. It is about time we get the black suits, white shirts, and red ties out of our business locally.

So here we are saying, we do not want this. The States ought to have a right but we are going to inject the ability of the prosecutor, Federal prosecutor, Big Brother.

I think the Senators recognize the fact that they named their bill the National Voter Registration Enhancement Act. Well, what are you going to enhance? Are you going to enhance the Justice Department's ability to file suit? Sure, there will be more suits, be more problems. The taxpayers are going to pay for more surveillance, instead of local people picking up the tab and local people look after their own business.

Now, the Dole-Stevens proposal will not establish universal registration procedures, because it does not require the States to adopt any registration program. The States will have the option of adopting motor voter mail or agency registration. And the minority is opposed to S. 250 because they claim that there is not sufficient safeguards against fraud. They claim that the mail registration form should require notarizing or a witness.

He talked about West Virginia. Do you know what the grand jury was about over there? It was a notarizing. That was the problem in West Virginia. Go back and look at your facts. Go back and look at what the grand jury said. Look at what the charge was at the grand jury. I wish sometimes I was a lawyer. Maybe I could know a little more about how some of these things work. But I think I look at what is being argued here with the perspective of a nonlaywer, the general citizen out there, that is faced every day with doing right, stopping at stop signs, paying their taxes. And then when you get down to the facts, the facts are not quite the same as when you begin to paint with a broad brush.

So it is the notarizing of the ballots, I say to my good friend, that was the problem in West Virginia. More important, in this substitute their argument against S. 250 is that the list cleaning requirements of the bill are not sufficient to keep the names of ineligible people off the voting list.

If that is true of S. 250, then it is most equally true of their proposal, even more so. The only requirement of this proposal, as the substitute, is that list cleaning programs be uniform and not discriminatory.

I ask this simple question: How is a State to accomplish this? How is the State to accomplish it? There is abso-

lutely no direction given as to how the State is going to do this. How can they meet that standard? Are you going to have 50 standards? Probably so.

More important, there is no safeguard to protect against the discriminatory list-cleaning methods that have resulted in millions of people being removed from the list of eligible voters. That is what this is all about. They just take you off the rolls. S. 250 says once you are registered, you are on until you move out of State or die.

This proposal would permit States to remove a person's name from the list of eligible voters simply on the failure of a person to vote. This substitute says if you are not able to vote this time, you do not get an absentee ballot but you are registered, and if you do not vote, they are going to take your name off the rolls. S. 250 does not do that. S. 250 does not do that. It says, once you are registered, you live there, or within the jurisdiction, you are not removed from the rolls.

A lot of things happen to prevent people from going to the polls. A lot of people get turned off by us politicians. They do not want to go vote for anybody so they just stay home. We have turned them off. So, if they stay home, they do not want to vote, that is their business.

But under this substitute, you come off the rolls; or I have the ability to take you off.

This is one of the most important features of S. 250. Our bill prohibits the name of an eligible voter from being removed from the list of eligible voters on the basis of failure to vote. Once registered, a person should remain on the list so long as he or she remains eligible to vote in that jurisdiction. Too many States use the failure of a person to vote as a means of removing names from the list.

I do not know how many people listening or watching have ever been on the committee to cleanse the registration list under the procedure of this substitute. I have seen it in several States. Groups sit around and say, "Old Wendell hasn't voted. Let's take him off." "But Wendell still lives down there at 223." "But he hasn't voted. Take him off. He doesn't vote right most of the time anyhow."

So I am gone. I am off the list. You have this group sitting around, you know, smoke-filled rooms—I do not mind smoke-filled, being from Kentucky—but they start jerking these names off because they did not vote last time. They still live there, still are eligible, still alive, still working, still paying taxes, still own a home—take his name off. It is not right. It is not right.

I understand why they want to take them off. It is fear, absolutely fear, with a capital F, that someday those people might participate in democracy. One of these days people might take this Government back. And when they take it back, we will act different. And, if we do not give them the opportunity to take it back, we are making the mistake.

I hear a lot, you know, about spending too much money, too much PAC money, too much sewer money—too much. Yet we do not want to let the people vote. We do not want to give them a major opportunity. I do not understand what fear is there, in letting the people participate in democracy.

Too many States use the failure of a person to vote as a means of removing their names. And this results in needless and costly reregistration.

Talk about cost? Why, this provision will cost more than anything else. We are injecting costs into this piece of legislation by the substitute. You have to pay a group to come around and cleanse the list. Then you mail them a letter. Then they do not get it, they do not come in, you jerk them off the list. They come in 60 days later and register. So you have to make out a new form. You have to put them in there; they have to sign it. You created a problem for that individual. He had to miss a ball game with his children. He had to do lots of things.

So the most costly item yet is cleansing the rolls, under this substitute.

The right to vote also includes the right not to vote. I think everybody will agree with that. The right to vote also includes the right not to vote. And if I decide not to vote in this election because I have been turned off, I should not be imposed upon to have my name jerked. Then I have to go back down and reregister. You have turned me off even further.

Under S. 250, they are registered. If they do not want to vote, we do not automatically take them off and cost your State and local government more money. If a person chooses not to vote in a particular election, for whatever reason—whether it is physical inability to get to the polls, a lot of things come up—for whatever reason, that does not mean that person is giving up his or her right to remain as a voter, an American citizen. Nevertheless, under this proposal, States would still be permitted to remove the name of a voter simply because he did not vote.

One of the most serious problems with this proposal is that it places the Federal function of coordinating the programs in the hands of the Attorney General. If the program is to ensure that the voter registration programs are to be administered in a nondiscriminatory, nonpartisan manner, it should be of concern to all of us that it would be in the control of a member of the executive branch. Think about that a little bit. Just think about that a little bit.

Mr. President, we have heard much about this proposal as a reasonable alternative to S. 250. One reason the minority argues that this alternative is better is because it addresses the cost issue. The cost issue? Why, injecting more costs in the substitute than anything it has done is an issue that makes this bill attractive to the States. S. 250 addresses this issue, providing a reduced postal rate, because the largest part of the cost of S. 250 is the required mailings. It also has a number of substantial cost savings.

What I do want to point out very clearly is this promise of money to the States is an empty promise, absolutely empty. Let us set the record straight. The Dole-Stevens proposal authorizes. It does not appropriate a penny. You say that is procedure. Let us not be fooled into thinking this proposal, that is the substitute, is going to solve the cost issue because it does not, it absolutely does not.

Mr. President, I have other concerns about this proposal. One of them is that in all this discussion of voter registration we have not heard much discussion of part II of the Dole-Stevens proposal which relates to public corruption. They have not said much about part II.

The sponsors of this amendment claim that this section on public corruption is needed to, and I quote, "beef up" State efforts to combat public corruption. But title II is going to do more than beef up these efforts. It is going to federalize the local election effort.

Let me just tell you why, and I will give you a couple of examples.

It would be a Federal crime, punishable by Federal imprisonment for up to 20 years, for a State or local official to file an election report required under State law—State law—that contains false material information or, unfortunately, by mistake omits material information.

Let me just repeat that for a minute so that my colleagues and friends will understand it. For example, it would be a Federal crime, punishable by imprisonment for up to 20 years, for a State or local official to file an election report required under a State law—not Federal law; S. 250 only applies to Federal elections. But we are really invading States rights. Oh, I hear beating the chests that States ought to be up in arms over S. 250 States rights.

We ought to be up in arms because we are invading States rights. Lord have mercy. What this substitute does, it injects the Federal Government into the local elections. I can see a school board election right now in some little county out here somewhere, and here is "Big Brother" looking over his shoulder saying, you get 20 years if you break a State law; we want to take you up to the Feds. Do you think you are going to get a lot of activity?

This would inhibit the States rights, their right to regulate the conduct of their own elections and that of elected

State and local officials. This section would severely jeopardize efforts of legitimate voter registration drives because it would make the procurement or submission of voter registrations that contain the false material information or omitted material information a Federal crime, up to 20 years.

We have some fine civic groups that are interested in getting people to vote. They take the forms, set up booths, work hard. People come by to register. What about your family? Your wife? Your mother? Your daughter? Your daughter-in-law? One of the women's clubs? And she gets this information and delivers it to the clerk's office. Somebody gave them the wrong information or they omitted something. The substitute that is being offered today by Dole-Stevens says that she is subject to a Federal crime and 20 years in the penitentiary, Federal penitentiary.

I just cannot understand why people want to do this. You are going to find an argument—I am not a lawyer—they are over there digging hard right now to find out how they are going to argue with this. But they will never have an argument that will be substantial that says they do not invade the local elections with Federal authority and State laws by Federal authorities. So we are going a little too far with this, Mr. President.

In drafting S. 250, we took great care to provide severe criminal penalties for any person, including public officials, who engage in any activity that would attempt to deprive the people of a fair and legitimate electoral process. However, we have taken even greater care to provide that such criminal prosecutions must be for knowing and willing violations.

Mr. President, the Dole-Stevens proposal, in my opinion and the opinion of a lot of others, would not enhance voter registration in this country.

It will not increase the pool of eligible voters. It will not protect the right to vote for millions of Americans. It will not protect against fraud and corruption. I urge my colleagues to be against it.

I do not know whether my friend from Alaska has ever dealt with what we call the county court clerk's office. The county court clerk's office in my State is the office that registers people to vote. And nearing the time of election, they have to put on a vast number of extra and costly employees to take the avalanche of people standing in line and those who are being brought in by political candidates, and so forth, to register. So that is a major additional expense to our county court clerks.

Under motor-voter, and we have sat down with clerks and looked at it. This is not anything I just came upon; it is something that I have been interested in for a long time. They say that the requests come in a steady stream because we are registered to get your license by months and, therefore, in January so many, February so many, March, April, May, June, and so forth. So it comes in a steady stream. They do not have to hire extra employees to handle it. So, therefore, their expense is minimal and they get credit for mailing.

So I think that we need to, and I hope we will, see the need to stay with S. 250. Twenty years ago this year—and the fine occupant of the chair, my good friend, the Senator from Virginia, who has been Governor of his State will understand what I am about to say—one of the hardest political pieces of legislation I ever had to move through the Kentucky Legislature was my concern for registering people in Kentucky and cleaning the rolls. Mr. President, we wiped the slate clean. Not a voter was on the list. We started anew. We computerized. I was told that this would be the worst political mistake of my career; in fact, it may never allow me to be elected to office again. But I was convinced that if we made the right kind of effort we could clean up our rolls, we would get people registered, and then we would feel better about those who were elected to office in my State because we had made this effort.

To make a long story short, we had more people registered to vote after that than before, so it proved that we could clean the rolls and we could do it and we did it inexpensively, less than 24 cents a name. And the first vote in the State, with about 3.4 million registered voters—statewide we had 53 questions, and they were all minor. And I kept my fingers crossed all day that first election, I say to you, Mr. President, that it would work.

So I hope that we can celebrate the 20th anniversary, that the country, though its legislative process in this great institution would say to Americans, we are not afraid of you participating in democracy. In fact, we want to provide you an easier way to be a participant. We want you to be excited about this election. We want you to be excited because you can go to the polls and exercise your right and help pick the leadership of this country. We do not want you to think we are fearful of you having an opportunity to vote.

And so if we can pass this legislation and have some excitement about this country and its future, it is through people participating in democracy at the ballot box.

And once we decide that, Mr. President, then for those problems we are facing today, I think we will have found a cure, because the people are much smarter than we give them credit for, apparently, here, and I am somewhat concerned that we will leave the image that we do not want them to have the opportunity to participate.

Mr. President, I know there will be others who want to speak, and I have probably spoken too long, but there are some things that cause me to perspire a little bit. This is one of them.

I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Chair recognizes the Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, as my friend from Kentucky indicated, having served together as long as we have and as intimately as we have on this committee, it is odd to find us in disagreement on this floor because normally we are here as part of the Rules Committee to assist the management of the Senate and we do have a great deal of agreement about our respective jobs on the Rules Committee, and it does seem strange for us to be disagreeing.

But, for instance, I just sat here and listened to my friend from Kentucky say how the amendment, the substitute I have offered, will require purging of the lists, have people crossed off the voters' list if they have not voted.

Title I of the substitute has a voter registration enhancement, and in that portion of title I it provides for block grants that are available—and it is true all we can do is authorize now—to States if they match the amount for voter enhancement activities, and one of those is this, that they must include activities providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State, including the use of change-of-address information supplied by the Postal Service.

I have sat here and listened and thought about the purging requirement. It is not part of this substitute. I do not know if my friend from Kentucky has a bill that someone else has offered, but this bill does not have any such requirement for cleansing. Some States do require it.

But, again, I think we are going to have a little active participation, and I ask the indulgence of the Chair because at times we disagree, and when we do disagree we are very frank with one another, Mr. President, and I think that is the way it should be.

Mr. FORD. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. FORD. As I understand it, I say to the Senator, "Providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State, including the use of change-of-address information supplied by the Postal Service" does give them the right to eliminate names if they do not vote. I think that is just a yes or no answer.

Mr. STEVENS. Yes, it does.

Mr. FORD. That is all I was saying.

Mr. STEVENS. But, Mr. President, it does not require it. The States can do it now.

Mr. FORD. They are doing it now.

Mr. STEVENS. S. 250 may prohibit some of the activities the States are now pursuing to assure that their voter lists are right. But this substitute of mine does not mandate anything; it just authorizes the States to take and match Federal moneys and conduct procedures to make sure that their voter lists are up to date.

Now, my friend from Kentucky and others have indicated on the floor before that—of course, nearly all the voter lists in the country are computerized, right? Wrong. Only 21 States in this Union today have computerized voter lists. Let me repeat that, Mr. President. Only 21 of the 50 States have central computerized voter lists. This motor voter bill is going to require a State that does not have a computerized voter list, a central computerized system, to computerize awfully fast because I can tell you that most States do have computerized driver's license systems, but they do not have, as a matter of fact, only 21 have State central computerized systems.

When we look at the impact of this pending bill, if it is so good, if it is a bill that has such great support, why does it appear to be only supported by those people who are standing out in the Senate hall every time we have a vote? They are the lobbyists for change in the Federal system. But the people who represent the States—let me make sure if people understand that—the National Association of Motor Vehicle Administrators, that is, every administrator from every State; the National Governors' Association—mind you, now, that is not just my Governor; it is the whole National Governor's Association—oppose this bill. The National Association of Counties by vote, the counties of this country, oppose this bill. The National Association of Secretaries of State oppose this bill. The National Association of Towns and Townships oppose this bill. The National League of Cities oppose this bill.

Now, what are we doing on the floor? That is every association of every type of official in State and local government that administers elections. And what they are saying to us is: What are you doing?

Mr. FORD. Mr. President, will the Senator yield? Did he include the Secretary of State in Mississippi in his list? He happens to be very much for it, and he is head of the Secretaries of State.

Mr. STEVENS. He may be, Mr. President, but the national association he is a member of voted to oppose this bill, the National Association of Secretaries of State.

Now, my problem is, my friend asked this question: What is wrong with this bill? Well, why does not the Senate ask the National Association of Governors what is wrong with this bill? They voted against it. Why not ask the National Association of Motor Vehicle Administrators, the people who are trying to deal with those who want a driver's license? I wonder how long it has been since you went to get a driver's license and you stand in line and you are waiting to get a driver's license. You are not there to register to vote. You have taken time off from work trying to adjust your life and get a driver's license, get up to date so you can continue to have the right to drive a motor vehicle. And what are you going to do? You are going to be facing another desk now and the desk will say, "Here, go over there first and make sure you want to register to vote."

Now, there are 44 States that use motor vehicle offices to register voters—pardon me, 26 States have it; 44 have considered it. There are 26 States that actually do it, but they do it. Those States that want it can do it. We do not prohibit it. What are we doing here? What is wrong with the system now? What is wrong with the system that is supported by these associations that oppose this bill?

I do think my good friend has—he is good at one-upsmanship, Mr. President. He read an editorial from the Anchorage Daily News that supports this bill. And I read a lot of editorials from the Anchorage News. I do try to keep current with their point of view because they do try to bring to Alaska the point of view of their California owners as often as they can, and they are trying to change the attitudes of Alaskans, the traditional attitudes of Alaskan freedom that we have. This is a good example of it again. I would state for anyone who is interested, every Governor who has been in office since I have served in the Senate has opposed this system.

The Anchorage Daily News is not taking issue with me. It is taking issue with the past Democratic Governors, the past Republican Governors, and the current Independent Party Governor, that this is a bill that would do harm to our election system because it will increase our costs. I will go into that a little bit more, as I indicated before.

But, Mr. President, I am particularly concerned about my friend's reference to the public corruption provision. So I went back and got out the letter that we got from the Department of Justice with regard to this. I want to read from that letter. This is a letter that was sent to our committee on April 17, 1991, addressed to my distinguished friend from Kentucky, Senator FORD, as chairman of the committee.

On page 3 of that letter it says:

Furthermore, the serious potential for fraud and corruption would be compounded by the current limitations in federal criminal law governing electoral crimes and other forms of public corruption. Existing federal jurisdiction, for example, does not reach fraudulent schemes not involving the use of the mails and where a federal candidate is not on the ballot. As discussed more fully in the attached memorandum, because of these limitations, the provisions of S. 250 would create a greatly increased risk of public corruption, particularly at the local election level where almost all electoral fraud now occurs. Among the most common voter fraud crimes, which we believe will be exacerbated by S. 250, are bribery of voters, stuffing ballot boxes, voter intimidation, and the casting of ballots in the names of deceased, incompetent or otherwise ineligible individuals. In order to increase the Department's jurisdiction to prosecute those who corrupt the electoral process, we have strongly supported enactment of the "Anti-Corruption Act," which passed the Senate in October 1989 as Title IV of S. 1711.

That provision which passed in the crime bill in October 1989, is the provision of our substitute. It is not something new. Incidentally, it is a provision which passed the Senate unanimously.

My good friend from Kentucky has really sort of put me in a strange position for having put it in this bill from the point of view of saying that the Senator from Alaska wants more Feds peering over the shoulders of those people who vote in local elections. That is not my desire. But it is my desire, if we are going to increase the use of motor voter and mail registration, to have greater Federal protection against increased corruption which may come from that type of activity.

I will be happy to place in the RECORD at this point the analysis of S. 250 as presented to us by the Department of Justice on that date. I ask unanimous consent it be printed in the RECORD so people can see where we got this corruption portion of the substitute I have offered, and why the Department of Justice feels so strongly.

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

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, April 17, 1992.*

Hon. WENDELL H. FORD,
*Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice regarding S. 250, the National Voter Registration Act of 1991. S. 250 would establish national voter registration procedures for presidential and congressional elections. Although the Department strongly endorses the bill's general goal of involving more Americans in the electoral process, we oppose enactment of this bill.

The bill would require all states, except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, to employ three methods of registering voters for federal elections, and would specify in considerable detail what the states would have to do to implement each of the three methods. First, states would be required to include the option for voter registration as part of the process for applying for a motor vehicle driver's license ("motor-voter registration"). Second, states would be required to provide for voter registration by mail ("mail-in registration"). Third, states would be required to designate state-related,

federal, and private sector locations to make registration applications, available and accept them for transmittal to the appropriate election officials ("satellite registration"). The bill would also severely restrict the grounds upon which voters' names could be removed from voting lists.

Absent any showing of a threat to the integrity of the electoral process resulting from the unjustified restriction of the opportunity for citizens to vote, or the discriminatory treatment of particular groups of citizens, the bill might well exceed the constitutional authority of Congress by involving the federal government in matters which the Constitution allows the states to regulate as they deem appropriate. Because it would mandate elaborate procedures without regard to local conditions or appropriate alternatives, the bill would represent a substantial and unnecessary imposition on the states. Moreover, because some of the registration techniques mandated by the bill are fraught with the potential for fraud if adequate verification methods are not used in light of local conditions, and because of the strict limitations on standard means of purging voting lists of stale names, the bill would present a serious potential for increased voting fraud and electoral corruption. Voter registration laws are one of the principal protections against election fraud, and any changes to registration requirements must take into account the potential for increased fraud resulting from the changes.

We are not convinced that the case for mandating uniform, nationwide registration procedures has been made. Eliminating barriers to registration will increase the pool of potential voters and make it possible for more citizens to vote, which is certainly an important goal. However, it is unclear to what extent the changes proposed by S. 250 would translate into grater voter turnout, because the empirical link between increased registration and increased voter turnout is undeveloped. Some of the most convincing explanations for shortcomings in registration and voter turnout appear to be poverty, lack of education, alienation, apathy, cynicism about the value of voting, and voter contentment.

We recognized that some historical registration requirements arose from a desire to disenfranchise blacks (and, as a byproduct, disenfranchised many less-advantaged whites). The well-documented historical record of that disenfranchisement and its effects, as well as the continued intentional application of discriminatory registration practices, led to enactment of the Voting Rights Act, which has proven effective in eliminating discriminatory voting practices and remains a powerful weapon in dismantling illegitimate barriers to voting. A similar record has not been developed in support of the national standards proposed in this bill, nor has there been a convincing showing that existing federal remedies are inadequate.

Moreover, many states are voluntarily adopting innovative registration practices, including variations of the three mandated by the bill. We understand that some form of motor-voter registration has worked well in a number of jurisdictions without any appreciable increased in fraud, that many areas are experimenting with various forms of satellite registration, and that mail-in registration is being used successfully in several jurisdictions. But these jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the electoral process. In short, they are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill.

S. 250 is substantially similar to S. 874 in the last Congress, which the Administration opposed. However, one key change in S. 250 is that it would exempt any state from the requirements of the bill if the state adopts an election day registration system. In view of the potentially costly and burdensome nature of the bill, this exception would effectively serve as an compelling incentive for states to adopt election-day registration, a change which could substantially impair efforts in many areas to verify voter eligibility, and thus would invite voting fraud and corruption of the election process.

Furthermore, the serious potential for fraud and corruption would be compounded by the current limitations in federal criminal law governing electoral crimes and other forms of public corruption. Existing federal jurisdiction, for example, does not reach fraudulent schemes not involving the use of the mails and where a federal candidate is not on the ballot. As discussed more fully in the attached memorandum, because of these limitations, the provisions of S. 250 would create a greatly increased risk of public corruption, particularly at the local election where most almost all electoral fraud now occurs. Among the most common voter fraud crimes, which we believe will be exacerbated by S. 250, are bribery of voters, stuffing ballot boxes, voter intimidation, and the casting of ballots in the names of deceased, incompetent or otherwise ineligible individuals. In order to increase the Department's jurisdiction to prosecute those who corrupt the electoral process, we have strongly supported enactment of the "Anti-Corruption Act," which passed the Senate in October 1989 as Title IV of S. 1711.

For these reasons, although we fully support the goal of facilitating voter registration, we strongly oppose S. 250, because its approach of mandating uniform procedures regardless of local circumstances is unwarranted, overly restrictive, and almost certain to invite increased fraud and corruption in the electoral process without providing the necessary jurisdictional tools to combat those crimes. The enclosed memorandum elaborates upon these concerns. In our view, should legislative action be considered, it would be far preferable to adopt a more flexible approach which (1) responds to these concerns by leaving the initiative to the states and (2) includes appropriate revisions to current criminal law. Both of those proposals are reflected in S. 3021, which was introduced by Senators Dole and Stevens in the last Congress. We would be pleased to work with the Committee on such an alternative to S. 250.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

W. LEE RAWLS,
*Assistant Attorney General.*

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DEPARTMENT OF JUSTICE ANALYSIS OF S. 250

I. SCOPE OF CONGRESS' AUTHORITY

At the outset, we note that S. 250 would unnecessarily intrude into areas of legitimate state discretion. Congress has only limited constitutional power over the conduct of elections, even elections for federal officials. Congressional power over presidential elections is described in Article II, section 1, clause 4 of the Constitution: "The Congress may determine the Time of Chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States." Congress has broader power to regulate elections for Senators and members of the house of Representatives: "The Times, Places, and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." U.S. Const., Art. I, §4, cl. 1. Electors for Senators and Representatives in each state are to have the same qualifications as those of the most numerous branch of the state legislature. Art. I, §2; amend. XVIII. Although the Supreme Court has recognized that Congress has general power to regulate presidential elections to the extent necessary to prevent fraud and preserve the integrity of the electoral process,[1] Congress may not exercise this authority in a manner that "interfere[s] with the power of a state to appoint electors or the manner in which their appointment shall be made."[2] Thus, while Congress has some authority to preserve the integrity of the federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the states to regulate the manner in which elections are conducted.

Although the precise scope of Congress' power over federal elections is uncertain,[3] we believe that there is a serious question of whether S. 250 may be defended as a permissible exercise of constitutional power. Congress does not have plenary authority to dictate the procedures which a state must employ in elections for federal officials. There is no suggestion that S. 250 is designed to prevent fraud and corruption. Nor is there any showing that this bill is necessary to eliminate any discriminatory practices. Accordingly, we question whether this bill is constitutional.

II. LIMITATIONS ON STATES' FLEXIBILITY TO TAILOR REGISTRATION PROCEDURES TO SUIT LOCAL CONDITIONS

Apart from the question of Congress' constitutional power, S. 250 would operate to deny the states their historic freedom to govern the electoral process. The flexibility which the Constitution generally gives the states recognizes that different cultural and demographic circumstances may call for different approaches in many areas, including voter registration. For example, registration procedures sufficient to prevent substantial fraud in a sparsely populated, mostly rural state may not be adequate for a more densely populated state which major metropolitan centers and large population inflows and outflows. Depriving the states of this flexibility to tailor their individual approaches to their own particular problems and circumstances—by imposing a single, uniform policy nationwide—forecloses the benefits that would otherwise come from diversity.

*A. Practical impact on the States*

In practical terms, S. 250 would impose two significant kinds of costs on the states, the first of which is that the mandated registration methods, inevitably would impose added costs on the states, which might be substantial in some cases. The bill would have the effect of dictating to the states how to uti-

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lize their resources, rather than leaving them flexibility. It would also make the provision of various services somewhat more expensive for the states and more complicated for the applicants (many of whom would have no need to register to vote).[4] The bill would not merely regulate state registration procedures but, by virtue of Sections 5 and 7, the conduct of other state functions (such as the issuance of motor vehicle driver's licenses, the provision of public assistance, unemployment compensation and related services) may be affected by the applicability of the Voting Rights Act,[5] though we do not view that as a significant burden. The elaborate procedures contained in Section 8 of the bill for verification and removal of names from the official voting lists also are more complicated and expensive than those presently used by most if not all states. While the bill does not (at least on its face) raise the special concerns we would have if it were to attempt to regulate registration procedures for elections of state officers generally, it most likely would coerce the states into following the same procedures for state elections as well.[6]

*B. Potential for fraud and electoral corruption*

The second cost of the bill is its impact on the integrity of the electoral process. This legislation would effectively eliminate many registration practices that are presently serving to deter electoral fraud. Voter registration laws are the main systemic safeguard against most common varieties of election fraud. Their preventative effect has been augmented by the fact that until now each State has been free (within the constraints of the civil rights laws) to tailor its procedures for establishing the eligibility of prospective voters to differing demographic circumstances.

The requirements of S. 250 would apply uniformly to all states except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, requiring the states to adopt three specified methods for allowing individuals to apply to register to vote,[7] and severely limiting the grounds upon which voters' names could be removed from voting lists.

*Motor-Voter Registration.*—This method is relatively unobjectionable from a criminal law perspective. The Department's experience in prosecuting voting fraud cases suggests that combining the process of applying to register to vote with that of applying for a motor vehicle driver's license would have little adverse impact on the incidence of voting fraud.[8] Moreover, because there is some degree of overlap between the factors involved in a license application and those involved in a voter registration application, personnel who are already familiar with license application procedures should be relatively easy to train as voting registrars.

*Mail-in Registration.*—Registration by mail is much more susceptible to misuse because a would-be registrant never has to appear in person before a registrar for verification of identity and eligibility. The Department's experience with voting fraud cases to date has not conclusively shown whether registration by mail has a substantial impact on the incidence of voting fraud or not—we simply don't know. Most of the states which already have registration by mail also have in place a variety of procedures for independently confirming the information provided in voter registration applications. These verification procedures, though clearly not prefect,[9] at least help to minimize the opportunities for voting fraud.

By contrast, S. 250 would impose a sweeping requirement to allow mail-in registration while simultaneously limiting significantly the ability of the states to use a variety of techniques to verify the applicant's identity and eligibility. For this reason, S. 250's provision for registration by mail would entail a substantial and perhaps prohibitive risk of enchancing the opportunities for fraudulent registration and voting.

It is unclear the extent to which S. 250 would preclude confirmation procedures, except for the applicant's own attestation.[10] The provisions of Section 9, taken together with those in Section 8(a), might be read to require election registrars to accept at face value every application form that is tendered to them and enroll the applicant as long as the form is facially complete. Limiting the ability of election officials to perform routine identity verifications prior to enrollment would create a large potential for abuse.[11] Even under the best of circumstances, redressing fraudulent registrations through criminal prosecutions of the perpetrator (if he or she could be found) would not rectify the damage caused to the integrity of the election process. Moreover, as discussed below, the provisions of Section 8 would severely limit the ability of registrars to remove the names of voters that they know to be ineligible or fraudulent once they have been enrolled, thereby compounding the damage.

*Satellite Registration.*—The third method of voter registration provided in S. 250—application in person at various federal, state or private-sector locations where the public is served directly—also may be problematic in some circumstances. This provision would entrust the task of registering voters to individual government and private personnel who may lack training in and sensitivity to the unique factors involved in preventing voting fraud and establishing and maintaining accurate and up-to-date voter registration lists.

This approach also would risk various forms of intimidation of the public. In at least some circumstances, people seeking tax relief, public assistance benefits, building permits, etc. could easily be given the impression that they have to register, or register for a particular party, in order to please the administrator in whose hands the fate of their application rests. The Department's experience demonstrates that public officials sometimes abuse their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party.[12] S. 250 would increase substantially the opportunities for such intimidation and coercion of the public. While Section 5(a) of the bill would ostensibly require that personnel assisting applicants with the completion of their applications not display any political preference or party allegiance or seek to influence the applicant's political preference or party affiliation, we think it would be overly optimistic to expect that this prohibition will be sufficient to deter influence and intimidation.[13]

*Restrictions on grounds for removal.*—Another very significant potential for fraud is created by the provisions in Section 8, which severely restrict removing voters from the lists—at the request of the voter or in the event of the death, mental incapacitation, criminal conviction, or change in residence of the voter—are appropriate. But those grounds assume that registration officials receive some notice of the change in circumstances; they are not self-implementing.[14] Accordingly, registrars ordinarily rely as well upon a continued failure to vote—the passage of some minimum number of years, or the occurrence of some minimum number of elections—as a ground for removing stale names from the list. S. 250 would completely eliminate this ground for removing voters' names; Section 8(b) provides that a name could never be removed merely for failure to vote in a federal election—even if the failure to vote persisted over a period of decades. This provides the states far too little leeway to protect against voting fraud by periodically purging the voting rolls of those who have not voted in some time. It would be possible for a voter to remain on the list of eligible voters for an indefinite period after he or she has died, moved away, or otherwise ceased to be eligible to vote in the state in question.

The provisions in Section 8(d) regarding mail verification of changes in residence are inadequate to respond to this concern. In order to remove someone from the list of voters, the registrar first must have some information in order to "determine[ ] that registrant may have changed residence". Then, the voter must both fail to respond to a forwardable notice from the registrar[15] and fail to vote during the next two federal general elections. Voters who had moved could continue to maintain their place on the official lists either by returning the card (which may have been forwarded to them at their new address) and listing the old address, or simply by continuing to vote at the old location. At a minimum, voters who moved would have to be left on the official list until the bill's requirements were met. The bill does not allow the registrar to remove names from the official list even for voters who are known for a fact to have moved, unless the voter provides that information directly in writing or the registrar follows the two-step process just described, and that process requires that the name be left on the list for two general elections.

In our experience prosecuting voting fraud cases, the maintenance of names of official lists of eligible voters long after eligibility has ended is among the most significant factors contributing to ballot box stuffing and illegal "proxy" voting.[16] On the other hand, we recognize that various methods of purging voters from the rolls have been used in the past to deny the franchise to minority voters. Certainly, vigilance remains necessary to prohibit purging schemes from discriminatory excluding minority voters; that calls for vigorous enforcement of the Voting Rights Act of 1965.[17] In our view, in order to accommodate these varying concerns, we firmly believe that the choice of a specific waiting period should be left up to the individual states to make based on their own particular experience and circumstances, subject to the requirements of the Voting Rights Act.

III. ELECTION-DAY REGISTRATION

S. 250 contains a new provision which provides for an exemption from the requirements of the bill for any state which allows individuals to register at the polls on the date of a general election.[18] Although Section 4(b) is captioned as a "nonapplicability" provision, in light of the addition of paragraph (2), a more accurate heading would be "election-day registration."

As discussed above, S. 250 would impose substantial—and potentially costly—procedural requirements upon the states with respect to the manner in which they regulate and administer elections in general and the voting process in particular. Since this bill,

like its predecessor S. 874 in the last Congress, offers no federal funding to assist the states with these new obligations. Section 4(b)(2) will most certainly be seen as an escape clause, effectively influencing most states, whether for policy, political, or practical reasons, to consider adopting "election-day registration" in order to avoid the costs and specific standards associated with the mandates of S. 250.

The Department, since 1977, has consistently and strongly opposed federal legislation to impose election-day registration in the States, based on our conviction that election-day registration would totally preclude meaningful verification of voter eligibility, and thus allow easy corruption of the election process by the unscrupulous. Of all the registration reforms which Congress has considered over recent years, from a law enforcement perspective this idea is by far the most troubling. Our objections to election-day registration rest on the following considerations:

Registering voters at the polls on election day totally eliminates the ability of election registrars to confirm a voter's identity, place of residence, citizenship status, felon status, and other material factors bearing on entitlement to the franchise.

Requiring voters who wish to register on election day to provide some form of identification before being permitted to vote does not respond to the fraud problem. Most commonly used identification documents can be easily faked. Thus, a single false identification can be used by the same voter to cast ballots under assumed names at numerous polling locations.

Merging into one simultaneous act both the registration process and the voting process dramatically increases the risk of voter-bribery, since corrupt political operatives interested in targeting prospective voters for payments will no longer be confined to the preexisting names on registration lists. This problem is exacerbated by the fact, as we have observed in prosecuting and supervising hundreds of vote-buying cases, that individuals who accept payment for their votes do not have a strong interest in candidates and issues, nor do they tend to see the act of voting as a civic duty. Thus, for a few dollars, they are easily manipulated into giving up their franchise.

The ballots of election-day registrants are liable to be tabulated before an irregularity can be ascertained. There is thus the realistic danger of irreversible damage to the integrity of the election, even in those instances where illegal registration and voting are later discovered.

Although election-day registration may work reasonably well in rural and sparsely populated states, it is extremely doubtful that it would be at all successful in many states with mobile and urbanized populations which have experienced significant levels of local and state governmental corruption.

IV. THE GOALS OF INCREASING VOTER PARTICIPATION WOULD BE BETTER SERVED BY A MORE FLEXIBLE APPROACH

The clear disadvantages of S. 250—both with respect to the restrictive, inflexible procedures it would impose on the states, and the greatly enhanced potential for election fraud—strongly counsel a rejection of that approach. S. 250 would unnecessarily limit the states while failing to provide the federal government with expanded criminal jurisdiction over election fraud.[19]

Certainly, the goal of increased voter participation, while maintaining the integrity of the electoral process, is an important and laudable one. Should Congress desire to enact legislation in this area, we believe that this goal would be much better served by permissive, rather than mandatory, legislation to encourage the states to adopt expanded registration procedures tailored to their specific needs. Such legislation should provide both funds and flexibility to the states, while at the same time providing federal prosecutors with stronger statutory tools to combat the serious and difficult problems of election fraud and public corruption.

This latter approach is reflected in another voter registration bill, introduced by Senators Dole and Stevens as S. 3021 in the 101st Congress. S. 3021 would make new registration procedures voluntary for the states, and provide discretionary grants to those states that chose to adopt some or all of the new procedures. S. 3021 would add a new anti-corruption statute (proposed 18 U.S.C. §225) to remedy the existing patchwork matrix of criminal laws which attempt to deal with frauds on the electoral process and other abuses of the public trust by public officials.[20] The purpose of this important feature of S. 3021's registration proposal is to maximize the federal jurisdictional bases through which federal prosecutors can prosecute corrupt government officials and vote thieves in federal court. S. 3021 also would place the administration of the new registration requirements more appropriately in the hands of the Attorney General, rather than the Federal Election Commission, as S. 250 would provide.

We continue to believe that any legislation which would propose a relaxation of voter-registration requirements should be linked to an increase in federal criminal jurisdiction over election fraud and public corruption, in order that federal prosecutors will be able to respond effectively to the concomitant increases in corruption and election crimes that will inevitably accompany any substantial relaxation of the registration process.

The need to augment existing federal criminal laws dealing with election fraud and governmental corruption has greatly intensified since the Supreme Court's decision in *McNally* v. *United States*, 483 U.S. 350 (1987). Under *McNally*, the federal mail fraud statute—long the main statutory vehicle to assert federal prosecutive jurisdiction over corruption at the local and state levels—no longer applies to corruption and election fraud schemes that do not entail a deprivation of property rights. The enactment by the Congress of 18 U.S.C. §1346 in 1988 did not remedy *McNally*'s negative impact on our ability to combat election fraud in non-federal elections. It is therefore a matter of some urgency to the Department that additional anti-corruption legislation, such as that contained in Title II of S. 3021 (101st Congress), be enacted. Under the present statutes relating to, for example, election fraud, the assertion of federal prosecutive jurisdiction over corrupt conduct depends more on whether the name of a federal candidate happens to be on the ballot than on the type of criminal conduct which took place. This is not conducive to an efficient and effective law enforcement response to the serious crimes of election fraud and governmental corruption.

V. CONCLUSION

For all of the foregoing reasons, the Department of Justice recommends against enactment of S. 250. Any federal legislation in this area should follow instead the kind of approach reflected in S. 3021 in the last Congress.

We recognize, of course, that voter registration requirements at times have been used as instruments of discrimination against minorities. Those abuses were instrumental in leading to passage of the Voting Rights Act, and that Act has done much to eliminate discriminatory registration requirements. We believe that discriminatory registration laws or procedures can be dealt with adequately under existing law. While continued vigilance and vigorous enforcement of the Voting Rights Act remain crucial, the current record simply does not support enactment of this sweeping federal mandate, which would deny the states the essential flexibility they require to preserve the integrity of the electoral process.

FOOTNOTES

[1] See *Burroughs* v. *United States*, 290 U.S. 534 (1934) (upholding a federal law imposing record keeping requirements on political committees that accept contributions or make expenditures for the purpose of influencing the election of presidential or vice presidential electors); *see also Buckley* v. *Valeo*, 424 U.S. 1, 13 (1976) (upholding a federal law regulating campaign contributions against a First Amendment challenge and observing in dicta that the constitutional power of Congress to regulate federal elections is "unquestioned").

[2] *Burroughs*, 290 U.S. at 544.

[3] The power of the states to establish certain qualifications for voting in the election of Senators, Representatives, and the President is limited by several constitutional amendments. See U.S. Const. amend. XV (race, color, or previous condition of servitude); amend. XIX (sex); amend. XXIV (poll taxes); amend. XXVI (age). In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Supreme Court upheld a provision of the Voting Rights Act Amendments of 1970 which lowered the minimum age of voters in federal elections from 21 to 18, but the justices could not agree at to the proper basis for the Act's constitutionality. Justice Black believed that Congress has broad authority to set qualifications for voters for electors for President and Vice President, *id.* at 119-24, but four other justices denied that Congress has such power, *id.* at 209-12 (Harlan, J.) and 287-92 (Stewart, J., with Burger, C.J. & Blackmun, J.), while three justices expressly refused to consider Congress' authority to set qualifications for voting in federal elections. Id. at 237 (Brennan, White & Marshall, JJ.). The Court split on whether the Act was supported by Congress' power under the Fourteenth Amendment to prohibit discrimination on the basis of age, compare id. at 135-44 (Douglas, J.) & 239-81 (Brennan, White, & Marshall, JJ.) with id. at 154-200 (Harlan, J.) and 293-96 (Stewart, J., with Burger, C.J. & Blackmun, J.). This issue, however, is not raised by S. 250.

[4] For example, state driver-licensing eligibility does not overlap completely with voter eligibility, requiring states to follow additional steps with respect to license applicants to determine the applicability of voter registration. Most drivers who periodically renew their licenses already would have registered to vote through the normal voter registration mechanisms, and would have no need of the motor-voter registration procedures, while a large number of first-time applicants for driver's licenses—including those under, the age of 18 and those who are not United States citizens—would not be eligible to register to vote even though they can obtain a drivers' license.

[5] Section 11(d) of the bill provides that nothing in the bill shall restrict the applicability of the Voting Rights Act. Sections 4(f)(4) and 203 of the Act state: "Whenever any State or political subdivision subject to the prohibition[s] of * * * this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language * * * 42 U.S.C. §§1973b(f)(4), 1973aa-1a. Because of these provisions regarding voter registration forms and materials, the bill might have the effect of requiring the limited number of jurisdictions subject to the multilingual requirements of that Act to make bilingual voting materials available as part of an application for a driver's license or public assistance. Likewise, jurisdictions covered by the preclearance provisions under Section 5 of

the Act, 42 U.S.C. §1973c, might have to obtain preclearance of some changes with respect to driver's license registration or public assistance to the extent that they affect voter registration. Because of the limited number of jurisdictions involved and the ease with which the requirements of the Act may be met, we do not anticipate that these obligations would impose an undue burden.

[6] Because the bill ostensibly would apply only to registration for voting in federal elections, the states still would be free to employ a different set of procedures with regard to registration for voting in state elections. However, the prohibitive cost of maintaining two parallel sets of voter registration procedures likely would induce most states simply to conform their state registration procedures to federal standards, thereby economically coercing the states into abandoning their constitutional prerogative to determine the qualifications for voting in state elections.

Apart from the cost of maintaining two parallel sets of voter registration procedures and voter rolls, that approach could cause considerable confusion on the part of voters who may misunderstand the limited scope of the federal registration procedures and mistakenly believe that they are registered for all purposes.

[7] S. 250 does not directly impose registration on the day of election. However, the exclusion from the requirements of the bill for any state that has adopted election day registration will be a very strong incentive to adopt that approach. That approach, as discussed more fully below, would greatly impair the ability of the Department and the states to combat voting and election fraud.

[8] We note, however, the anomaly in Section 5(d) of the bill which provides that a person could request a change of address for motor vehicle license purposes without having the registrar informed of the move for voting purposes. That would seem to facilitate fraud by those who would continue to vote at the old address.

[9] We note that the security of many existing mail-in registration schemes used by the states is suspect because some of them rely almost entirely upon having registrars send out non-forwardable canvass letters to persons who register by mail rather than in person. Although the assumption presumably is that the United States Postal Service will return the letters with respect to individuals who do not actually live in the specified address, that is simply not the case. The Postal Service does not inquire whether the addressee of non-forwardable mail actually exists and lives at the address in question. As the Postal Service acknowledged at a November 1989 meeting of the Federal Election Commission's Advisory Committee on election Administration, the only circumstance in which non-forwardable mail will be returned is where the addressee 1) is a real person 2) who once resided at the specified address and 3) actually filed a change of address form with the Postal Service; in any other case, the mail will simply be delivered to the current resident at the address with no notice to the sender. Thus, even one of the key existing methods used by the states to prevent fraudulent or multiple registrations is flawed, and S. 250 would not permit even the use of that method.

Because the assumption underlying verification by mail is false, there may in fact be a great deal of fraudulent registration by mail that simply has gone undetected. The only reported case in which registration by mail has been used fraudulently is *United States* v. *Cianciulli*, 482 F. Supp. 585 (E.D. Pa. 1979), and there the fraud was discovered only as a fortuitous byproduct of an investigation into matters unrelated to voter registration.

[10] Section 9(b)(2) of the bill would require mail voter registration application forms to include an attestation by the applicant, under penalty of perjury, that he or she meets all eligibility requirements, but would not permit notarization or any other form of formal authentication.

We also note that the bill requires the "signature of the applicant" on the registration application form. We are concerned that this language could prevent persons who are unable to write their names from registering in accordance with these provisions.

[11] Moreover, although Section 6(c)(1) permits the states to require that new voters who have registered by mail must vote in person at their first election, the following paragraph creates an exception for persons who are eligible to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or "any other law." This last condition, freely permitting absentee voting, would substantially eviscerate the safeguard of a first-time-in-person requirement. By definition, every voter must vote in person unless authorized by law to vote by absentee ballot.

[12] See e.g., United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury*.

[13] After all, existing felony laws (e.g., 42 U.S.C. §1973i (c) and (e), and 18 U.S.C. §§594 and 597) have never been wholly successful in deterring coercive or fraudulent registration and voting practices where political and social conditions are conducive to such practices. We know of no reason to expect that additional laws prohibiting intimidation and coercion would be any more successful.

[14] Registration officials are unlikely to find out when a registered voter has changed his or her voting residence if the voter hasn't bothered to inform them. Similarly, registrars would need to receive notice of deaths or convictions before removing voters' names on those grounds.

[15] The fact that the notice must be forwardable would mean that the registrar often would not receive notice of a change in address. Under existing Postal Service procedures, if a valid change of address order was on file, the forwardable notice would have been sent on to the addressee without any notice to the registrar that the addressee had moved from the specified address. On the other hand, if no change of address order had been filed, or if the person had never lived at the address at all (and used a false address to register previously), then the letter would simply be delivered to the address, again without any notice to the registrar of that fact.

[16] See, e.q., *United States* v. *Gordon*, 817 F.2d 1538 (11th Cir. 1987); *United States* v. *Howard*, 774 F.2d 838 (7th Cir. 1985); *United States* v. *Olinger*, 759 F.2d 1293 (7th Cir. 1985); *Ingber* v. *Enzor*, 664 F. Supp. 814 (S.D.N.Y. 1987). See also United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury*.

[17] We note that the bill's purging procedures would not apply in any event to persons registered by federal examiners under the provisions of the Voting Rights Act. Section 6 of the Voting Rights Act, 42 U.S.C. §1973d, permits Federal examiners to register voters in certain circumstances. Such federal registration lists have been compiled in Alabama, Louisiana, Mississippi, Georgia, and South Carolina. Under Sections 7(d)(2) and 9 of the Voting Rights Act, 42 U.S.C. §§1973e(d)(2) and 1973g, federally listed voters can only be removed from the state's list of eligible voters with the approval of the Office of Personnel Management after a challenge heard by an OPM hearing officer in accordance with OPM regulations, 45 C.F.R. Part 801.

[18] Section 4(b)(2) provides that the bill "does not apply to a State in which * * * all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office."

[19] S. 250 would also require that federal prosecutors provide state election officials with comprehensive information about felony convictions secured within their districts. Section 8(f). This is an unreasonable burden on federal prosecutors insofar as the information would already be part of the public record.

[20] The Department's proposed anti-corruption statute was set forth as Title II of S. 3021. This same language passed the Senate during the 101st Congress, as Title IV of the President's national drug-control legislation, S. 1711, in October 1989.

Mr. FORD. Mr. President, I am a little bit confused. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. FORD. Is the Senator saying to us or to me that the Senator's suggestion is that the States can go voluntarily to motor-voter, but does not the Senator's piece of legislation say that the so-called corruption by State officials under State laws is permanent?

Mr. STEVENS. I agree.

Mr. FORD. Then even though a State does not take motor-voter, the Senator's substitute would make the Feds involvement in the local races permanent?

Mr. STEVENS. Mr. President, I have tried to make it plain to my friend from Kentucky that the provision in this bill is the provision that was passed by the Senate before to extend Federal jurisdiction to such corruption in local elections. Yes. That is true.

Mr. FORD. I do not agree. I did not agree with it when it passed the other time.

Mr. STEVENS. We all voted for it.

Mr. FORD. Unanimous consent is a lot of things at night.

Mr. STEVENS. That was the crime bill. That was not unanimous consent. That was a record vote, Mr. President. I hope the Chair will indulge us. I know that we do get out of order. We will try to be orderly. We go back many years. And I understand my friend is trying to correct me. He believes I am wrong. I believe I am right.

This is a provision that passed the Senate. I have included it at the request of the Department of Justice specifically because those were their comments to us, to the Rules Committee, in connection with this bill, S. 250. I have done so.

I think the Senate should vote once again to extend the Federal jurisdiction for corruption to local crimes where there is a substantial Federal reason for being involved in such crimes that affect the voting process, and not be limited as we are now.

Does my friend want to discuss that? I want his point of view.

Mr. FORD. If the Senator will yield to me, Mr. President, we have talked to each other about as long as we need to talk to each other. Would the Senator consider agreeing to a time certain to vote, say 5 o'clock, or something like that?

Mr. STEVENS. Mr. President, I would be pleased to ask. I am not entitled by right, as my friend is, to one of those two seats. I will inquire of those that are entitled to see if we can now enter into such agreement. I will be pleased to consider it.

Mr. FORD. Will the Senator do that?

Mr. STEVENS. We will do that.

Mr. FORD. We need to know. I have some colleagues and you have some colleagues who are interested in a time certain. I would like to do that as soon as we could.

Mr. STEVENS. Mr. President, my trusted friend, who is also the assistant to the distinguished minority leader, has gone to consult.

Mr. FORD. I thank the Chair. As soon as we know, we would like to vote at a time certain.

Mr. STEVENS. I hope more people understand what they are going to vote on. I am getting tired of them, Mr. President—we get another one of those, political vote after political vote after political vote. I think somehow or other we ought to start listening to people out there who give us comments without regard to politics.

This is the National Governors Association, if my memory 0 is correct.

There is a majority of Democrats in that association. They oppose this bill. The National Association of Counties, with an overwhelming majority of Democratic members, oppose this bill. We are about ready to have another one of those political votes; oh, hum here comes another amendment offered by the minority, so let us just vote this thing down.

I am getting a little tired of that. I hope people will listen to this. This is a very serious amendment. It will authorize States to continue to do what they have done. It will authorize appropriations from the Federal Treasury to assist more to achieve that goal. It will authorize assistance, for instance, to computerize those voters lists. They should be computerized.

But I want to comment a little bit about the reference that my friend made concerning the former Brooklyn district attorney, Elizabeth Holtzman. I mentioned her name. A lady has a right to change her mind. There is no question about that. But I have the release made in her name on September 5, 1984, where she announced the grand jury report disclosing systematic voting fraud in Brooklyn. It pertained to the registration process. She said, quoting from her statement:

> It is imperative that immediate changes in procedures be made. Otherwise, there is the danger that serious fraud could occur in connection with the upcoming election.

This, as I said was back in 1984. She specifically referred to the grand jury 11 recommendations to correct the problem of fraud in registration and voting, and one of the statements she said says this:

> The Governor and the State legislature should study the problems of fraud in registration and voting identified in the report, and take appropriate legislative and administrative actions. The grand jury suggested examining such changes as requiring identification from voters at the time of registration. * * *

That is the reason I mentioned that letter of hers in the New York Times. There is no question that this bill, S. 250—which she now opposes according to the letter my friend has read a portion of—would prohibit a State requiring identification from voters at the time of registration, requiring witnesses, as our State does, to have notarization of a registration that comes from out of the State.

I do not know what the Federal Government is doing trying to change my State laws. They have worked for us. I do not have any complaints. This Senator from Alaska is saying why do you want the Federal Government to change those State laws? That is what this bill amounts to. This bill amounts to changing the laws of a series of States concerning existing State registration procedures and specifically requiring authentication of signatures on voter registration cards, as one of the specific recommendations of the grand jury in New York.

As I say, they have a right to change a position on such a thing. There is no question in my mind that my good friend has that letter. I seriously question leaving out the recommendation of the grand jury. Ms. Holtzman just announced the grand jury's recommendation. Why should Federal law now change the right of West Virginia to listen to its grand jury, of Illinois to listen to its grand jury, and of New York to listen to its grand jury? Voter fraud has been a serious problem in many States, and grand juries have spent a lot of time trying to figure out what to do. They make recommendations, and here comes a bill that says, whatever you do, you cannot require authentication of signatures on mail registration. That is wrong. It should not be in here.

My friend from Kentucky has talked about the voter turnout. As I said, I have the CRS report to the Congress on voter registration and turnout in States with mail and motor voter registration systems, February 23, 1990.

I did not do this. It is not a Republican plot. It is the Library of Congress giving us a study of this kind of a system. I want to read this to make sure that the Senate understands what I summarized before.

This is from page 18 of the CRS report that I have just mentioned:

> While the evidence of an increase in voter registration after the introduction of the motor-voter registration system is somewhat mixed, the data appeared clear with respect to voter turnout rates after the adoption of motor-voter registration.

That is what I said. I am talking about the voter turnout now.

Table 4 below shows that of the 10 States adopting motor-voter registration systems prior to the 1988 Presidential elections, 8 States displayed declines in the percentage of voting age population voting in Presidential elections, declines between 3.4 and 7.8 percentage points after adoption of motor-voter registrations during the period 1948 to 1988.

That is a 40-year period. During that period, these States had adopted that. Two States, North Carolina and Vermont, showed small increases in the percentage of vote of persons turning out to vote after adoption of motor-voter registration.

Mr. President, I ask unanimous consent that we have printed in the RECORD at this point the table that was mentioned from the CRS report, page 19, which shows that turnout decline.

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

TABLE 4.—Percentage Turnout of Voting Age Population (VAP) in States With Motor-Voter Registration Before and After Adoption of Motor-Voter Registration: 1948–1988

| Name of State | Presidential | | | | | Non-Presidential | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Before adoption | | After adoption | | Difference | Before adoption | | After adoption | | Difference |
| | Percent turnout of VAP | Number of elections | Percent turnout of VAP | Number of elections | | Percent turnout of VAP | Number of elections | Percent turnout of VAP | Number of elections | |
| Arizona | 49.69 | 9 | 46.29 | 2 | −3.40 | 38.75 | 9 | 36.51 | 1 | −2.24 |
| Colorado | 62.99 | 10 | 56.90 | 1 | −6.09 | 50.02 | 9 | 45.44 | 1 | −4.58 |
| Iowa | 67.79 | 10 | 60.00 | 1 | −7.79 | [1] 48.04 | 10 | ..... | ..... | ..... |
| Michigan | 64.50 | 7 | 58.76 | 4 | −5.74 | 49.85 | 7 | 42.83 | 3 | −6.02 |
| Minnesota | 73.30 | 10 | 67.23 | 1 | −6.07 | [1] 51.14 | 10 | ..... | ..... | ..... |
| Nevada | 50.92 | 10 | 45.42 | 1 | −5.50 | [1] 42.62 | 10 | ..... | ..... | ..... |
| North Carolina | 45.07 | 9 | 45.34 | 2 | .27 | 28.30 | 9 | 33.59 | 1 | 5.29 |
| Ohio | 62.95 | 9 | 57.99 | 2 | −4.96 | 48.92 | 9 | 45.89 | 1 | −3.03 |
| Vermont | 63.13 | 10 | 65.57 | 1 | 2.44 | 47.90 | 9 | 52.66 | 1 | 4.76 |
| Washington | 65.38 | 9 | 58.01 | 2 | −7.37 | 49.15 | 9 | 40.87 | 1 | −8.28 |
| All States | 61.92 | 93 | 56.14 | 17 | −5.78 | 45.07 | 61 | 42.55 | 9 | −2.52 |
| All States without Michigan | 61.43 | 86 | 54.64 | 13 | −6.79 | 43.81 | 54 | 41.36 | 6 | −2.45 |
| Five active States | 64.59 | 46 | 57.45 | 9 | −7.14 | 47.95 | 25 | 43.26 | 5 | −4.69 |
| Five active States without Michigan | 64.65 | 39 | 54.42 | 5 | −10.23 | 45.03 | 18 | 40.95 | 2 | −4.08 |

[1] Excluded from calculation of "All States" totals due to lack of elections "Before" or "After" adoption.

Mr. STEVENS. For non-Presidential elections, midterm elections, only two States, North Carolina and Vermont showed increases in voter turnout for the period from 1948 to 1988, after the adoption of new voter registration procedures. These increases were somewhat larger, and the decreases somewhat smaller than in Presidential elections.

Under those circumstances, again, I come back to my friend's comment. What is wrong with S. 250? Well, what is right about it? I think the Senate ought to ask that. Is this not just another bill we should put back where it came from? Name me a national organization associated with actually handling voting procedures—National Association of Governors; National Association of Secretaries of States, and all

that I have read before, such as National Association of Towns and Townships; National League of Cities; National Association of Motor Vehicle Administrators; all of those would be affected by this, their associations came and opposed this legislation.

I tried to summarize that in the minority views that we issued at the time this bill was reported out of our committee.

Let me interrupt here.

I am authorized to state that if the Senator wishes an up-or-down vote on this at 5 o'clock, we are prepared to agree.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. I understand the Senator would like to have an up-or-down vote. That suits me fine, because if I move to table, I get no Republican votes. I am perfectly willing to give the Senator an up-or-down vote.

Mr. President, I ask unanimous consent that the vote on the pending substitute occur at 5 p.m., and that no amendment to the pending substitute be in order, and that the time between then and now be equally divided.

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

Mr. STEVENS. Mr. President, may I inquire before I consent to that? Is there time left for the two leaders under their leader time?

Mr. FORD. Mr. President, I believe that in the unanimous-consent agreement last night, their time was reserved; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The leaders can use their own time, and we can divide the time of 35 minutes between us; is that correct?

Mr. FORD. The Senator is correct.

Mr. STEVENS. I do not object.

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

Mr. STEVENS. It is not set precisely at 5, so that it will prevent them from using it?

Mr. FORD. No.

Mr. STEVENS. If the leaders wish to use their time, the vote will actually take place upon the expiration of our time and such leader time as they may wish to use.

Mr. FORD. The Senator is correct.

The PRESIDING OFFICER. Before the Chair rules, I think the Senator from Alaska is correct. If the vote is set for 5 o'clock, and the two leaders have not used their time, they would be entitled to that time. So that if they did come and seek to use their time, the vote could come after 5 o'clock.

Mr. FORD. The Chair is correct, and I agree.

The PRESIDING OFFICER. The Chair stands corrected.

Mr. STEVENS. I think that should be the understanding. They should be entitled to use their time before a vote in any event, Mr. President.

Let me go back to what I was talking about, which is the problems that we discussed in the minority report on this bill. I yield myself 10 minutes. I wish to save time in case anybody else wishes to come and speak.

The primary objection of these national organizations related to the unfunded mandates in S. 250, and I want to make sure that we understand that there are portions of these national associations that would support the motor-voter concept; but they join together in opposing the unfunded mandates of S. 250, imposing additional costs on the States at this time, when they do not have that ability to finance it.

As we pointed out, and as I mentioned before, let me read some of these estimates that were brought to us. My statement estimated it would cost $400,000 to comply this year. California was an independent estimate by Los Angeles County of $4.5 million with a total cost for California of $20 million; Florida, $6.4 million; Illinois, $30.4 million; Kansas, $500,000 million; New York, $450,000 million; New Jersey, $20.3 million; Oklahoma, $1.3 million; South Carolina, $2.8 million; Virginia, $5 million; Alabama, Minnesota, Missouri, and South Dakota, also expressed concern over the impact of the requirements. We do not have the actual costing from all States.

But, clearly, the major portion of their opposition comes from the States and the counties, I think, justifiable opposition to the Federal Congress telling them to change their laws, to mandate how they will be changed to mandate additional costs, which include, for instance, computerization of all those who are not computerized.

And then saying "But you absorb the cost. We are going to mandate it." It is another one of these national mandate concepts. I do believe there is no question that it is a valid objection to this bill, and I would hope that the Senate would recognize it as such.

I really would like to see more people listen to those who are actually handling these elections throughout our country.

I have discussed at length the problems of the grand jury.

Let me go back to just one more thing, Mr. President, and that relates to the overall question of whether the procedures of S. 250, which are mandatory, should be adopted by the Senate.

There is today a growing trend to try and register more people to vote. I support that trend. I remember when the League of Women Voters had their meetings in my living room in Anchorage and we were trying at the time, working with my wife, to increase voter turnout, increase voter registration.

I think it is a desire of all those who believe so strongly in our democratic process that we should demonstrate our belief in our system and our love of our country by having more people participate in our voting process. It does take a lot of work to assure that. We have gone into all forms of registration concepts—at supermarkets, at all sorts of State and Federal agencies on a voluntary basis.

This would be the first time that we mandated the registration of anyone who seeks a driver's license, and anyone who is given public assistance by a State or county, we would mandate the registration of the person to vote.

I have spoken at length about the mandate for those people who seek assistance from public agencies. I do not know how to express any more forcefully my feelings about that. I think it is just wrong. There is no other word for it. But it is just wrong. If a person is in a position in this country where he or she is forced to seek public assistance, I think we should do everything we can to accommodate meeting their needs. I certainly do not believe we should impose upon that person requirements such as this bill to have to state in writing whether that person should register to vote. That to me is just plain wrong. It also opens the avenues, as I said, to election fraud which ought to be considered by Members of the Senate.

I will close by going back to the Department of Justice's position on this bill. That is a report that came to us from the Office of Legislative Affairs. It traced the history of innovative procedures throughout our country—and let me quote that, Mr. President. The report said:

> Moreover, many States are voluntarily adopting innovative registration practices, including variations of the three mandated by the bill.
>
> We understand that some form of motor voter registration has worked well in a number of jurisdictions without fully appreciable increase in cost, that many areas are experimenting with various forms of satellite registration and mail-in registration which are being used successfully in several jurisdictions. But these jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the election process.

Let me emphasize that.

> But these jurisdictions use a variety of procedures to guard against fraud and maintain the integrity of the election process.

In short, they are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill.

There it is. That is the guts of it, Mr. President. This bill has no flexibility for a State. It will not let Alaska take into account the special circumstances of a very small population in a very large area that is inundated by visi-

tors, workers, people who come to our State for over 30 days, many times the size of our own population. They must get drivers' licenses, and this bill will result in registering many of them.

I just cannot understand why we cannot have the flexibility that is needed to respond. I remember so well one of the witnesses that came in from New York City, downtown New York City, and asked for this. I do not know why in the world anyone needs an automobile in downtown New York City. It is hard to get around there in any event.

But what is this going to do to increase voter registration in New York City? It will give an avenue of corruption to the major megalopolis centers of this country that to me are unimaginable. As I said before, at least in States that won't mail registration, a person wanting to commit voter fraud had to find a graveyard to register someone or find someone who left the jurisdiction.

Under this bill, all they have to do is invent a name. They do not have to have anyone witness the name, do not have to have anyone verify the person who is eligible to vote. All you need do is just go in and get a driver's license. How many driver's licenses could you get?

You remember the Social Security queens of Illinois. We are going to have a driver's license king of New York. How many places can you get a driver's license in New York, and what about these States, 29 of them, that do not have a computerized driver's license system? How long would it take a State to find out if a group decides to register fraudulently in their State through the simple process of getting drivers' licenses in false names?

I think this bill just ought to go back into the can. It ought to be covered up and forgotten about. Everybody that is associated with the election process that tries to make it work today opposes this bill, and no one seems to want to listen.

This substitute gives the Senate a chance to go on record. The people who are listening, to the National Association of Motor Vehicle Administrators, the National Association of Counties, the National Association of Governors, the National Association of Secretaries of State, the National Association of Towns and Townships, and the National League of Cities are going to vote for our substitute. That is the bill those people want.

It says if you want to pursue motor-voter or other innovative registration techniques, there is matching money available from the Federal Government, but it is voluntary, and you can adopt it as you wish. And there is nothing in this substitute that says you cannot require verification of signatures, that prohibits notarization of registration from out of State. Nothing in this bill will prevent a State from following the recommendations of grand juries like those from West Virginia, Illinois, and New York. And I say it is a bill that ought to pass if we are going to pass flying in this area. Actually, as a practical matter, you really do not need anything. The States have done pretty well without it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, here we go with this scare tactic again, just trying to scare everyone. He talked about elected officials. We are not talking about elected officials here. We are talking about people. We are talking about giving the citizens an opportunity to vote. You hear about an extra desk and where you get your driver's license. It is all in one form if they want to, and they do not have to register to vote. All they have to do is say no. There is nothing mandatory in this at all. All they have to do is decline it. It is right there and they do not have to vote.

So that does not make it mandatory to vote. That is one of the issues they are trying to tell the Senate, that this bill, S. 250, does. That is just absolutely not correct, not correct.

It is just not mandatory at all. You hear the CRS report. Well, the opponents point to the CRS study—they claim that in the States the motor-voter program was adopted, turnout declined, did not increase. It should be noted, however, that the CRS study was flawed in a number of respects.

First, the CRS report included States with motor-voter programs which had not yet been implemented. The Senator knows that. Everybody knows that. But yet they are not told. Four of the ten States referred to by my good friend from Alaska in a CRS study—Washington, Vermont, North Carolina, and Iowa—did not, in fact, have an operating motor vehicle program at the time of the 1988 election when this study was conducted.

Second, the CRS report did not distinguish between new applicants and renewals. Some State's motor-voter programs are limited to new drivers' license applications, and we say in this bill they can set up their own procedure. Other States limit the program to license renewals; not the new ones. This allowed two biases to affect the study.

First, the applicant only programs, which have much less impact on registration levels, since it is obvious that far fewer people apply for licenses than renew them every 4 years.

Second, those applying for a license are overwhelmingly younger than those who renew them, and younger people vote less. In short, these biases led to an underestimation of the potential impact of S. 250 on registration and voting levels.

Third, the CRS study did not distinguish between in-person and mail drivers' license renewal.

Finally, a motor-voter program needs to be fully operational for 4 years, or a full drivers' license renewal cycle, in order to test its impact on registration voting. And the States that I set out a few moments ago headup the 26 percent.

The Senator talked about computerization. That is just not true. It is just not right to stand here on the floor and say they have to computerize. There is nothing in this bill that says computerize. The New York grand jury did not call for the repeal of mail registration. First-time voter in this bill, at someone's insistence, is that if you register by mail you have to appear in person the first time you vote. How do you check a man's signature or a woman's signature? Why, you just look at the driver's license. The driver's license has a picture on it, has a signature on it. That is verification. It is one of the best ever devised.

Cost. Oh, you just scare everybody with legal cases, being fined, sent to prison. Then, if that does not work, you say it is going to cost too much money. We have a cost estimate. The usual means is through CBO. CBO did a thorough analysis in contacting several States and the CBO study showed substantial cost savings by S. 250.

Computerization is not required, as you would hear this afternoon. The District of Columbia has motor-voter without computerization and adopted a program at a cost of less than 6 cents a form.

The bill does not mandate registration. It mandates the opportunity to register to vote. You can decline to vote or register. It is very simple to do. If you have the right to vote, as I said awhile ago, you have the right not to vote. S. 250 permits flexibility for States to design a program that will make sure that only eligible voters will be registered. States are not required to give notice to an applicant about the disposition of an application. Many States use this as a means of checking voter registration fraud.

I hope we will not be intimidated by elected officials. This is for the citizen and not for an elected official. I do not personally care whether that elected official has to work a little harder to register people so they can participate in democracy. That does not bother me at all. But it proves that when you go down and watch and look and see the county court clerk in registration, they find it smoother and easier because you get your drivers in months, not an avalanche of people coming in right at the end and you have to have additional help at greater cost.

So, Mr. President, I hope we would understand that there is a difference of opinion here.

When you read Elizabeth Holtzman's letter to us describing the grand jury,

only two of those grand jury recommendations had something to do with registration. Nine were the security of the ballots. That did not seem like there were a lot of problems. And she says, in reviewing S. 250 and in looking at it very closely, that it has the provisions to prevent fraud, and she supports it very much.

Now, the secretary of state of Mississippi is the national president of the secretaries of state. I have a letter from him—do you want to put that in the RECORD?—saying that they have mail registration; got it first time. No fraud. He likes the motor-voter; got the legislation. He serves as the national president of Secretaries of State.

A lot of secretaries of state have come and testified—Washington, Oregon—right there by my distinguished friend. It is the right way to go. It works. Does not cost any more money. People have an opportunity to vote if they want to. All they have to do is decline it.

I do not see what the fear is here. But I want to make one thing clear, that if we accept this substitute—and I hope we do not—it will say to the States that your State and local voting laws will now be under the scrutiny of the Justice Department and you are subject to a Federal trial and 20 years in jail if you submit an application or information that is not accurate, does not contain all the information, or is false.

Now, my friend from Alaska asks what is wrong with setting up a table at a shopping center and let people register to vote? The only thing wrong with that, if his bill is passed, is that your wife, daughter, husband, or brother, or whoever it might be, that is there helping to register, and a man or a woman gives false information, either intentionally or not, is subject to the intervention of the Justice Department—a criminal charge, with up to 20 years in prison; Federal prison, even if we pass this as a voluntary situation.

So, Mr. President, we are getting in awfully deep here. I hope my colleagues would see the intent of this substitute, the intent of taking people off the rolls if they did not vote; if they did not vote in the last election, they are automatically taken off the rolls. He says it does not mandate it, but it can be done. That is the procedure now, and that is what we are trying to prevent.

I would hope that my colleagues would join with me.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Kentucky has 5½ minutes remaining.

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

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, former Governor Cowper estimated that the motor-voter concept would cost the State of Alaska $400,000 totally to implement, even though we currently have a concept of registering voters when they seek a driver's license if they wish to go through the procedure there.

I oppose this bill primarily because of the cost that it will impose on States, as I said. I have in my hand an October 1991, article from the Associated Press from my State. It is an announcement that the division of motor vehicles will cut back on office hours and, because personnel costs have gone up, they are $400,000 short of being able to fund all of their employees. So they had to cut 14 positions. That is under existing concepts. A report this year shows that just to comply in this year alone, it will cost another $400,000 for the State of Alaska, meaning another 14 employees could be out of a job.

I started off by listing the number of States that have a deficit right now that are eliminating employees under existing law. This bill, S. 250, is going to put more people out of work. The system is working. It is not broke. It does not have to be fixed now. If it does, the legislatures of the individual States can do it as they have in the past. But to impose on my State another $400,000 when we have already had to lay off 14 people because we do not have the money to pay them under existing law, to me, is another Federal intrusion into our lives complicating the business of trying to run a small State.

Why do we have to do this? The States have not asked us to do this. Some individuals have, but there is no demand from the States to have a Federal law mandating the creation of this kind of a system. Again, all you need to do, when the vote comes at 5 o'clock, is go outside this door and you will see about the 20 people in the country who want it. They are all going to be standing outside there, talking to Senators as they come in here to make sure we understand that their pressure groups want this bill. But not the people who were elected by the counties, by the States, and those people who enforce the laws, those people who administer the laws.

I just think the people who work for my State division of motor vehicles ought to understand, when they lose their jobs as a result of this bill, if it should become law, that it was not something that we sought. And it certainly is a wrong bill at the wrong time. It is just, as I keep saying, wrong.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Iowa [Mr. GRASSLEY] be added as a cosponsor, and that this bill then become the Dole-Grassley-Stevens amendment to S. 250.

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

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

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I feel a little bit sorry for Alaska—I hate to say this—in some respects. In other respects, I do not. It is the only State that pays their residents money every year. I think last year it was about $900 per resident of Alaska that the State paid. I do not know how much it would have meant if they kept a dollar back. It would probably have taken care of their highway department. They get 95 percent on interstate roads, and the rest of the States just get 90. I understand why we treat them differently. I would be——

Mr. STEVENS. Mr. President, let us discuss that a little bit.

Mr. FORD. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. FORD. And I am going to keep it for a minute or two, anyhow.

Mr. STEVENS. I still have a little time so I will get mine.

Mr. FORD. And I will have some after that.

But what we are getting here is a lot of poor mouth and a lot of fear, no trust. They do not trust. They say everybody is going to be fraudulent. Boy, it is going to be worse—mass fraud, mass fraud.

That is not true. You have to trust in the American people, and you have to give them an opportunity. You talk about these elected officials who do not want to do any more. I always found any business can have its budget reduced 10 percent and not miss a lick. Maybe we can increase our effort 10 percent here and not miss a lick.

But when you look at the District of Columbia that does not have a computerized registration operation, they do it manually, it is only 6 cents per application and they increased the registrations and increased their voter participation by 26 percent. It seems to me it is a pretty good law. It works pretty well. So I hope my colleagues will understand where we are.

I reserve the remainder of my time.

Mr. STEVENS. If my friend will stay there, Mr. President, I yield myself about 3 minutes.

Alaska is a unique State, and I am very proud to represent it. One of the things in our Constitution is that the State owns subsurface resources, and when income is earned from those subsurface resources, 25 percent of it is put into a permanent fund to carry over to the day when those resources may be depleted.

The income from that fund, 50 percent of that income, goes to accrete the fund. The other 50 percent is distributed among the individual mem-

bers. This is the income from the fund, not the income from the resources, and it is only 25 percent of the money from the resources that goes into this special fund. The State legislature can spend 75 percent of the income from the resources, but one-half of the income from the deposits in the fund get distributed to the individual Alaskans.

I am happy my friend raised it because the Senate ought to be interested in the fact that that is taxable income, and, therefore, the Federal Government gets at least 28 percent of that which is distributed to individuals. If it was all spent by the State legislature, the Federal Treasury would get nothing.

But we decided that the people of the State as a whole should have some discretion in how the income earned by that fund is spent. And the major beneficiaries of that dividend that we distribute every year are, in fact, the residents of rural Alaska that have an average of eight children per family. It is one of the most unusual ways to distribute State income to assist those people who live in rural areas that I think has been devised in our country. I am very proud of it, by the way, I would say to my friend from Kentucky. I had something to do with the origination of that system. It has worked, and it continues to work. The day may come where our income has dropped down to where it can no longer be sustained, but at present I still say it is one of the most unusual forms of allowing the people of a State to determine how money earned by the State is spent, rather than have it all be spent by the State legislature.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Kentucky has 3 minutes remaining.

Mr. FORD. Mr. President, I yield 2 minutes to the distinguished Senator from Minnesota [Mr. WELLSTONE].

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. I thank the Senator from Kentucky.

Mr. President, I have had a chance to speak on the floor several times about this piece of legislation introduced by the Senator from Kentucky [Mr. FORD] and also Senator HATFIELD, from Oregon.

In many ways this piece of legislation is an extension of the 1965 Voting Rights Act, but it is a Voting Rights Act for all the citizens in this country. This is really a good-government bill. I mean, this is a piece of legislation that translates into probably about 65 million more Americans being able to register. Once again, we have arcane rules and regulations around the country. We have something that is universal. This is an effort on the part of the Federal Government to enact some public policy that will enable citizens to register and be able to vote.

Mr. President, as opposed to talking about the Voter Registration Act, you could simply talk about this as a prodemocracy act. We are at a point in time in our country where I think the message we want to send out from Washington, DC, to people all across the Nation is, if you have anger, if you think things should be changed, if you are hurting, if you want to see different public policies—then the beauty of our country is it is a democracy. And we want to emphasize and we want to nurture and we want to support people being able to register and vote.

For the life of me I cannot understand why there is such resistance to this piece of legislation. This is a good-government bill. This is a piece of legislation that is prodemocracy. It expands participation. It expands civilian involvement. And the best thing, I want to say to the Senator from Kentucky, is that it encourages people to get involved in our political process. There could not be a more important piece of legislation for us to pass. I certainly speak against the substitute amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator has 1 minute remaining before the Senator votes.

Mr. FORD. Mr. President, that 1 minute and then we go to the vote? I think the Senator from Minnesota closed out very well.

I yield the remainder of my time. We can go to the vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

Mr. DOLE. Mr. President, is leader's time reserved?

The PRESIDING OFFICER. The leader is correct.

Mr. DOLE. If I may take just a brief part of that.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I want to indicate my support for the Stevens-Dole-Grassley substitute.

The fact of the matter is, Mr. President, that no matter how noble the ideas advanced in the motor-voter bill, the States simply cannot afford it.

Eight States, including my State of Kansas, estimated that the total cost of complying with this bill's requirements would be $80 million. The total cost for all 50 States would obviously be much higher.

We have a law here in Congress now, Mr. President, where if someone proposed a new program, they also have to find the money for it. I think that same provision ought to apply to this bill.

I ask my friends on the other side of the aisle, how would you like the States to pay for your legislation? Do you want them to cut their education budgets? How about their child nutrition programs? Or maybe we should just tell them to raise their State taxes, and pass the costs along to the taxpayers.

So it seems to me for all the reasons stated earlier by the distinguished Senator from Alaska, it is no wonder that the National Association of Counties, the National Governors Association, and the National League of Cities have all called for the Democrats' motor-voter bill to be sent to the repair shop.

Instead of forcing something on the States, Mr. President, why do we not lend them a helping hand?

And that is just what the Stevens-Dole substitute would do, by providing grants to States to help them set up motor-voter programs.

As Senator STEVENS pointed out—the States, as they so often do, have beaten us to the punch.

Fully 27 States and the District of Columbia already provide citizens an opportunity to register to vote when applying for their driver's licenses. Seventeen other States are currently studying similar legislation.

Instead of allowing the States to determine what works best for them, as well as to determine what they can afford, my Democrat friends cannot resist the temptation to mandate a "one size fits all" requirement—a requirement which many cash-strapped States simply cannot afford.

Mr. President, our substitute is more flexible, costs far less, beefs up Federal and State efforts to combat election fraud and public corruption, and—most importantly—our substitute will be signed into law by the President.

And that is the bottom line. We have played this game before. The Democrat bill will probably pass the Senate. The President will veto it. And the veto will be sustained and that will take care of it for the remainder of the year. And absolutely nothing will have been accomplished.

Why do we not do something different for a change? Why do we not actually pass a bill that will be signed into law?

But as we saw with campaign finance reform, the majority party would rather play political games, than have meaningful reform signed into law.

The PRESIDING OFFICER (Mr. LAUTENBERG). The question is on agreeing to the substitute amendment offered by the Senator from Alaska.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Rhode Island [Mr. PELL], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Ohio [Mr. METZENBAUM] is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "no."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG], is necessarily absent.

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

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—37

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

NAYS—57

| | | |
|---|---|---|
| Adams | Exon | Lieberman |
| Akaka | Ford | Mikulski |
| Baucus | Fowler | Mitchell |
| Bentsen | Glenn | Moynihan |
| Biden | Gore | Nunn |
| Bingaman | Graham | Packwood |
| Boren | Hatfield | Pryor |
| Bradley | Heflin | Reid |
| Breaux | Hollings | Riegle |
| Bryan | Inouye | Robb |
| Bumpers | Jeffords | Rockefeller |
| Burdick | Johnston | Roth |
| Byrd | Kennedy | Sanford |
| Conrad | Kerrey | Sarbanes |
| Daschle | Kerry | Sasser |
| DeConcini | Kohl | Shelby |
| Dixon | Lautenberg | Simon |
| Dodd | Leahy | Wellstone |
| Durenberger | Levin | Wofford |

NOT VOTING—6

| | | |
|---|---|---|
| Craig | Harkin | Pell |
| Cranston | Metzenbaum | Wirth |

So the amendment (No. 1821) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, this was an important amendment. And there are a number of other important amendments to the bill that I understand Senators intend to offer. I encourage any Senator who has an amendment and who intends to offer it to do so.

We would like to proceed and make as much progress on this measure as we can. As all Senators know by practice of recent years and by recent correspondence from me, Thursday is our evenings on which there are likely to be evening sessions, and if we are able to make further progress on this bill, I believe it is important for the Senate to do.

I have just spoken briefly with the distinguished Republican leader. He has advised me that he wishes to consult with some of his colleagues before advising me of their intentions with respect to further amendments to the bill.

I indicated of course that I would be prepared to await that consultation and look forward to hearing from the distinguished Republican leader in the near future following which I will have a further announcement to make.

In the meantime, any Senator who has an amendment to the bill who wishes to have it considered is free to do so at this time.

So I expect as of now at least that there will be further amendments and further votes, and I hope further progress on this bill this evening.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see the floor managers. If there is not going to be an amendment, I would like to speak briefly on another subject.

Mr. FORD. Mr. President, I say to my friend from Massachusetts, on this side I have no amendments. And under the circumstances with the minority leader discussing the possibilities with his members, we await his consultation with the leader. We are perfectly willing to take up any amendments they want. But, as of now, I know of no amendments to be offered. I would like to move this bill on as far as we can.

Mr. KENNEDY. Mr. President, I ask unanimous consent that my remarks be printed at an appropriate place in the RECORD not to interfere with the debate.

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

## EMERGENCY TIME-SENSITIVE ASSISTANCE FOR AMERICAN YOUTH

Mr. KENNEDY. Mr. President, on behalf of Senator HATCH and myself, I submit an amendment to H.R. 5132, the urban emergency supplemental appropriations bill approved by the House of Representatives earlier this afternoon.

Our amendment will add $1.45 billion for time-sensitive job, education, and community programs that can make a difference for the Nation's cities this summer.

The funds made available by the amendment will be allocated to four specific programs: $700 million for summer jobs; $250 million for summer Head Start for young children and their families; $250 million for expanded chapter 1 education programs for disadvantaged students in the public schools; and $250 million for the Justice Department's innovative Weed and Seed Program to help reduce crime and establish basic services in communities.

I commend Senator HATCH for his leadership and assistance in developing this bipartisan approach. Our hope is that this measure will go to the President before Congress adjourns next week for the Memorial Day recess.

In addition, we intend to work together to see that an effective additional response is undertaken by Congress in follow-on legislation to deal with the longer run aspects of our urban crisis.

In the wake of the tragedy in Los Angeles, we are all well aware of the crisis of discrimination and despair that is festering in so many of our cities.

The riots and their ripples sent across the country demonstrate how far we still have to go to deal effectively with these challenges. The prejudice, the poverty, and the hopelessness that still blight our land must not be permitted to continue.

Congress and the administration are now working together, exploring a range of worthwhile ideas for emergency action to provide funds to meet the most urgent needs of the cities for this summer in areas such as jobs, schools, community development, food and shelter, and aid to law enforcement.

The kind of action we are talking about would be only a small part of the total Federal budget—but it can be a large downpayment on the future of America. If we have the will, we can certainly find the wallet.

On social issues, the immediate emphasis should be on doing more in programs where actions by Federal, State, and local governments can make an immediate difference.

One such program is summer jobs for youth. Two other excellent examples are allowing the Head Start programs for young children and their families to remain open this summer, and expanding the summer chapter 1 program for disadvantaged students in the public schools.

Programs like these deserve increased funding now.

Tragically, our cities are heating up, at the very time when many Head Start and chapter 1 programs are shutting down, and when the summer jobs program is severely underfunded in cities across America. It is a measure of the decade of neglect, of our failure to meet the needs of so many of today's youth in our cities, that only half as many will be able to participate in the summer jobs programs this year as a decade ago.

Time is of the essence, because our ability to utilize these programs effectively this summer is time-sensitive.

Ninety-five percent of Head Start activities for 3-, 4-, and 5-year-olds and their families will close down between this week and the end of the first week in June—leaving facilities empty for the summer, and cutting off valuable lifelines of support for many of the neediest children and families in the Nation's inner cities.

Children risk losing the gains achieved in the school year, and their parents are left without the social support systems offered by the program. Thirty-six percent of the teachers in Head Start are the mothers or the fathers of the children, so the program is an important source of jobs for disadvantaged parents.

The chapter 1 public school programs offers the same time-sensitive opportunity for action. In virtually every school district, the schools close in the second or third week in June. Many urban districts, however, run worthwhile summer programs for disadvantaged pupils from ages 6 to 18, involving them in both work and school activities.

Local education agencies need several weeks of lead time to rehire teachers and expand these important and successful summer school programs. The task can be accomplished—but only if Congress provides funds now, in mid-May, not next month, in June.

Similarly, the Federal summer jobs program addresses inner-city youth unemployment rates of 50 percent.

The program starts the week after schools close. The Department of Labor says that June 5 is the drop-dead date, after which Federal funds can no longer be distributed effectively to the States and then to cities and rural communities.

Summer job funding dropped precipitously in the 1980's. The current appropriation for this summer is less than half what it should be.

Enabling hands-on programs like these to function effectively through the summer should be our highest urban priority. They are capable of engaging children and families in their communities and providing a meaningful downpayment on hope for a better future.

In law enforcement, the Justice Department's Weed and Seed Program is designed to weed inner cities of crime and seed new economic and social projects. It is an innovative idea. The Bush administration deserves credit for the concept. And it deserves a substantial increase in funding.

The recent violence that has torn the fabric of our society will not be easily healed. For a decade and longer, we have ignored the warning signs. Extreme wealth and poverty cannot permanently coexist in any society, and certainly not in our democracy.

We are all in the same boat. If one end sinks, the other end, for a moment, points to the sky and then sinks to the bottom, too.

It is small comfort to the few who are well off that they seem in recent years to be rising toward the sky.

Mr. President in addition to the amendment I have just submitted, I have introduced S. 2728 on the same subject, and would now ask unanimous consent that the text of the bill be inserted in the RECORD along with accompanying attachments.

I yield the floor.

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

PROPOSED AMENDMENT TO H.R. 5132

(Purpose: To make emergency supplemental appropriations to provide emergency short term assistance for American cities and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes)

Strike the sentence beginning "This Act may be cited" and insert the following:

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

HUMAN DEVELOPMENT SERVICES—HEAD START

For an additional amount to carry out the Head Start Act, $250,000,000, which shall remain available until expended, and which shall be made available to Head Start agencies operating Head Start programs on the date of the enactment of this Act, for the purposes of assisting the agencies to provide, during the summer months, Head Start services, including services through family literacy projects: *Provided*, That no part of any amount appropriated under this Act or any other provision of Federal law shall be used to enforce the limitation specified in section 640(b) of such Act with respect to such amount: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED—CHAPTER 1

For an additional amount of $250,000,000, to remain available until expended, to carry out programs and projects in each of the 50 States during the summer months that meet the special educational needs of educationally deprived children identified in accordance with section 1014 of the Elementary and Secondary Education Act of 1965, including programs and projects related to arts and drama, academic subjects, literacy, recreation, conflict management, and dropout prevention: *Provided*, That such amount shall be expended by first reserving for each State $500,000 of such amount to carry out such programs and projects, and by allocating the remainder of such amount in accordance with section 1005 of such Act: *Provided further*, That—

(1) a sum equal to not less than 60 percent of the amount each State receives under this heading shall be made available to carry out such programs and projects through local educational agencies, as defined in section 1471(12) of such Act, that—

(A) serve the largest central city, as defined by the Director of the Bureau of the Census, in a State; or

(B)(i) enroll more than 25,000 students; and

(ii) serve such a city that has a population of not less than 125,000 and is within a metropolitan statistical area, as defined by the Bureau of the Census; and

(2) the remaining amount each State receives under this heading shall be made available to carry out such programs and projects through local educational agencies, as defined in section 1471(12) of such Act, that—

(A) have a lower per pupil expenditure than the average per pupil expenditure within the State; and

(B) have a higher percentage of children in poverty than the State average percentage of children in poverty,

except that the sum described in paragraph (1) may be altered if the chief State school officer and the State board of education agree to such alteration and publish the reasons and the objective criteria used to determine, that other such local educational agencies have a greater need: *Provided further*, That each local educational agency receiving funds under this heading shall make whatever arrangements are necessary to ensure that students in private, nonprofit elementary and secondary schools are eligible to participate in programs and projects assisted under this heading: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMPLOYMENT AND TRAINING SERVICES—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

For an additional amount to carry out part B of title II of the Job Training Partnership Act, $700,000,000, which shall remain available until expended: *Provided*, That such amount shall be expended by—

(1) first allocating the amount so that—

(A) 50 percent of the amount shall be allotted on the basis of the relative number of economically disadvantaged adults, as defined in accordance with section 4(8) of such Act, within each State, as compared to the total number of such economically disadvantaged adults in all States;

(B) 25 percent shall be allotted on the basis of the relative concentration of such economically disadvantaged adults within each State as compared to the total concentration of such economically disadvantaged adults in all States; and

(C) 25 percent shall be allotted on the basis of the relative number of unemployed individuals, as defined in accordance with section 4(25) of such Act, who reside in each State as compared to the total number of such unemployed individuals in all States; and

(2) adjusting the sums so allocated—

(A) to ensure that each State with a teenage youth unemployment rate above the 1991 average teenage youth unemployment rate, as calculated by the Bureau of Labor Standards, shall receive not less than the State would have received if such amount had been allotted in accordance with section 201(b) of such Act; and

(B) by reducing the sums received by States not described in subparagraph (A) on a pro rata basis: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION WEED AND SEED

For an additional amount to carry out the demonstration program carried out in fiscal year 1992 by the Department of Justice and other entities of the Federal Government and known as "Operation Weed and Seed", $250,000,000, which shall remain available until expended and which is appropriated to entities of the Federal Government that carried out such program in fiscal year 1992, in

the same proportion as amounts were obligated to carry out such program in fiscal year 1992: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1992, for Disaster Assistance To Meet Urgent Needs Because of Calamities such as Those Which Occurred in Los Angeles and Chicago".

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S. 2728

*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 "Emergency Short Term Assistance for American Youth Act of 1992".

**SEC. 2. NONAPPLICABILITY OF BUDGET ACT.**

Congress hereby designates the sums described in this Act as emergency requirements for all purposes of the Balance Budget and Emergency Deficit Control Act of 1985.

**SEC. 3. GENERAL APPROPRIATION AUTHORITY.**

The sums described in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes. Such sums shall remain available until expended.

**SEC. 4. HUMAN DEVELOPMENT SERVICES/HEAD START.**

For an additional amount to carry out the Head Start Act, $250,000,000, which shall be made available to Head Start agencies operating Head Start programs on the date of the enactment of this Act, for the purposes of assisting the agencies to provide, during the summer months, Head Start services, including services through family literacy projects: *Provided*, That no part of any amount appropriated under this Act or any other provision of Federal law shall be used to enforce the limitation specified in section 640(b) of such Act with respect to such amount.

**SEC. 5. COMPENSATORY EDUCATION FOR THE DISADVANTAGED/CHAPTER 1.**

For an additional amount of $250,000,000, to carry our programs and projects in each of the 50 States during the summer months that meet the special educational needs of educationally deprived children identified in accordance with section 1014 of the Elementary and Secondary Education Act of 1965, including programs and projects related to arts and drama, academic subjects, literacy, recreation, conflict management, and dropout prevention: *Provided*, That such amount shall be expended by first reserving for each State $500,000 of such amount to carry out such paragraphs and projects, and by allocating the remainder of such amount in accordance with section 1005 of such Act: *Provided further*, That—

(1) a sum equal to not less than 60 percent of the amount each State receives under this heading shall be made available to carry out such programs and projects through local educational agencies, as defined in section 1471(12) of such Act, that—

(A) serve the largest central city, as defined by the Director of the Bureau of the Census, in a State; or

(B)(i) enroll more than 25,000 students; and

(ii) serve such a city that has a population of not less than 125,000 and is within a metropolitan statistical area, as defined by the Bureau of the Census; and

(2) the remaining amount each State receives under this heading shall be made available to carry out such programs and projects through local educational agencies, as defined in section 1471(12) of such Act, that—

(A) have a lower per pupil expenditure than the average per pupil expenditure within the State; and

(B) have a higher percentage of children in poverty than the State average percentage of children in poverty,

except that the sum described in paragraph (1) may be altered if the chief State school officer and the State board of education agree to such alteration and publish the reasons and the objective criteria used to determine, that other such local educational agencies have a greater need: *Provided further*, That each local educational agency receiving funds under this heading shall make whatever arrangements are necessary to ensure that students in private, non-profit elementary and secondary schools are eligible to participate in programs and projects assisted under this heading.

**SEC. 6. EMPLOYMENT AND TRAINING SERVICES/ SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS.**

For an additional amount to carry out part B of title II of the Job Training Partnership Act, $700,000,000: *Provided*, That such amount shall be expended by—

(1) first allocating the amount so that—

(A) 50 percent of the amount shall be allotted on the basis of the relative number of economically disadvantaged adults, as defined in accordance with section 4(8) of such Act, within each State, as compared to the total number of such economically disadvantaged adults in all States.

(B) 25 percent shall be allotted on the basis of the relative concentration of such economically disadvantaged adults within each State as compared to the total concentration of such economically disadvantaged adults in all States; and

(C) 25 percent shall be allotted on the basis of the relative number of unemployed individuals, as defined in accordance with section 4(25) of such Act, who reside in each State as compared to the total number of such unemployed individuals in all States; and

(2) adjusting the sums so allocated—

(A) to ensure that each State with a teenage youth unemployment rate above the 1991 average teenage youth unemployment rate, as calculated by the Bureau of Labor Standards, shall receive not less than the State would have received if such amount had been allotted in accordance with section 201(b) of such Act; and

(B) by reducing the sums received by States not described in subparagraph (A) on a pro rata basis.

**SEC. 7. OPERATION WEED AND SEED.**

For an additional amount to carry out the demonstration program carried out in fiscal year 1992 by the Department of Justice and other entities of the Federal Government and known as "Operations Weed and Seed", $250,000,000, which is appropriated to entities of the Federal Government that carried out such program in fiscal year 1992, in the same proportion as amounts were obligated to carry out such program in fiscal year 1992.

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KENNEDY-HATCH TIME-SENSITIVE INVESTMENTS FOR YOUTH FY 92 SUPPLEMENTAL APPROPRIATION

1. SUMMER HEAD START—$250 MILLION

Age Group: 3–5 years.

Additional Youth Served: 200,000.

Time-Sensitive Factor: 95% of Head Start Programs close between this week and the end of the first week in June. (See attached chart for city-by-city specifics).

Rationale: Most Head Start programs close down for the summer, leaving empty facilities in the summer months. This leaves the children vulnerable to losing the gains they have achieved over the school year and their parents without the social supports provided by the program. In addition, 36% of the teachers in the program are the parents of the children—representing an important job source for disadvantaged parents.

2. CHAPTER I SUMMER PROGRAM—$250 MILLION

Age Group: 6–18 years.

Additional Youth Served: 550,000.

Time-Sensitive Factor: Virtually every school district closes the second or third week in June. (See attached chart on school closure dates in major cities.) The local education agencies need several weeks lead time to rehire teachers and expand summer programs.

Rationale: Many urban districts run promising programs for disadvantaged students enabling them to retain academic growth achieved during the school year. Chapter I funds would make it possible for cities to expand these programs, engaging students both in work and school.

3. SUMMER YOUTH—$700 MILLION

Age Group: 14–19 years.

Additional Youth Served: 500,000.

Time-Sensitive Factor: Summer Jobs programs start the week after public schools close. The Department of Labor says that June 5 is the "drop-dead date" after which it would not be feasible to get the funds out to the states, and, in turn, to the cities and rural communities.

Rationale: Summer job opportunities have dropped dramatically in the 1980's, with a current appropriation that is less than the 75% of the 1981 appropriation in nominal dollars. With the cost of inflation, we are currently serving only half as many young people—about 530,000 annually—as a decade ago.

This program directly addresses our inner-city youth unemployment rates of 50%.

4. WEED AND SEED—$250 MILLION

Operation Weed and Seed is a comprehensive, multi-agency approach to combatting violent crime, drug use and gang activity in high-crime neighborhoods. The goal is to "weed out" crime from targeted neighborhoods and then to "seed" the targeted sites with a wide range of existing and new crime and drug prevention programs, as well as human service agency resources. Weed and Seed is a component of the President's package responding to the Los Angeles riots.

HEAD START SUMMER DEMAND

| City | No. of school year kids | No. of summer program kids | Summer service potential | Program closing date | Latest notification date |
|---|---|---|---|---|---|
| Boston | 2,100 | (1) | 2,100 | June 12 | June 12 |

HEAD START SUMMER DEMAND—Continued

| City | No. of school year kids | No. of summer program kids | Summer service potential | Program closing date | Latest notification date |
|---|---|---|---|---|---|
| Dallas | 1,982 | 120 | 500 | June 5 | May 18 |
| Miami | +3,885 | 480 | +3,885 | May 28 | May 22 |
| New Orleans | 1,800 | 1,800 | +2,100 | July 20 | July 14 |
| District of Columbia | 406 | 94 | 406 | June 19 | June 12 |
| Los Angeles (program 1) | 1,331 | (1) | 1,331 | May 26 | May 25 |
| Los Angeles (program 2) | 220 | (1) | 220 | June 15 | June 1 |
| Detroit (program 1) | 1,225 | (1) | 1,225 | May 29 | May 18 |
| Detroit (program 2) | 6,000 | (1) | 3,500 | June 15 | June 14 |
| Chicago (program 1) | 12,000 | (1) | 6,000–9,000 | June 15 | June 10 |
| Chicago (program 2) | 2,300 | (1) | 2,300 | May 21 | May 21 |

[1] No program.

Comments: "With high summer unemployment Head Start is needed desperately."—Chicago. "Tremendous need for full-day full-year Head Start."—Chicago. "Summer programs long overdue."—Los Angeles.

SCHOOL CLOSING DATES

Detroit, June 12.
Atlanta, June 15.
Baltimore, June 15.
Boston, June 25.
Ft. Lauderdale, June 12.
Dallas, May 29.
Denver, June 4.
San Diego, June 10.
San Francisco, June 11.
Jacksonville, June 4.
Seattle, June 11.
New York City, June 26.
Tucson, June 12.
Toledo, June 12.
Washington, DC, June 19.

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CHILDREN'S DEFENSE FUND,
*Washington, DC, May 14, 1992.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

Hon. ORRIN HATCH,
*U.S. Senate, Washington, DC.*

DEAR SENATORS KENNEDY AND HATCH: The Children's Defense Fund strongly supports your efforts to enable low-income preschool and school-age children as well as teenagers to have constructive summer experiences this summer. An immediate infusion of new funds for Head Start, Chapter I, and Summer Youth programs will allow local communities to begin to provide sorely needed new services.

Currently, fewer than five percent of Head Start programs operate during the summer months. In our conversations this week with Head Start programs across the country, they indicated that they are eager to open their doors to help children, their parents, and their communities. Children will be able to build on the gains that they have made during the year and have a safe haven to spend the summer. Parents who rely on the extra support that Head Start offers will receive a special boost this summer. Finally, jobs will be available for not only teachers and classroom aides but also cooks, bus drivers, and the many others that make a Head Start program work well.

We also look forward to the positive experiences that school-age children will have in programs supported by Chapter I during the long and often empty summer months and the job experiences that so many of our teenagers desperately need. These are dollars well-invested in our children's—and our nation's—future.

Sincerely,

MARIAN WRIGHT EDELMAN,
*President.*

Mr. HATCH. Mr. President, the Senator from Massachusetts and I do not always agree, but today, I am pleased to join him in sponsoring an amendment to the so-called Los Angeles emergency supplemental appropriations bill that would address one of the root causes for the recent violence in that city and in other parts of our country.

I believe that, if we are to learn tolerance for those of other races, creeds, and nationalities, we must reach our Nation's children. They are clearly our future.

An educated citizenry does not resort to destruction and violence. They instigate change through the institutions of a democracy. We must reach children through education.

A citizenry that has a stake in our economic institutions does not burn them down. We must reach teenagers with job opportunities.

Mr. President, the amendment we are proposing will increase the number of children and teenagers that can be served this summer in three existing Federal programs: Head Start, chapter 1, and JTPA summer youth employment. We have estimated that by increasing the appropriations for these programs, an additional 1½ million children and youth can be learning and earning this summer.

Additionally, this amendment appropriates $250 million for the President's Weed and Seed Program, which is designated to help revitalize American neighborhoods through comprehensive and coordinated efforts in the areas of housing, health services, education, job training, law enforcement, and community development.

Mr. President, the efficacy of this approach is threefold. First, no new programs are no new bureaucracies are created. These funds are going directly to where they are needed.

Second, under this amendment, every State would receive additional assistance from these programs. We recognize that even while the news media was focused on Los Angeles, other cities in other States face similar problems. Even in Utah, we are trying to provide constructive alternatives to membership in youth gangs.

Third, this amendment does not preclude consideration and support of other elements of the President's proposals for urban and economic development. I believe these proposals, such as enterprise zones and ownership in public housing, are past due. In addition to supporting programs which have made substantial positive impacts, like Head Start and JTPA, we ought not to neglect good ideas that can work in the future. President has offered a program that Congress ought to debate and pass.

Mr. President, I compliment the distinguished Senator from Massachusetts, once again, for trying to do what really needs to be done. The four programs here, all of which are good, solid programs; all of which, I think, should be supported by Republicans as well as Democrats.

When we see what happened in Los Angeles, and what is about to happen in other cities in this country, because of the despair, futility, and difficulties of people living in large urban and inner city areas, it seems to me this is the least we should do at this particular time.

As a conservative, I think we need to do more in these cities, especially with programs that we know have better than a reasonable chance of being highly successful. I have to say that the summer Head Start program is among the better programs in the Federal Government. We are going to add $250 million for summer Head Start. It is time-sensitive, because 95 percent of all Head Start programs are going to close beginning this weekend. This is a very good program that will help a lot of these children—at least 200,000 more in the inner city—at a time when they may need the help more than at any other time in our country's history.

We add another $250 million to the Chapter 1 summer program. While the Head Start program will take care of 200,000 children between the ages of 3 and 5 years of age, the Chapter 1 summer program will help children between 6 and 18. We are hoping that we can serve 550,000 youths through this program.

Almost every school district in the country is going to close within the next few weeks. We want to provide kids with constructive activities and learning opportunities during the summer. Many school districts, in these very difficult areas, run these types of Chapter 1 programs for disadvantaged students, which, of course, will help these students to grow academically.

I do not know of anyone who would not admit that the summer program under Chapter 1 has been one of our most successful programs.

Then we add $700 million to the JTPA summer youth employment pro-

gram for young people between the ages of 14 and 19 years of age. We are hoping that approximately 500,000 additional youths will be served at a time when they need it the most.

As I have said, the public schools are closing for the summer, and as of June 5, it will be almost impossible to get funds to the States to be able to do this program, and especially to the cities and rural communities where these young people live.

It is critical that we do this, it seems to me, at this time. And we might have a very difficult time in the future, caused by some of these young people who do not have enough to do and do not have enough supervision.

Finally, I think that the Senator from Massachusetts was very gracious in his comments giving the Bush administration credit for the Weed and Seed Program, which has a great deal of merit. That program is a comprehensive, multiagency approach to help alleviate violent crime, drug use, gang activity, or gang warfare in these inner cities; and certainly in high crime neighborhoods we want to weed out these types of destructive activities in our society. We would put $250 million into that. I believe we will get unlimited benefits from this additional money in the Weed and Seed Program. All told, it is about $1.5 billion. If you consider our budget as $1.5 trillion or more, this is a very small percentage of the budget. But these funds and these four programs may do more with that $1.5 billion than tens-of-billions of dollars in some of the other programs that do not teach—that do not invest in these kids' potential.

I hope we can get this up, get it resolved, and get it passed quickly enough to do some good this summer. Hopefully this will be a start toward more progress in the future. I look forward to working in these areas with Senator KENNEDY, as we have in the past, in the best interest of our country as a whole, and certainly our inner cities and our very desperate crime-ridden areas.

Mr. President, I am pleased that my colleague from Massachusetts and I were able to work out this amendment, and I urge all Senators to support it when the time comes for the Senate to act on this appropriations bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my colleague and friend from Utah. As our Members know, the principal programs for which we provide supplemental funding, Head Start programs as well as Chapter 1 and the JTPA programs, are in our committee. We also propose funding for the Weed and Seed Program.

I ask my colleague from Utah, does he not agree with me that, first of all, there is a time sensitivity to these particular programs? I hope that we will persaude the membership to approve this amendment by next week prior to the Memorial Day recess. If not, you can effectively say that these kinds of programs, in the cities this summer, will not take place. So I am asking, does he not believe that a key element of this whole effort is: First, the time sensitiveness of this. And, second, would he not agree with me that this program is really targeted on young people, on the children, in these areas?

I think you will find, even reviewing Los Angeles and the other instances of violence, that you rarely, if ever, find children involved either in the Head Start Program the Chapter 1 program or the summer youth program who are involved in any of the disruption or their parents involved in the disruption.

Would he not agree that our effort is really a rescue effort to those individuals who live in the inner cities and who want to be a part of the whole process of bringing some stability and hope in those communities? Would he not agree with me that the truth is this is time-sensitive and the direction is toward the children? No matter what side of the aisle you are on, recognize that it is really the children and the young people who are going to be key in terms of the cities' future and the Nation's future.

Mr. HATCH. Mr. President, I certainly do agree with my colleague from Massachusetts. This is a very time-sensitive proposal. I do not think we can pick four more beneficial programs for our young people who are the most vulnerable in our society. If we do this now, we may be able to help prevent some of these disasters that have occurred in the past, including the Los Angeles disaster recently.

I do not think we can sit back here and blame all of the people living in the Los Angeles area for what happened there. While I do not think we can justify the criminal actions that occurred there, we can perhaps understand it. Certainly there is no excuse for what happened. But, on the other hand, there are a lot of people who really are downtrodden, who really feel vulnerable and abused and left alone and who really do not know where to turn. Sometimes, in frustration, they participate in some of these activities out of despair. We want to alleviate that. We want to help our young people along at this time in their lives. We do not want our children and youth to believe no one cares.

I just have to say this as one who is strongly pro-life. We just had a major hearing on the freedom-of-choice bill yesterday. I am strongly pro-life. I really believe that abortion should be allowed only in cases when the life of the mother is at risk, or rape, or incest. I do believe even those who believe in the right of choice taper off after you start getting beyond those three.

But you know one thing that bothers me about many people in the pro-life cause is that they want these children to be born, but sometimes they are not willing to do anything about helping them after they are born. I think it is pretty pitiful if we as a society have laws that encourage the birth of children and yet do nothing to help children or families and just stand by while the society itself tears them apart from within.

This particular legislation is not only time-sensitive so programs can be underway this summer, because these funds will do a lot of good across this country for hundreds of thousands of young people, but also the time is crucial if we want to make some headway at this particular time in our society against some of the things that were typified and exemplified by the Los Angeles riots.

I have to say that I agree with my colleague from Massachusetts. This is not just another liberal throw-money-at-it amendment. These programs make human capital investments in our children and youth.

I, for one, have to admit that I wish we had more money for these four programs. I wish we could ask for more money. I wish we could do more for Head Start and these other youth programs, and I wish we could do more to the Weed and Seed Program. It is a great idea and one that may help us with these gang problems, drug problems, and inner city drug problems at a time we have to have them.

I compliment again the Senator from Massachusetts and tell him what a privilege it is when we can agree to work together and to try to bring both sides together to resolve some of these terrible, terrible problems confronting our Nation's cities and States.

This is the appropriate time to do it. If we do not do it now, if we do not do these few minimal things now, then we will lose a lot of these kids this summer, and I think it would be tragic if we lose any of them. We will lose some anyway, but we will save a lot of kids and help a lot of kids down the right path if we will just do this simple legislative enactment before the end of this month so that these funds can be utilized in the best possible way before this summer is over.

Again, I am happy and honored to participate as a principal cosponsor in this measure.

Mr. KENNEDY. Mr. President, I again thank the Senator from Utah. As pointed out in our statement, we will be affecting over 1.5 million children in this country with this program, 1.5 million children, and it will be thousands of jobs for the parents of the Head Start children who will be in that program.

So, as the Senator from Utah has pointed out, these programs have been

evaluated, they have been examined, they have been reviewed. There has been bi-partisan support for them. We debated, at other times, funding levels on them, and we are constantly interested in how they can be perfected and strengthened. We have strengthened the Head Start Program and are constantly trying to do more. We have just strengthened the JTPA Program. We will be reviewing the Chapter 1 Program. But there is no question that these programs have been effective and are really the lifeline for virtually millions of families in this country, and, if we do not do this, we are turning off the light for millions of families.

I am enormously grateful to the Senator from Utah for his strong help and support. He is a supporter of these programs.

I think our principal differences have been on the level of funding for them. We have worked together to try to make these programs effective, and now we are working together to try to reach out to many families who are experiencing hopelessness, despair and a sense of real rejection, to demonstrate that we can deal with the problems of the cities. We are going to be sensitive, first of all, to children in these communities and then move beyond and find ways to create jobs in partnership with the private sector.

I thank my colleague.

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## AVOIDING THE PROLIFERATION OF NUCLEAR ACCIDENTS IN THE FORMER SOVIET UNION AND THE BALTIC STATES

Mr. PRESSLER. Mr. President, outmoded nuclear reactors built around the world by the former Soviet Union and its satellites pose a potentially grave threat to the environment. Compared to reactor safety in this country, problems with Soviet-designed reactors pale to insignificance. No system on Earth has damaged the environment as extensively as Soviet communism.

On July 24, 1991, the Senate approved my amendment to condition assistance to the Soviet Union on radical structural change, including a commitment by the Soviet leadership to begin the rehabilitation of unsafe nuclear reactors. It also required the termination of technology exports that could assist in the production of any VVERS nuclear reactors, including the one in Cienfuegos, Cuba.

The concerns that prompted my amendment are even more timely today. They should be considered as we consider the proposed assistance package to Russia and the other independent states of the former Soviet Union.

I applaud the efforts of President Bush to address serious environmental issues in his assistance package for the states of the former Soviet Union. S. 2532, as introduced, has broadened authority to include research to improve nuclear plant safety in the former Soviet Union. I encourage retention of this section in the final legislation.

Mr. President, I also support the President's proposal to promote investments by United States companies in the energy field in the former Soviet Union. There are unique opportunities for the United States business community to play a significant role in modernization of the energy sector of the former Soviet Union and Eastern Europe.

However, at present, the U.S. Government is prohibited from exporting nuclear energy technology by what I consider an outdated provision of law. U.S. companies can be competitive in the field of environmental safety and cleanup. However, they are prohibited by section 510 of the Foreign Operations Appropriations Act from receiving any U.S. assistance, including feasibility studies and safety surveys that will provide information U.S. companies need for potential export of nuclear equipment or safe technology.

Mr. President, if the United States does not provide the technology the Germans, the Japanese, or the French will be more than willing to do so. For example, I recently learned from officials from Belarus that Japan has done much of the study of the effect of Chernobyl in Belarus. They found that one-quarter of Belarus is so badly contaminated that people, with children most affected, live with radioactivity levels 10 times higher than normal.

The Japanese could see a use for their medicines, their medical know-how and their nuclear reactor safety equipment in the future. They were prepared to make an initial investment.

The United States is in danger of being left out once again of another potential market. Congress should delete this counterproductive prohibition as soon as possible.

Mr. President, the release of iodine and radiation on March 25, 1992, from the nuclear reactor at Sosnovy Bor, west of St. Petersburg, was frightening. Unfortunately it should come as no surprise. Unsafe RMBK-type reactors, identical to the Chernobyl model and other unsafe VVERS-type reactors, often are operated beyond their designed life expectancy. Dozens of them are located throughout the former Soviet Union and Eastern Europe.

Shockingly, Mr. President, completion of two Soviet-made VVERS-type reactors is on schedule at Cienfuegos, Cuba. Any one of these reactors has the potential to unleash a nuclear catastrophe worse than the 1986 Chernobyl tragedy in Ukraine.

We should be looking closely at what is happening in Cuba, because this could affect the United States, especially Florida and other adjacent States.

Another leak of radioactive materials may be far more menacing than the threat of nuclear weapons proliferation. No one can be certain how widespread the effects of the March accident were or whether the problem has been rectified. The Estonian Government, quite justifiably, has called for greater disclosure of the actual amount of radiation emitted and also for the closure of the Sosnovy Bor reactor.

The incident at Sosnovy Bor was only one in a chain of recent accidents and near accidents. People in Lithuania, Ukraine, and Russia live in constant dread of another nuclear meltdown. Mr. President, they have every reason to be terrified.

On October 11, 1991, a fire swept through the Chernobyl reactor station. One of the three reactors was shut down several times, but the other two remain operational. Radiation may or may not have been released. In February of this year, the nuclear reactor in Ignalina, Lithuania, was shut down several times for safety reasons. In all, atomic energy officials report almost 300 temporary shutdowns across the former Soviet Union last year for safety reasons.

These reactors were built without concern for safety by the Soviet Communist regime and its allies in Eastern Europe. They do not have containment structures that have helped prevent accidents in the West and which are standard in our country.

These near disasters have prompted technicians and scientists to leave their jobs and move their families as far away as possible from the health risks associated with these plants. As the technicians who patched these reactors over the years leave, the risks increase that a nuclear disaster will occur. Other technicians have complained that the reactors lack the spare parts and fuel needed for safe use.

Even though they are faced with such grave risks, new governments cannot afford to close down the reactors which supply most of their energy. In Eastern Europe and the Baltic States, the only alternatives are oil or coal, bought at world market prices they cannot afford. These carry their own associated environmental risks.

I ask unanimous consent that two articles from the Washington Post and one from We, a Russian-American newspaper, explaining the difficult predicament of the Eastern European nations, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. In 1990, the United States and the Soviet Union signed an agreement on "scientific and technical cooperation in the field of peaceful uses of nuclear energy." This agreement authorizes the Department of Energy, the Nuclear Regulatory Commission, and other relevant agencies to cooperate in 12 specific areas with the

former Soviet Union. It also provides for a bilateral meeting once a year.

But, Mr. President, dissolution of the Soviet Union has made this agreement an anachronism. In my view, the administration should renegotiate this agreement with each of the new states of the former Soviet Union. Priority should be given to those states with unsafe nuclear reactors on their territory.

I urge President Bush to negotiate agreements on peaceful uses of nuclear energy with Estonia, Latvia, and Lithuania. These agreements could form the basis of bilateral working groups that would undertake comprehensive studies of the hazards associated with these reactors. These bilateral working groups should meet on a continuing basis.

I also advocate greater cooperation between various United States Government agencies and the International Atomic Energy Agency to provide technical assistance in the field of energy to the Baltic States and other countries of the former Soviet Union.

The Department of Energy, the Nuclear Regulatory Commission, the State Department, the National Security Council, and the Environmental Protection Agency are involved individually in various aspects of providing this technical assistance. They should coordinate their efforts in order to achieve a comprehensive approach to these real environmental concerns.

I also urge the inclusion of the Trade and Development Program [TDP] in these multiagency and other efforts. Over the last few years, the TDP has taken important steps in the areas of energy and the environment, with a view toward bringing U.S. companies and products to the nations of Eastern Europe. Working step by step with the U.S. private sector in areas where the United States can be competitive but has been prohibited in the area of nuclear energy, I have joined several of my colleagues in requesting that the U.S. Congress Office of Technology Assessment [OTA] undertake a study examining the potential benefits and risks of transferring U.S. energy technology to those countries. I am pleased to report that OTA will prepare a report on this topic and ask unanimous consent that the letter requesting and explaining the study be printed in the RECORD immediately following my remarks.

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

(See exhibit 2.)

Mr. PRESSLER. Mr. President, the people of the former Soviet Union also face a myriad of nonnuclear environmental terrors. High levels of toxicity in the water supply, increases in diseases such as typhoid, cholera/ and dysentery, substantial increases in deaths related to cancer, and high infant mortality represent only part of the legacy of Soviet mismanagement. U.S. technology and medical expertise could and should play a role in addressing these public health and environmental concerns.

Mr. President, the steps I have outlined should not require additional appropriations. Following these recommendations potentially can save the lives of millions of people. These actions are also real ways to cement long-term, favorable relations with former Communist states. It is important for the United States to assume an active, effective leadership role on these environmental issues in the former U.S.S.R.

EXHIBIT 1

[From the Washington Post, Mar. 8, 1992]

DECREPIT NUCLEAR PLANT PUTS BULGARIA IN BIND

SOFIA, BULGARIA.—The highest-paid civil servants in the bleak new world of democratic Bulgaria are not judges or ministers or even the president. They are nuclear power plant operators.

As of this winter, senior technicians at Bulgaria's Kozloduy power station—described by the International Atomic Energy Agency as "far and away the worst" it has ever inspected—were given a tenfold salary increase. They now make between $800 and $1,000 a month, big money in a country where the average monthly wage is $54 and more than twice the pay of Bulgaria's president.

The raise is meant to stop operators from moving away from a plant that they say is dangerous. It is part of a crash program to create a "safety culture" at a Soviet-designed nuclear facility that has had at least 31 fires in the last five years. For the first time in the agency's history, the IAEA recommended last year that Bulgaria shut down the four oldest reactors at the plant on the Danube River.

Bulgaria's predicament has echoes elsewhere in Eastern Europe, where power alternatives are few, money is short, and aging nuclear plants of Soviet design do not come close to meeting Western safety standards.

Czechoslovakia has two reactors of the same model as Kozloduy. That country also has rejected West European demands to shut them down. The Prague government, after first saying it would phase out the plants, has since said it cannot afford the alternatives, with new reactors being too expensive and coal-fired plants too polluting.

Instead, Czechoslovakia is launching a short-term crash program, to be completed this summer, and a medium-term overhaul, to be completed over three years, that will cost an estimated $200 million. The Prague plan is to keep the Soviet-style reactors running until 2005.

Czechoslovakia has well-trained nuclear operators, according to the IAEA, and the agency says the planned upgrade there should substantially reduce the risk of a nuclear accident.

In the former Soviet Union too, four Kozloduy-style reactors—which are particularly dangerous because they lack containment structures and could have a core meltdown if the main coolant pipe were cut—are better maintained and present less of an accident risk than in Bulgaria, according to a recent IAEA inspection report.

At the Bulgarian plant, besides a lack of accident-containment structures, inferior monitoring instruments and limited emergency core-cooling capacity, the agency found the reactors to be dirty and cluttered with rusted junk. It also cited exceedingly lax safety practices. Wiring to emergency equipment, for instance, was hung over sharp metal corners.

One foreign inspector fell through a hole in a ladder at the plant and badly bruised his leg. His Bulgarian guide told him, according to an IAEA report, "that others had fallen through that hole."

The Bulgarian government reluctantly responded in December to the shutdown request by turning off two of the four reactors. The shutdown means that Bulgarians are spending their second consecutive winter with regular power outages. For days on end, the whole country endures two hours on, two hours off.

Pointing to what they warn will be "social chaos," Bulgaria politicians and power officials are categorically refusing to shut down the other two troublesome reactors. By doing so, they have garnered headlines in Austria, France and Germany about "Europe's Chernobyl," a reference to the reactor in Ukraine that ruptured in 1986, causing the world's worst nuclear disaster.

Perhaps to a higher degree than any country in the world, Bulgaria depends on a single nuclear plant for its electricity, having few other sources of energy, such as oil, coal or hydroelectric generation. Russia pulled the plug in December on subsidized electricity, and Ukraine has stopped sending coal for thermal power plants. Nor does Bulgaria, an impoverished Balkan nation that stopped paying interest two years ago on its $12 billion foreign debt, have the money to pay for a major overhaul of Kozloduy.

"There is no way out. We have 8.5 million people who depend on nuclear for more than 40 percent of their electricity. If we want to live for the next five years, we have to live with nuclear power," said Yanko Yanev, a nuclear physicist who became Bulgaria's chief of nuclear safety six months ago.

"Bulgaria's safety culture, as of last year, was far and away the worst of those we have reviewed," said David Kyd, director of public information for the Vienna-based IAEA.

Nuclear-power specialists emphasize, however, that while the maintenance and safety problems at Kozloduy are extremely serious, the four oldest and most unsafe reactors at Kozloduy are of a significantly different and inherently safer design than the graphite-based reactor that ruptured at Chernobyl.

Kyd said that, fortunately, the old reactors in Bulgaria were built with substantial room for operator error. "They are extremely forgiving, with small amounts of fuel and large amounts of water," he said.

But why did Bulgaria's nuclear program, to a degree unmatched in Eastern Europe, spawn a facility that appalls nuclear power experts?

According to Yanev, Bulgaria's new nuclear czar and an outspoken scientist who is trying to radically change safety standards at Kozloduy, the problem was twofold.

"For 17 years there was an attitude in the government that I would call pro-, pro-, pro-production. If there was a safety problem, if some system did not pass a test, nobody would shut anything down and the plant would continue to produce. Everything was secret," said Yanev.

After the palace coup that toppled longtime dictator Todor Zhivkov in November 1989, a post-Communist pall descended on the nuclear power plant, Yanev said.

"It was economically and psychologically demoralizing for these operators, many of

whom are highly trained people. They were making 10 times less money than taxi drivers in Sofia," he said.

"In the old system, these people would not have been allowed to quit. * * * But last year good people, experts that you cannot substitute for, started to leave the plant. They complained, "Why the hell should I put up with all of this for nothing?" Yanev said.

Large salary increases this winter have stanched the leakage of expertise from Kozloduy, according to Yanev, who said that recently there has been a "backflow" of job applications from several engineers who quit last year.

Safety specialists at the IAEA, the World Association of Nuclear Operators and the U.S. Nuclear Regulatory Commission have noted that safety standards and management practices at the Kozloduy have improved sharply in recent months.

For the first time in Bulgarian history, at Yanev's insistence, reactors are being brought out of service whenever they fail to meet routine safety checks.

Still, Bulgaria needs money that it does not have to upgrade instrumentation and safety equipment at all six reactors at Kozloduy. According to Yanev, about $100 million is needed

Thus far, the European Community has granted about $13 million for a six-month emergency program. Another $8 million has been made available for foreign purchases of electricity.

But Kyd, of the IAEA, noted that even as Western nations complain about the danger of an accident at Kozloduy, they are unwilling to come up with the money necessary to allay their own fears. Kyd said there is more interest in giving jobs to unemployed Russian physicists than in solving power-plant problems.

Bomb-making scientists "get politicians excited," Kyd, said. "But if you tell them that Bulgaria has a nuclear plant that has to be patched up, they will send in a team of experts. Bulgaria is deluged with experts. But there is no money."

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[From the Washington Post, Apr. 27, 1992]

CHERNOBYL'S SHAMELESS LIES; EX-ENGINEER DENOUNCES OFFICIAL HISTORY

(By Michael Dobbs)

For the last six years, Anatoly Stepanovich Dyatlov has been haunted by the memory of nuclear catastrophe.

Dyatlov, tall, thin and looking older than his 62 years, was the engineer in charge of reactor No. 4 at the Chernobyl nuclear power plant when it exploded six years ago yesterday. In the eyes of the Soviet justice system, he personally bears much of the responsibility for the world's worst nuclear disaster. Soon after the catastrophe, he was found guilty of criminal negligence and sentenced to 10 years in prison.

According to the official version of events, Dyatlov violated the most elementary safety precautions on the night of April 26, 1986. Anxious to complete a scientific experiment that had been ordered by Moscow, he bullied his subordinates into taking unnecessary risks. His incompetence—combined with mistakes by other Chernobyl employees—led directly to the destruction of the reactor and the spewing of radioactive particles across a wide area of Europe.

Seated in the living room of his apartment in Kiev, 18 months after his early release from prison as part of a general amnesty for Chernobyl officials, Dyatlov tells a quite different story from the official version. He said he and other Chernobyl operators were made scapegoats for the designers of a dangerously unstable reactor. In his view, blame for the disaster rests entirely with the leaders of the Soviet scientific establishment and their political patrons.

"I found myself confronted with a lie, a huge lie that was repeated over and over again by the leaders of our state and simple technicians alike. These shameless lies shattered me," said Dyatlov. "I don't have the slightest doubt that the designers of the reactor figured out the real cause of the accident right away but then did everything to push the guilt onto the operators."

The details of that night—especially the moments before and after the first explosion at 1:24 a.m.—are ingrained in Dyatlov's mind. He drew a diagram showing who was standing where in the control room when a sudden power surge caused a huge increase in steam pressure in the reactor, leading to a series of explosions.

Of the dozen or so people in the control room, five died agonizing deaths from radiation burns in the days, immediately after the disaster. Dyatlov himself received a potentially fatal dose of radiation and is now a permanent invalid, finding it difficult to walk more than a few steps without exhausting himself.

Measured by the amount of contamination it produced, the Chernobyl explosion was equivalent to more than 10 of the atomic bombs dropped on Hiroshima. According to the Ukrainian health ministry, 6,000 to 8,000 people have already died as a result of being exposed to heightened radiation. Hundreds of thousands of people living in northern Ukraine and southern Belarus have been evacuated from their homes.

As he told his story, the former deputy chief engineer of the Chernobyl plant smoked one cigarette after another, as if oblivious to further health hazards. At the same time, however, Dyatlov obsessively picked pieces of dust off the table, a habit acquired by many Chernobyl evacuees struggling against the presence of decaying radioactive isotopes. He paused frequently to cough or collect his thoughts.

"If I had known then what I know now about what kind of monster this reactor was, I would never have gone to work at Chernobyl. And not only me. Nobody would have worked there," he said.

The immediate chain of events that led to the Chernobyl explosion began with a routine experiment. Dyatlov and his superiors wanted to see whether the reactor could operate under electricity generated by its own turbines. The purpose of the experiment was to produce a backup source of electricity to keep the reactor going in the event of a general power failure.

Several safety features that could have interfered with the test—including the emergency water cooling system—were deliberately switched off. Soviet nuclear safety officials accused Dyatlov and other operators of failing to take a number of other precautions that would have prevented the fatal power surge.

To this day, Dyatlov insists that he did everything right. Flatly contradicting the official account, he says that the atmosphere in the control room was completely normal right up until the destruction of the reactor. No one felt the slightest sense of impending danger. The explosion occurred as the reactor was in the process of being closed down following completion of the experiment.

Dyatlov's first thought was that a gas tank must have exploded on the roof. The blast destroyed the ceiling of the control room, bringing piles of plaster down onto the machines below. Instrument panels flickered wildly. "Everyone to the reserve switchboard," screamed Dyatlov, referring to a second control room just down the corridor for use in an emergency.

Seconds later, he countermanded his own order. Computer readouts showed that the turbine pressure was zero, meaning that steam from the reactor was no longer turning the turbines. Pressure in the water channels was also zero, meaning that cool water was no longer being pumped through the reactor. Most alarming of all, the panel showed that the power in the reactor was increasing wildly when it should have been decreasing.

"I thought my eyes were coming out of my sockets. There was no way to explain it," recalled Dyatlov. "It was clear that this was not a normal accident, but something much more terrible. It was a catastrophe."

In Chernobyl-type reactors, the nuclear reaction is controlled by the lowering of dozens of neutron-absorbing rods into the reactor core. Unfortunately, the rods were designed in such a way that the absorbent part is in the middle. When the tip of the rods entered the core, they displaced water, producing a small but significant surge of power. Combined with a number of other circumstances, this surge of power was sufficient to trigger the explosion.

Exactly what happened in the Chernobyl control room may never be known. Several of the key actors, including the shift foreman, died shortly afterwards. Other people in the room were absorbed in their own tasks. Dyatlov may or may not be telling the entire truth about events leading up to the explosion. But it seems clear that neither he nor anyone else considered the possibility that a device that was meant to close down the reactor would have the opposite effect.

It has since been established that the reactor exploded before the control rods could fully descend into the core. But the operators did not know that at the time. Their first reaction was to try to lower them by gravity. Nothing happened. Dyatlov then ordered two young trainees to the reactor hall to pull the rods down manually. It was a decision he now bitterly regrets.

"When they ran out into the corridor, I realized it was a stupid thing to do. If the rods had not come down by electricity or gravity, there would be no way of getting them down manually. I rushed after them, but they had disappeared," he said.

The two trainees, Viktor Proskuryakov and Aleksandr Kudyavtsev, both received lethal doses of radiation and died agonizing deaths. When they reached the devastated reactor, wearing no protective clothing, they found no trace of the control rods. By the time they returned, their entire bodies were covered with a brown nuclear tan.

Dyatlov, meanwhile, decided to inspect the turbine hall below the other side of the control room. He was greeted by a scene of unimaginable devastation. Flames were leaping up through huge holes in the ceiling. Water was spurting in different directions, spilling over the machinery. There was a constant clicking sound from short circuits. Great chunks of roofing had fallen onto the floor, puncturing oil tubes that immediately exploded into flames.

From above, Dyatlov could see people rushing around helplessly with fire extinguishers. Professional firefighters were later summoned from the nearby towns of Pripyat and Chernobyl, and even Kiev. Showing tremendous heroism, they managed to get the fire under control by dawn, but at terrible

cost. That first night, 27 firemen were hospitalized with horrifying burns.

The air was thick with radioactive dust, which created a burning sensation in the chest and lungs and a tightening of the skin. The figures on the radiation measurement instruments flickered off the scale. More powerful instruments were locked up in the safe, on the assumption that they would never be needed. Protective clothing was nowhere to be found.

Realizing there was nothing to do in the control room, Dyatlov took a walk around the damaged reactor. He recalled coming across Anatoly Kurguz, a worker from the reactor hall, whose face was covered with blisters hanging down like pieces of dead flesh. Two entire walls of the reactor hall were missing. It was during this walk that Dyatlov received the greater part of his own potentially lethal dose of 550 rad.

By 4 a.m., Dyatlov had had enough. He grabbed three computer printouts from the control room and took them to Viktor Bryukhanov, the director of the Chernobyl plant. Bryukhanov later reported to Moscow that the reactor was still intact, a myth that persisted for many hours and caused a fatal delay in the evacuation of the plant and the surrounding area.

"I don't know how he reached that conclusion. He did not ask me if the reactor was destroyed—and I felt too nauseated to say anything. There was nothing left of my insides by that time," said Dyatlov.

Unlike the operators of the Chernobyl plant, six of whom were sent to prison for their part in the disaster, the designers of the reactor were never punished. The principal designer, Anatoly Aleksandrov, a past president of the Soviet Academy of Sciences, still refuses to concede that there was anything wrong with his reactor.

Communist Party leaders who covered up the scale of the disaster and lied about the number of casualties also have escaped punishment. A week after the catastrophe, Kiev residents were ordered to attend a May Day parade in the center of the city to show the world that everything was normal, even though the wind was blowing directly from Chernobyl.

Documents published last week by the now independent newspaper Izvestia show that party leaders from Mikhail Gorbachev down concealed the danger to the civilian population from Chernobyl. Soviet leaders effectively denied medical care to tens of thousands of people living in contaminated areas by secretly decreeing a 10-fold increase in the amount of radiation considered safe. They also permitted meat and milk from the contaminated area to be mixed with produce from other regions.

"What happened after Chernobyl was what always happens in these cases. The investigation was carried out by the very people who were responsible for the faulty design of the reactor," said Dyatlov. "If they had admitted that the reactor had been the cause of the accident, then the West would have demanded the closing down of all other reactors of the same type. That would have dealt a blow to the whole of Soviet industry."

Western experts were at first inclined to accept the Soviet explanation that operator error was chiefly responsible for the Chernobyl disaster. But a recent report by the International Atomic Energy Agency in Vienna pinned most of the blame on a series of fundamental flaws in reactor design.

Since the Chernobyl disaster, some of these flaws have been corrected. The design of the control rods has been improved so that they can no longer cause a sudden power surge as they did at Chernobyl. But dozens of other problems remain, and the 15 other Chernobyl-type reactors still fall far short of Western safety standards.

Last month, a Chernobyl-type reactor near St. Petersburg was temporarily shut down following a leak of radiactive gases. A sticky valve shut off cooling water in one of 1,661 pressurized fuel tubes that run through the graphite core of the reactor. Dyatlov fears that a multiple tube failure could lead to a disaster on a similar scale to Chernobyl.

"The statistics show that a multiple tube failure is highly improbable. But the people who are telling us this are the same people who lied about Chernobyl. So why should we believe them?" he asked.

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[From We, April 1992]

NUCLEAR DANGER IN REPUBLICS

(By John P. Wallach)

WASHINGTON.—The U.S. official in charge of regulating America's nuclear energy industry warns that more incidents such as the one March 24 at St. Petersburg—and even like the one in 1986 at Chernobyl—can be expected unless 16 unsafe reactors in Russia, Ukraine and Lithuania are shutdown.

"The 16 Chernobyl-type reactors (11 in Russia, 3 in Ukraine and 2 in Lithuania) are collectively an enormous hazard and should be shut down because they are by far the most vulnerable reactors in the world," said Dr. Ivan Selin, the chairman of the U.S. Nuclear Regulatory Commission (NRC).

Selin told We/Mbi in an exclusive interview that the two reactors in Lithuania, which are the newest version of the RBMK graphite-moderated reactors, "do not pose as big a fire hazard."

But, he said, "they are still basically unsound. They are not of the oldest technology, but the Soviets kept building the basic RBMK technology (which relies primarily on graphite rather than water as a moderator), and it is not only outmoded but dangerous."

The NRC chief also said the threat of an accident at one of the three remaining Chernobyl reactors is "at least half as great" as it was in 1986 before the first meltdown there. He said the Chernobyl site also remains a "huge fire hazard."

Selin joins both Otto Lambsdorff, head of Germany's Free Democratic Party, and the German Society for Reactor Safety in calling for a shutdown of the 16 RBMKs, or High-Power Channel Reactors.

Even before the minor leak at St. Petersburg that allowed the escape of a small amount of radioactive gas, Lambsdorff noted that several of the RBMK reactors were near metropolitan centers, such as St. Petersburg and Kiev, and can be a "mere 50 miles, as the wind blows," from Western Europe. He added prophetically: "They can explode any day."

Heinz-Peter Butz, the spokesman for the Cologne-based Society for Reactor Safety, told Business Week: "The fact that all Soviet reactors are unsafe is without doubt. But the RBMK reactors are the worst."

The RBMK reactors, which account for 16 of the 41 Soviet-built reactors and produce 40 percent of all nuclear-generated electricity in the Commonwealth, were constructed during the Cold War at a time when safety wasn't the prime consideration, Selin said.

The Kremlin, he pointed out, wanted breeder reactors that could generate huge quantities of electrical power while also being able to produce plutonium for nuclear weapons. Selin acknowledged that efforts have been made to repair some of the basic design flaws.

"But nothing has basically changed at Chernobyl," Selin said. With three reactors still operating there, "they could have another big accident there tomorrow or next year," adding that "sooner or later something has to be done about the reactor that blew up."

The NRC chief, who visited Chernobyl and the sites of the other reactors last fall, said the one that caused the explosion on April 26, 1986, "still has a highly radioactive core which will leak into the ground and cause the ground water to be highly radioactive for decades to come."

Selin said he is particularly worried because the 16 RBMK reactors "share the same fundamentally unstable physics which are unique to the Chernobyl-type reactors. They have only a rudimentary safety system, plus they have a basic instability called positive reactivity."

He explained that "in any other reactor, if the reaction starts to run away; in other words, if the reaction starts to produce more heat than you want, the heat reduces the efficiency of the reaction and the reaction tends to slow down."

"In the Chernobyl-type reactors, there is a fundamentally different design—the hotter it gets, the more efficient the reaction gets and therefore it gets even hotter and runs away, causing a meltdown like the one at Chernobyl," he said.

Asked about the Canadian reactor CANDU, which Russian sources said also has the same design flaw but doesn't have instability problems, Selin said: "CANDU is a completely different reactor. It relies on heavy water as a moderator, not graphite."

"It's not the same technology at all."

Russian sources also insisted that modifications have been made at the Chernobyl reactors and that the security systems have been changed, thus reducing the danger.

Selin said these safety steps do not go far enough. "The proper statement is that all 16 still have positive reactivity, some worse than others, and none of them have Western-standard emergency systems for containment. They do not meet international standards of safety."

Selin said there are a number of short-term steps that can reduce the danger, but the measures would help only "marginally." He said he would help implement the measures if requested to do so and acknowledged that it cannot be done overnight.

"They should close the plants. In order to close them, however, somebody's going to have to do something about alternative sources of energy. The price of electricity should be raised so there's more conservation and therefore less demand," he said.

Conceding that would take most of the next decade, he said the "midterm, 10-year objective" should be "short-term safety support coupled with economic and energy reform so the dependency on these reactors can be overcome."

Selin said "there are certain things we could help them with, including fire safety and installing better computers and simulators so that the operators can be better trained."

He also volunteered U.S. help in making "technical improvements to the control rods, the devices that actually control the reaction so that they could react much more quickly in case the system tended to run away."

As far as fire safety is concerned, Selin said the NRC could help in "making sure all cable is shielded; that hot spots are insulated and that certain construction is redone,"

particularly the replacing of tar roofs where the main turbines are situated.

"But the main thing they need is money," Selin said. Nuclear power companies such as Siemens and Asea Brown Boveri recently called for the closing of RBMK plants and for the creation of a $7.5 billion western fund to refit other reactors in Russia.

"The trick," said Selin, "is to be able to afford them (the nuclear reactors) at a lower power level so that they have more margin and they're not pushing the envelope."

Selin also disclosed that Armenian officials, in an effort to secure their energy independence from Azerbaijan, recently asked the U.S. government for help in restarting two dormant reactors—even though they are in a seismic zone prone to earthquakes.

Asked about Russian assertions that it will take a long time to get the two reactors restarted, plus cost a lot of money, Selin said: "The Armenian officials have told us they are well preserved and they may not take too long to start, a year or two at most."

Selin said the Bush administration is receptive to the Armenian request because it is sympathetic to Armenia's plight in the wake of Azerbaijan's cutting off its energy supplies. "It's hard to argue with them," Selin said.

"Their alternatives are so dismal they are willing to take the risks of a reactor accident because they have no prospects (as Azerbaijan does) of getting natural gas or importing electricity from Turkey."

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[From We, April 1992]

RUSSIA GETS A SCARE AT ST. PETERSBURG

(By Alexander Anichkin)

MOSCOW.—Vladimir Asmolov, one of the leading Russian authorities on atomic energy safety, is afraid the next reactor accident in Russia will be worse than the one March 24 near St. Petersburg.

"The scenario of the recent Leningrad accident was foreseen by our specialists," he said. "But it is not possible to say this about hundreds of other possible scenarios."

According to Asmolov, RBMK reactors "conform neither to current Russian safety regulations, nor to international ones."

Moreover, the shortcomings are, as a rule, failures to comply with the 1982 regulations made in the relatively lax pre-Chernobyl era.

Standards have become much tougher since then.

As a technical specialist, Asmolov agrees with United States Nuclear Regulatory Commission chairman Ivan Selin that all RBMK-type nuclear energy stations should be closed, although he disagrees with Selin's evaluation of the effectiveness of increased safety measures that have been phased into effect.

"There are two possible options for dealing with RBMK reactors," he says.

"One: You can continue to use them at 100 percent capacity, or two: You can phase them out."

Phasing the plans out would include an individual approach, as each station is different from all the rest.

Technical experts, he says, presented government authorities with all the information necessary for the choice of one of the two options. What remains to be made is a political decision in which it will be necessary to weigh the risk of a nuclear accident with the risk of a social explosion due to a large decrease, in some areas by almost 50 percent, in the production of electricity.

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, April 9, 1992.*

Dr. JOHN H. GIBBONS,
*Office of Technology Assessment, Washington, DC.*

DEAR DR. GIBBONS: We are writing to request that the Office of Technology Assessment undertake a study of energy production and use in Eastern Europe and the former Soviet Union, examining the potential benefits and risks of transferring U.S. energy technology to these countries.

In our view, such transfers could prove valuable in several respects. First, energy technology assistance could support economic and political reforms in Eastern Europe and the former Soviet Union. Limitations on energy services can significantly constrain economic growth. Appropriate energy technology assistance could enhance prospects for such growth. Moreover, many of these countries are, to varying degrees, dependent on energy supplies from Russia. Increasing these countries' efficiency in energy production and use would increase their freedom of action in political and economic decisions.

Second, Eastern Europe and the states of the former Soviet Union present a potentially large market for U.S. energy technology. A study which links technological needs in this area with technologies the United States can supply would provide a useful basis for designing U.S. assistance strategies and may prove useful to companies themselves. Related impacts on U.S. exports and jobs should also be studied.

Third, energy technology assistance could reduce environmental impacts associated with energy use and production. The devastating human and economic consequences of poorly designed, constructed, and operated energy supply systems have already been well documented.

Finally, transfer of technology could help improve safety in these countries by reducing their reliance on existing nuclear facilities which most experts agree are outmoded and dangerous.

We request the OTA to undertake a study of these issues and such other related issues which, in consultation with the Committee staff, the OTA believes is relevant to this request. For further information, please have your staff contact Steve Polansky, Dave Hafemeister, or Michael Hathaway on the Committee's staff.

Sincerely,

Claiborne Pell, Chairman, Joseph R. Biden, Jr., Chairman, Subcommittee on European Affairs; Jesse Helms, Ranking Member, Larry Pressler, Ranking Member, Subcommittee on European Affairs.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I ask unanimous consent to proceed as though in morning business for not to exceed 10 minutes.

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

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## CONFRONTING THE GLOBAL WARMING THEORY DIRECTLY

Mr. SYMMS. Mr. President, as you know, the United States is preparing to go to Rio de Janeiro in a few short weeks for the much-touted "Earth summit." The taxpayers, of course, will be asked to fund this effort. I am not just talking about the trip, Mr. President, but I am also talking about the results of any agreement that may be signed in Rio. The taxpayers will fund the trip, but that will be peanuts compared with what may come of an agreement that could impose enormous costs on the working men and women of the United States of America.

I understand that the world's industrial nations reached a compromise in New York last week on a treaty that is aimed at reducing the threat of global warming—that is if there actually is a threat—but the negotiators, thank heavens—and I think President Bush deserves the credit for this—stopped short of setting "targets and timetables." The treaty does, however, include a general commitment to national plans to limit carbon dioxide and other "greenhouse" gases.

The new treaty language, Mr. President, requires governments to submit national plans within 6 months of the treaty signing—showing how they will keep year 2000 $CO_2$ and associated greenhouse emissions down to 1990 levels. I submit that any attempt to stabilize U.S. emissions of $CO_2$ will have an adverse impact on our domestic economy. In fact, our distinguished colleague from Tennessee, Senator GORE, was on the floor the other day, saying that we will have to keep our growth rate at no more than a 2-percent level between now and the year 2000 in order to achieve those goals.

This is devastating to low-income and middle-income American people who need more jobs and more opportunity with a growing economy.

Monday, there was an op-ed piece in the Washington Times. I want to quote briefly from Peter Samuel's good article. He said some things somewhat more critical of the President, maybe, than were deserved. But I think he was right on target regarding what the results would be once the President announced that he would go to Rio.

Of course, what happened, as we saw, the President's critics who were criticizing him for hesitating about going to Rio immediately came to the Senate floor and started criticizing the President because he was going to Rio but he was not going to sign a far-reaching-enough treaty.

Let me quote briefly from some of the things Peter Samuel said. He made the point in this whole global warming question that we need to be discussing some fundamental principles. What we need is a "fearless discussion of science and data." To that end, we need to point out the following facts.

This is the way it is, Mr. President.

The overwhelming factor in climate change is the intensity of the Sun which varies with Sun spot cycles. There is a myraid of evidence, by looking at core drillings of the glaciers,

that there have been climate changes throughout time, as long as this Earth has existed. There have been some climate changes over a gradual period of time: It has gotten colder and warmer, cycle after cycle.

The enhanced greenhouse effect theory is just a theory that performed poorly in explaining past climate change and is therefore likely to perform as badly in predicting the future. Our best science cannot predict what the weather will be next week, much less 10 years from now.

Mr. President, I might just mention the fact to my colleagues, when they hear the scare tactics and the fear mongers screaming about global warming and the threat that it is, thank God we have a greenhouse effect on planet Earth or it would be 212 degrees Fahrenheit today as we stand here with the Sun shining on us. And tonight it would be 212 degrees below zero when the Sun is on the other side of the Earth. So without the greenhouse effect, this would not be a very habitable place.

Another point that Mr. Samuel made was that stabilization of the global climate is probably beyond humankind's power to achieve because climates have always changed. And, also, it happens not because of what people do, but because of physical events on the planet Earth, or on the Sun. Earthquakes, volcanoes, and Sun spots are changes that impact the Earth's climate.

Another fact, Mr. President, that has been in much dispute, is that warming is no more likely to occur over the next 100 years than cooling because we are near the end of an interglacial period.

It was only a few short years ago I was in the other body as a member of the House Agriculture Committee. We heard testimony after testimony from some of the same people who today are scaring the public about global warming, who were then saying we are going to have the glacial caps extend down in the Northern Hemisphere of this Earth, we will not be able to produce the grain to sustain life for us, and we are going to have massive starvation by the early part of the next century because of global cooling, not global warming. The same people were making those charges. They can scare people about it becoming too cold, and then they can turn around and scare them about it becoming too hot.

Humankind has proven its adaptability to climate change in the past and it can adapt to it in the future so long as it does not succumb to hysteria and antiscience in matters of public policy and allow the economy and technology to be bound up by bureaucratic planning based on fear and emotion instead of facts, reality and sound science.

Mr. President, in almost—and I emphasize almost—every case, environmental problems are best solved by those closest to the problem; by the people who are most affected, by the people who have to provide the resources, by the people who have to provide the resources, by the people who understand the problem. We simply do not understand global warming. The scientific community does not agree that a problem even exists. They do not even agree that there is a problem.

The scientific community does not agree that there is a problem, and here we are elevating the problem to global proportions. This is a perfect example of the pitfalls of trying to conduct public policy before the sound science has been perfected and developed.

I agree with Mr. Samuel, again, when he said that we need to cite the majority of scientists who dismiss the catastrophic theory of greenhouse effects. We need to give prominence to the views of distinguished scientists who have always opposed it, including Richard Lindzen, who, by the way, testified last week before the Energy and Natural Resources Committee; Robert Balling, William Nierenberg, Fred Singer, Fred Seitz, Patrick Michaels, and Sherwood Idso. We also need to note a growing number of new skeptics among the top scientists, and we need to draw attention to the enormous cost of carbon suppression and the bad precedent it would set.

Mr. President, one thing the United States has a lot of is coal. Some of the countries who have been pushing for rigid requirements imposed on carbon production have little or no coal and a vastly inefficient industry. And, so, they do not give up as much because they are moving rapidly into nuclear power, which is much cleaner than the burning of the carbon fuels.

What happens is, with the United States being a country that has one of the biggest supplies of low sulfur, inexpensive coal in the world, we would give up a lot where some of our competitors would not, giving them a competitive advantage.

Mr. President, I would like to make another point. The United States is spending $1.4 billion on global climate research this year. That is as much as all other nations of the world will spend—$1.4 billion. And it takes us back to the taxpayers. They will send a delegation to Rio. They are generously funding global climate research. They have funded all the U.S. preparation leading up to the summit. And I am asking for a full accounting of that cost and an accounting of what it will cost to get involved in any treaties.

I have long held the view that a robust economy is what protects our environment. The wealthier people are, the more they can afford to take care of the environment around them. Just look around the world and ask yourself which countries have made the most environmental progress. They are the countries with the strongest economies where citizens can own property and expect private property rights to be protected.

As we move forward in debate I hope we take a long, hard look at the potential impacts $CO_2$ emission stabilization will have—not only on our economy but on the standard of living of every American. Because that is who we are going to depend on to pick up the tab.

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

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SYMMS. I ask unanimous consent to proceed for 2 more minutes.

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

Mr. SYMMS. Mr. President, the way this has been spun by the media, the cost of the Rio summit in terms of the climate change agreement, has not been discussed in the establishment media. Unfortunately, the major thrust that the media has talked about is the failure of the United States to be in front of the parade to sign a treaty that includes targets and timetables. And our friends and allies in Western Europe and Japan and particularly those in Europe, thought they could be irresponsible on this one, that they would get a free ride because "Uncle Sam is going to hold this thing up. Uncle Sam will not go along with this." They can say they are all for it and posture themselves at home with the nonscientific hysteria that is so popular in the establishment media. They will posture themselves so they will look good to their constituencies, and in the meantime the United States will bail them out of this anyway. So, to a degree, I think the President deserves some credit that he has not agreed, and his negotiators have not agreed, to something that is totally irresponsible.

But I would just make the point that we are rapidly heading down a path that leads us to agreeing to restrictions on $CO_2$ emissions. That could be devastating to the economy of the United States; devastating, Mr. President. And we will pay a very high price for it, and our constituents will pay a high price for it.

It is the first time I can recall in history that people are beginning to say that a lower standard of living is somehow a better thing for people. And somehow that is going to help the environment.

That is not the case. What is needed are more incentives, more trade, more economic growth, more development, more entrepreneurial capitalism, so new and better designs can be developed, so we can develop the new machines of tomorrow that will burn cleaner, will be more efficient, will help people have a better standard of living.

And here we are coming to the end of an era of the cold war starting into a

new century where we have an opportunity to see the standard of living of all people in the world come up and, lo and behold, the gloom and doomers, the sky is falling, the "Chicken Littles" are telling us we have this terrible travesty happening, global warming is going to destroy the planet so we have to accept a lower standard of living when quite the opposite is true. We need to be increasing our economic growth, increasing opportunities for people to be entrepreneurs, scientists, technicians, designers, Mr. President, so a clean environment can be achieved through better design. The solution to pollution is design and simplicity; better, simpler ways to do things.

Mr. President, I hope that the U.S. negotiators will be extremely cautious about anything that we sign. I hope we will be extremely careful in what we do, and I think we should focus on two things and then I will close, Mr. President. I see my time has expired.

Costs and science. What is all this going to cost the working men and women of this country, and what is the scientific data that we are basing it on? What is the scientific evidence of the people making these judgments? What are the scientists really saying about what is happening? Is humankind responsible for all this? Or is it truly natural phenomena that happened throughout the course of time? Let science speak, and let's make sure Americans know the cost of our actions.

Mr. President, I ask unanimous consent to print the Peter Samuel article in the RECORD.

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

[From the Washington Times, May 11, 1992]

THROWING IN THE TOWEL ON WARMING?

(By Peter Samuel)

The Bush administration has caved on global warming. It has agreed to sign a climate change treaty that includes a general commitment to national plans to limit carbon dioxide and other "greenhouse" gases. The face-saver for the United States is that the commitment is not to be spelled out as legally binding, though most observers think it will carry enormous political weight and build a momentum for subsequent U.S. entanglement in anti-carbon fuels taxes, controls and planning.

As negotiations opened at the latest U.N. Intergovernmental Negotiating Committee (INC) meeting, chairman Jean Ripert produced new draft treaty language that he told reporters is acceptable to the United States. American officials have not confirmed this publicly, but they have privately.

The new treaty language (which U.N. negotiators agreed to on Saturday) requires governments to submit "national plans" within six months of the treaty signing showing how they will keep year 2000 $CO_2$ and associated greenhouse emissions down to 1990 levels. The new draft treaty states that this stabilization at 1990 levels by 2000 would be "an appropriate signal" to developing countries of serious intent. There are no formal commitments beyond stabilization at 1990 levels.

The Congress' most powerful environmentalist, Tennessee's Democratic Sen. Albert Gore, has been devoting himself full-time the past few weeks to engineering a U.S. backdown, and he has received major support from Environmental Protection Agency (EPA) Administrator William Reilly. National Security Adviser Brent Scowcroft and White House Chief of Staff Sam Skinner also have urged the "compromise."

Mr. Bush has let it be known he wants to go to the Rio Earth Summit with a "good" climate treaty to sign. So the cave.

Of course, Mr. Gore is not cheering the administration. Any murmur of approval from his camp would jeopardize the fragile compromise by stirring up sleepy conservatives. In any case, Mr. Gore is already peddling off to the left to try and drag the administration further his way.

Mr. Gore says (The Washington Post, May 3) the compromise treaty language "leaves many goals unmet" and lambastes it as "clouded by confusing and dense language and without any specific targets and timetables for action." He says the United States "has pulled every other nation back to craft an agreement far short of what could have been accomplished."

Lectures Mr. Gore: "A treaty without specific targets and timetables is a hollow promise. There is no assurance it will be kept and no promise of future benefit."

There is, of course, no assurance any treaty however written will be kept, and arguably no future benefit in any kind of $CO_2$ suppressing plan. There is more Gore fulmination about Bush administration "intransigence," "stubborness," and the like.

The whole sad affair is a case study in the pitfalls of trying to conduct public policy without full and open discussion of fundamental principles and a fearless discussion of science and data. The Bush administration, like many limpwristed, so-called conservatives before it, has never been prepared to speak frankly about the humbug of global warning and the greenhouse effect. They could have said:

The overwhelming factor in climate change is the intensity of the sun, which varies with sunspot cycles.

The enhanced greenhouse effect theory is just a theory that has performed lamentably in explaining past climate change and is therefore likely to perform as badly in predicting the future.

Stabilization of the global climate is probably beyond mankind's power to achieve because climates have always changed, but it is also unnecessary.

Warming is no more likely over the next hundred years than cooling because we are near the end of an interglacial period.

Warming and carbon dioxide increase are both likely to be a net benefit to mankind and other life on the planet and are to be desired, not combated.

Mankind has proven its adaptability to climate change in the past and can adapt to it in the future so long as it does not succumb to hysteria and anti-science in matters of public policy and allow the economy and technology to be bound up by bureaucratic planning.

They could have:

Cited the majority of scientists who dismiss the catastrophe theory of greenhouse effects.

Given prominence to the views of distinguished scientists who have always opposed it, including Richard Lindzen, Robert Balling, William Nierenberg, Fred Seitz, Patrick Michaels, Fred Singer, Sherwood Idso and others.

Noted the growing number of new skeptics among top scientists.

Drawn attention to the enormous costs of carbon suppression and the bad precedent it would set.

Instead, the Bush administration has mumbled on defensively about "scientific uncertainties" and the like. By not confronting the global warming theory directly, where it is highly vulnerable, it has placed itself in the position of fighting backward, uphill and without a fraction of the firepower that is potentially available.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire as to whether or not we are in morning business?

The PRESIDING OFFICER. The Senate is not in morning business.

Mr. DODD. Mr. President, I ask unanimous consent that I may proceed for 6 minutes as in morning business.

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

## A TRIBUTE TO WILBUR MILLS

Mr. DODD. Mr. President, I take this opportunity this afternoon to express my sorrow at the recent death of a former colleague of ours who I had the privilege of serving with in the House of Representatives for one term. My first term in the House of Representatives was Wilbur Mills' last term in the House of Representatives. He had served in that body for 38 years and achieved a remarkable—truly remarkable—and historical record.

Many who served with him, of course, recall his tenure as the chairman of the Ways and Means Committee. It was in my first term and his last term, Mr. President, that we also watched with a great deal of tragedy the problem of alcoholism, and alcoholism as it has gripped the lives of millions of people in this country and throughout the globe, hit Wilbur Mills.

So what was otherwise a remarkable and distinguished career that covered everything from welfare reform to Medicare, some of the major issues of the day that Wilbur Mills played such a pivotal and critical role in are forgotten by most, and what most people remember are the personal tragedies that marked his final years in Congress.

Frankly, Mr. President, most of the obituaries about Wilbur Mills chose to focus only on those tragedies. What they failed to mention was that after Wilbur Mills left the Congress, for the next 17 years he dedicated himself very privately to Alcoholics Anonymous, very directly in the greater metropolitan area of Washington. During those years, he literally visited every single State in the United States and spent hundreds and hundreds of hours working individually with people who suffered from that disease. But that seems to have been forgotten and no mention was made of that public service, if you will.

As I say, I did not get to know him terribly well. I was a very junior Member of the House, but I invited him to come to Connecticut, and he spoke to our State commission on alcohol abuse and did a remarkable job in front of a packed house of some 750 people talking about the problem, personally, how people can change in their lives, what difference they could make in their communities by becoming involved in this issue.

Unfortunately, literally none of that was mentioned in any of the articles that I read about Wilbur Mills. They did mention, of course, some of his contributions as a Member of the House on some of those issues. But I would be less than honest with you, Mr. President, if I did not tell you how annoying it was, to put it mildly, to read the lead paragraphs that only talked about the tragedy in his life, not about the significant accomplishments that occurred for 38 years before that and for the personal involvement for 17 years later.

Wilbur Mills was a remarkable human being. Some may remember him for his legislative accomplishments. Most will remember him I suspect, for the human tragedy that occurred. I will remember him as a wonderful individual with a remarkable soul, a great deal of courage and a wonderful friend. America lost a great leader.

I thank you, Mr. President.

Mr. SYMMS. Mr. President, I would like to compliment my friend from Connecticut for those remarks. I had the privilege of being in the House for 4 years with Wilbur Mills, and I had the same experience. I recall that in a conversation I was having with the famous H.R. Gross from Iowa one day on the House floor, I said, "H.R., who do you think the best Congressmen are that you have seen here in your 2 decades-plus?" This was in his last term. He retired one term prior to that when Mr. Mills retired. He said hands down, one of the all-time greatest Congressman who ever lived was Wilbur Mills from Arkansas.

And this was coming from a conservative Republican—because of his ability to bring legislation to the floor and have total control of what he was bringing to the floor and have a total understanding of how it would impact the lives of the American people.

The Senator from Connecticut pointed out to our colleagues that he was truly a talented, gifted, capable legislator, and a great American, as a Member of the House as well as these last 17 years. I have seen him on several occasions since, and he always was doing what he could do to make this country a better place.

I share the Senator's views, and I thank him for bringing this to the attention of our colleagues.

My sympathy is extended to his family. I want them to know there are many here who are former Members in the House who knew Wilbur Mills and were blessed with the opportunity to work with him during those years.

I yield the floor.

## NATIONAL VOTER REGISTRATION ACT

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, as the distinguished majority leader announced earlier, he was working with the Republican leader in order to hopefully have some amendments on this bill and we could move very quickly to final passage, I hope that is true. There are no amendments on our side that will be offered. The only amendments that we are waiting on now are those from the Republican side.

It appears to me that it is time that we move on with this bill. If it is true the President is going to veto it, whatever is put on it is going to be vetoed also. So why do we not just go ahead and have the germane amendments and have an up-or-down vote?

I am somewhat frustrated by the lack of interest in passing legislation and moving on to something on our agenda so we can do what is necessary for the American people.

Mr. President, seeing no other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DODD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in private consultations in the last few moments the distinguished Republican leader has advised me that it is the intention of the Republican Senators to offer as an amendment to the voter registration bill a Republican crime bill, identical to the Republican crime bill which was offered as an amendment to the Telephone Privacy Act previously under consideration by the Senate last week.

The posture on that bill was that the Republican crime bill was offered as a first-degree amendment, the comprehensive crime bill which is now contained in the conference report on the crime bill was offered as a second-degree amendment, and then we went to the conference report. That was the subject of a filibuster by Republican Senators, and we have voted on that I believe twice previously and been unable yet to obtain the 60 votes necessary to terminate the filibuster.

With respect to the voter registration legislation it is obvious that we regard that as an important bill to be enacted and our Republican colleagues regard that as a bill to which they vigorously object and are seeking to prevent final action by the Senate on it.

We have previously failed to obtain cloture on that measure and entered a motion to reconsider that vote. Therefore, I have advised the distinguished Republican leader since they are going to offer the crime bill as an amendment to the voter registration bill in an effort to defeat the voter registration bill we might as well get to the crime bill by returning to the Telephone Privacy Act in which the crime amendment is already pending. And then I will at an early and appropriate time exercise my right under the motion to reconsider the cloture vote on the voter registration bill, and then we will see if at some early time, not this evening or tomorrow, we will be able to get cloture on the voter registration bill and be able to proceed to final action on that.

So that for now I believe the most appropriate course of action which I have discussed with the distinguished Republican leader, the chairman of the Judiciary Committee, and others, will be to return to the Telephone Privacy Act and then to move to the conference report on the omnibus crime control bill.

## TELEPHONE PRIVACY ACT OF 1991

Mr. MITCHELL. Mr. President, I now call for the regular order with respect to S. 652, the Telephone Privacy Act.

The PRESIDING OFFICER. The immediate regular order is S. 652, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 652) to protect the privacy of telephone users by amending section 3121 of Title 18, United States Code.

The Senate resumed consideration of the bill.

Pending:

(1) Gramm Amendment No. 1795, to restore the enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary firearms.

(2) Kohl (for Biden) Amendment No. 1796 (to Amendment No. 1795), in the nature of a substitute.

## OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I now ask that the Chair lay before the Senate the conference report on the Omnibus Crime Control Act.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3371) to control and prevent crime, having

met, after full and free conference, have agreed to recommend and do recommend to their repective houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to consideration of the conference report?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I move to proceed to the consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The Senate proceeded to consider the conference report.

Mr. MITCHELL. Mr. President, the measure before us now, the omnibus crime control conference report, is a very important and comprehensive effort to control crime in our society. It has been approved by the House of Representatives. A majority of the Senate is on record as favoring the bill. However, a filibuster by Republican Senators has previously prevented Senate action on the bill; that is, although a majority of the House has voted for it and a majority of Senators are on record for it, under the Senate rules a minority of Senators can prevent final action on the bill. We have had, I believe, two previous cloture votes on the bill. In both cases, more than 51 but less than 60 Senators have voted for it. So now we are back on that measure.

I hope that our colleagues would reconsider, particularly in the light of the events in Los Angeles to which important parts of this bill address themselves—the police academy provisions, the gang control provisions, the drug control provisions, and a number of others which I know the distinguished chairman of the Judiciary Committee will lay out in detail during any discussion of the bill provide important assistance. Most significantly, the bill provides substantial resources to local police, the officers around the country who we believe can contribute to improve public safety throughout our country with the kind of assistance which this bill offers.

I hope very much that the filibuster, which has so far successfully thwarted action on this bill, conducted by our Republican Senate colleagues, will be concluded and they will permit the will of the majority to express itself in a final vote on this bill.

Accordingly, Mr. President, I now yield to the distinguished chairman of the Judiciary Committee.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, from a quote attributed to Yogi Berra, "This is deja vu all over again."

I wonder how many times I am going to get the opportunity to stand here and make a case that the police departments of America desperately need help; that the citizens of this country desperately need assistance in the fight against crime; and that the reluctance of a minority—within the rules I might add; I cast no aspersions—the reluctance of the minority of our colleagues in the Senate to allow us to respond to what everyone is suggesting is needed, I am wondering when and if they will ever relent.

It seems to me particularly sad that in light of what happened in Los Angeles, in light of the clear demonstration for the need for this legislation—which to the best of my knowledge all of the police organizations in this country have supported, do support, and continue to support with increasing vehemence—that we are put in this position.

Now, again, I must give credit to my Republican friends. They have been able to, since November, prevent us from voting on this bill which they know if it is voted on will be sent down to the President of the United States immediately.

I respect the intelligence but most of all the ingenuity of my friend from Texas, Senator GRAMM, in providing so many interesting obstacles to getting a crime bill or this crime bill. And I think that everyone in this Chamber would agree that the fundamental stumbling block regarding the adoption of this conference report relates to the Brady amendment.

Now we will hear from my friend from Texas about habeas corpus. We will hear from my friend from Texas about a lot of other things. And he always says whatever he has to say well, succinctly and forcefully. But he is always saying the same thing. He will try to tell us that this is a pro-criminal bill, this is a pro-crime bill; this is a bill the effect of which would let criminals and convicted felons off of death row. And he will be joined by other equally articulate and forceful spokespersons who share his view making that same kind of statement.

I guess the expectation or hope on the part of my friend from Texas is that if he says it long enough people might start to believe it. But in order to believe what we have heard, assuming there is nothing new we are going to hear—and I do not mean that as a criticism of my friend. He is not going to hear anything new from me, and doubt that I am going to hear anything new from him because we have debated this and debated this and debated this and debated this and debated this and we have reinforced in the mind of the American public that all we do is debate and debate this.

We are very much engaged in the notion of proving to the American public how we are such a deliberative body. We are so deliberate, we are tripping over our own tracks in the sand because we have done it so many times.

But I guess what the hope is on the part of my Republican friends who will not allow us to pass a crime bill that could become law within the next 24 hours—or the President could veto it—I expect what they hope is that somehow the fact that they say this is not a tough crime bill enough times will mute the anger, the cries, the pleas, the assertions of the police departments of this country who say please let us have this bill.

The chiefs of police organizations, the Fraternal Order of Police, over half a million police officers represented by the established, longstanding, well-respected police organizations of America representing over a half a million police on the street, the folks getting shot at, the folks getting killed, the folks who are out there everyday, day in and day out, they are saying please—please help us help you.

But my friends, because I think they are—they are obviously committed to the position—my friends are saying no. They are offering us an alternative, another bill, another bill that coincidentally contains all of the things they said for September, October, November, December, January, February, and March they were against. They now figured out it does not make a lot of sense to be against a lot of this stuff, or at least it does not make a lot of sense to be on the wrong side of history or, to put it more bluntly, on the wrong side of what the police officers of this country and the American people think is important to have.

So they come along and take the original bill that passed out of here and the guts of the conference report, except they leave out one little thing. Remember, now, they are only interested in habeas—not only—habeas corpus is the big stumbling block. But guess what they leave out, the Brady bill.

What an oversight. How did that happen? They left it out. They somehow forgot to put that piece in the bill.

But it is not about guns. This is not about guns. Listen to them. They will tell you. "This is not about guns. It has nothing to do with that. This is about habeas corpus." No problem.

I do not know. It kind of defies reason, does it not? Keep in mind, I came along here 2 years ago and said we have to help the cops. But what we have to do is we have to have a police court. It is not my original idea, it is an idea of Senators like SPECTER and BINGAMAN and a number of Democrats and Republicans—both sides. I put it in the so-called BIDEN bill.

They came along and said look, we need more help for targeted areas that are becoming literally disaster areas because of drugs and crime. We need more help to deal with violence in America. They did not like those things before. They were against them all. It would cost too much money, among other things.

We fooled around and debated this ad nauseum. Finally, kicking and screaming, we went out of here last year, got it passed through the Senate. It got to the conference. My friends, again totally within their rights, totally within the rules, thought we have it all worked out.

This is my assessment. They might have a different one but I think the facts will bear out my position.

They said look, we are so close to adjourning that even if Biden gets this bill into conference he cannot get a conference report because, you know the theory around here, if you wait until the very end with only 2 days, 10 days, 12 days left in the session, anybody can stop anything. And who is going to get through a 400, 500—how many pages was the report—480-page bill through conference with less than a couple of days to go in the Congress last year?

Guess what? We got it through. Oh, my goodness. We got it through. Now they had to go to plan B—plan C. Plan C was, OK, they got it through, but now we have to vote on the conference report. We did not think we would have to do this, but conference reports you cannot amend. You cannot go through all the malarkey again.

We all know where all the votes are on every one of these issues. I have been dealing with this issue so long I am tired of it. We know where every vote is. I will make a bet—well, I will not bet. But I will predict for you. In every issue you can name for me, I can come within two votes of exactly how it is going to turn out. Because I am so smart? Because I am clairvoyant? No. Because we voted 2, 3, 4, 5, 6, 7—10 times on the same issue.

But when we got to the conference report, all of a sudden plan C was required. And they had to show their colors, in the sense that they had to come clean. What happened? Every major newspaper in America said: "Republicans kill crime bill." Because now it is in the open. Now they could not say, well, we just want to perfect point A, or point B, or point C, and we think that habeas corpus should relate to this amendment and this and that. After all that stuff they can confuse anybody, even the lawyers. And lawyers make a profession out of confusing people. And I am a lawyer.

They had to come straight up, for it or against it. Do you want to do something the cops want or do you not want to do it? And they had to stand here and filibuster. I said this is all about guns. They said, no, this is not about guns; this is about habeas corpus; this is about whether or not coerced confessions can be treated according to the Supreme Court case of—guess what? We have some really honest people in this body.

STEVE SYMMS came before us and said—this is guns. Make no mistake. We are getting no bill because this has guns—the Brady bill.

Guess what? The cat was out of the bag. So I guess because even the conservative press in America figured this out and could not write anymore, "Democrats, Soft on Crime," they had to write, "Tough crime bill defeated because of the gunners' filibuster."

OK. That went on. The politics was played on that issue over there for a while and that went through. We went out of session in November, so everything was sort of quiescent. Then we got back here and, guess what, it had not gone away, the issue. Because Americans are still being killed. Tens of thousands of people are being needlessly brutalized. Tens of thousands of women are being raped. So it did not go away, Mr. President. It is still here. Guess what? Crime did not leave.

The President wants to make us think the drug epidemic is all over. He declared that war is won. But, guess what? The American people know it is not safe to walk out of this Chamber to their automobile in this town or any town in America.

So what happened next? Plan D. We are losing this political battle here. It is not working like it used to. We used to say Democrats bad on crime. The public would go boing—"Right. That fits."

Guess what? The police in America are saying we like this. We need this.

So plan D comes along. Plan D is—"Hey, wait a minute now, this whole thing ain't working the way we used to make it work. They found out it is about guns. That is No. 1. And, No. 2, they found out the police like it and want it. No. 3, they realize the Democrats are for something that makes sense. What are we going to do?"

Good idea they came up with. That is plan D. Plan D is—and I never underestimate the intelligence or the innovative capacity of my friends on either side of this aisle. One of them says: "Got an idea. We are going to have a new Republican crime bill."

Keep in mind, in 1991—I will not bore the Chamber with it now—but in 1991, there were a half a dozen major initiatives in my crime bill, and then in the conference report that they argued against, including the administration saying we are against them. Do we have that list? I will just sort of tick them off. I will not go through them all.

Twelve new crime fighting programs, 12 programs included the Gramm-Thurmond bill; State and local law enforcement funding—Justice Department said we are against that, another $1 billion. Federal law enforcement aid; title X, they are opposed to that. Police corps, they were opposed to that. Law enforcement scholarships, they are opposed to that. Boot camps for State prisoners; increased funding for Federal prisons; violent youth antigang measures like we need in LA now; rural drug control help; rural law enforcement training; Drug Emergency Area Act; and so on. There are others. But, again, my friend from Texas and others went to plan D, and plan D was: Let us take all those things we said we were against and be for them now.

Something must have happened at Christmastime. I do not know, maybe over Christmas Santa Claus left a package saying, "Hey, fellas, this is good stuff." Whatever it was, I do not know. But after 2 years of fighting this, we get a Republican crime bill, and guess what it has in it, Mr. President? It has the original Biden bill, by and large. That is plan D. Now all the things they fought for 2 years against they say they are for. And they stand there and say the administration is for them, too. Good. Good.

But guess what was left out. Guns. Is that not kind of funny? The President says he is for the Brady bill. The Senate overwhelmingly voted for the Brady bill. Most of the Republicans say they are now for the Brady bill. They come along and adopt things that have been anathema to them for years that I have been pushing, and they drop it in their bill in the Santa Claus conversion. But they do not drop in their bill the provision that most of them say they are for and say, "This has nothing to do with guns." I guess what they mean by "nothing to do with guns" is they want nothing to do with anything that has anything to do with guns. So that is out.

I may be off. There may be a plan—I gave you a plan A, B, C, and D as I see it. I am just one man. I may be wrong about that. But in the law, there is a term of art and it relates to some criminal statutes and civil rights statutes. It is used sometimes. It is called "pattern and practice." There is a pattern and a practice that even I can see. Maybe the pattern is not A, B, C, D as I outlined it, but there is a pattern. The pattern here is resist, resist, resist until you must stop resisting and then give a little more. But one thing do not do: Do not do anything to make the NRA mad. Praise God, do not do that. The pattern at a minimum is what you call dragging your feet. If you look real close on this rug, there are rug burns all the way down here where people have been dragging their feet to the well.

Again, I may be wrong about plan A, B, C, and D and I am confident there is an F—A, B, C, D, E, F, G, H, I. There are a whole bunch of other plans down there, but they all add up to one thing, Mr. President. My distinguished friend from Texas and others are extremely adroit at making sure that nothing passes and becomes law that has anything to do with guns.

Let us talk about habeas corpus. They say they like their habeas corpus better than the one in the bill, and

they do. They say habeas corpus does not matter to us. All those people who are shooting us are the people who are out of jail, not the people who are in jail. All the people who file habeas corpus petitions are people in jail. Nobody has been shot on the street by a person filing a habeas corpus petition. Nobody has been raped by somebody filing a habeas corpus petition at the time. That may be why they are in jail, because they shot somebody; it may be why they are in jail, because they raped somebody. But that is not why you should be fearful of going to your car. So we are going to hear about habeas corpus.

Let us assume they are right. They are wrong, but let us assume they are right on habeas corpus on the merits. Let us assume, instead of a significant limitation we placed on habeas corpus that is in the bill before us right now, the conference report, let us assume it should be even more stringent. Fine. Good. There are the votes in this body to have the more stringent form. I am willing to compromise more on habeas corpus. You cannot get the compromise on the House side and in the conference.

How many bills do you know, Mr. President, that are as significant, as large, as long, and as important as this crime bill that someone would stand like the little Dutch boy with his thumb in the dike to keep from passing for essentially a year because of a difference in habeas corpus that relates to how much we limited it. If my friends think that is the big issue, let us pass this bill and immediately introduce a bill on habeas corpus to further amend it. For Lord's sake, do not let everything else go down the drain.

But, Mr. President, I am fearful that it is not habeas corpus. It is guns and politics—guns and politics.

So here we are once again with the possibility—because I am an eternal optimist—with a possibility that there may be a filibuster. Maybe my friend from Texas is going to stand up and say, "You know, this conference report is a turkey, let us vote." Maybe he is going to surprise me and do that. He has surprised me a lot of times. Maybe he will, in which case we will not have a filibuster and we will have a vote. But if he does not do that, my friend from Idaho, who has been the most straightforward guy—he just left, he was here, I am sorry—Senator SYMMS has been straightforward on this all along, if he says, "Come on, let us go vote on this," then there is no filibuster. Otherwise, I think what you might see is a filibuster.

Let us take one more point. Let us assume, for the sake of discussion, that the Republican bill, which is now the bulk of the original bill I introduced and is in the conference report, let us assume that it is a better bill and let us assume it is a better bill because it does not have the Brady amendment in it, for the sake of argument.

Let us assume it is a better bill because it has a different habeas corpus in it. And let us assume it is a better bill because it deals with a few other things that are better, that are different.

Now, Mr. President, I have heard a number of people, Democrat and Republican, come to this floor over the last—how long ago was the Los Angeles riot? How many days?—whatever number of days it is since that riot, standing on the floor talking about urgency, emergency, absolute necessity to move quickly, dire needs, et cetera, et cetera.

But let us assume the Republican bill is a better bill.

Well, the chances, Mr. President, of that passing now, going to the House of Representatives, being debated all over again with all the amendments that will be attached to it, all the debate that will ensue because it is an amendable piece of legislation, then going to a conference, which for the benefit of our constituents means to the extent it is different than what we passed, then the Members of the House of Representatives and the Members of the Senate sit down and work out their differences, getting a conference report and coming back here to the Senate and the House and being voted on, all by November, let alone by June, is remote. And the chances of my friend from Texas, my friend from Idaho, and others preventing us from being able to add the Brady bill to whatever they have I think is remote; we have the votes to do that.

So where do we end up, Mr. President? We end up with a bill that has the Brady bill in it, the very thing that my friend from Idaho has said he is not going to let pass here anyway, and we are back to square one.

Where are the police? The police are left where they are now, without sufficient support.

Where is the effort on juvenile gangs in America? Right where it is now, and there is not an American in this country that does not know our efforts are inadequate.

Where are the tougher laws on the death penalty? Exactly where they are now. Nonexistent at the Federal level. This has 53 death penalties in it, this conference report we can vote on in the next 10 minutes if we were allowed to.

So where are we, Mr. President? We are just back to confirming in the American people what they already believe about us, that this is all a charade in an election year.

Now, I want to make it clear there are a number of my Republican friends who support the Brady bill. There are some Democrats who do not support the Brady bill. So this is not a blanket indictment on Brady, which is really, by the way, the Mitchell-Dole compromise but everybody knows it as the Brady bill.

But ultimately, Mr. President, we end up in the same spot, and that is there is a sufficient number of Senators in this body who, under the color of other arguments, will be able to successfully, if they conclude they wish to do it, stop America from having a crime bill because of their fervent—and I respect them for it—fervent and, how can I say it? They believe intellectually and emotionally that it would be terrible to have a waiting period to buy a handgun. And I believe they believe it. It is not a game with them; they believe it.

That belief is going to stand in the way of us having a crime bill. They are going to say you either take the crime bill the way we want it, which is with no guns and a change in habeas corpus and other things, or no crime bill at all, notwithstanding the fact that the overwhelming majority of Americans, the overwhelming majority of Democrats, the majority of Republicans all think it is an important provision to have in the law now, and that we have debated it as a Nation and we have voted on it in this body, in both Houses.

Well, anyway, there is a lot to say, but much of what I am saying will be repetitious of what I have said over and over again. It boils down to one simple thing. My friend from Texas and those who share his view, are they going to let us vote or not. I respect them if they conclude they do not want to let us vote. But let them tell us we cannot vote. We can debate this some more if we want to debate it. But as my friend from Texas said to me before we got on this bill a few moments ago, there is not much to debate. He thinks the bill is a turkey, or whatever phrase he used, and he will tell us about that. He has made his view known repeatedly here. I have made my view known.

So I do not know how much there is to debate that has not already been debated, but I am delighted to yield the floor to my friend from Texas so he can make his case against the conference report, and maybe we can get on with, at some point, resolving that we will vote on something relating to crime.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, our dear colleague from Delaware has given two speeches, a strawman speech, which he presented very effectively, and then a knock-the-strawman-down speech, which I thought he also delivered very effectively.

Mr. BIDEN. I thank the Senator.

Mr. GRAMM. As I listened to his speech though, there is one thing I agreed with, and that is that this is a charade. As I look at the fact that the American people are outraged about

partisan gridlock in America, I think it is clear that they are right, that American Government is not working, that we are not addressing the problems that face the American people, that even on an issue to the American people that seems so clear-cut, so noncontroversial as crime and punishment, partisan gridlock absolutely prevents us from responding to the will of the American people.

Now, Mr. President, let me first try to define, because we have gone far afield in this strawman speech, why we are here, why we are on the conference report, then I want to go back and talk about the issue and to talk about what this Senator is trying to do, and then to basically plead with my colleagues to address this issue.

First, let me go back to the beginning. It was 1,057 days ago today that the President sent to the Congress a very strong anticrime bill—1,057 days ago. As of today, we have had action in both Houses of Congress. We have gone to conference to work out the differences between the two bills. The House has passed by a vote of 205 to 203 this conference report that is now before the Senate.

The President has said that he will veto this bill. Not one Member of the Senate, no person in America that has followed this debate has any doubt about the fact that the President will veto this conference report. Every Member of the Senate knows it. Every Member of the House knows it. And we are on this bill not in an effort to legislate but, remarkably, we are on this conference report in an effort to block legislation.

Now, how did we get here? Senator THURMOND, Senator DOLE, myself, and others put together a true, tough anticrime bill. But first there was the President's bill. We brought it to the floor of the Senate. We debated it. We adopted a crime bill in the Senate which was very close to what the President said he could sign. We went to conference. Many of the provisions that were strong in the bill were stripped out, and as a result now we have a bill that everybody knows is strictly a partisan shell that the President will veto.

Let me talk about this bill which is before us. First of all, 31 State attorneys general, 16 Republicans and 15 Democrats, wrote the President urging him to veto any bill that contained the provisions on habeas corpus that are in this bill.

Let me read to you a part of a resolution that was adopted by the National Association of Attorneys General. It was adopted overwhelmingly, and what this resolution did was urge President Bush to veto the conference report because it adopts provisions that—this is their resolution, adopted by a bipartisan Democrat and Republican group of attorneys general—here is their resolution: This bill adopts provisions that "weaken existing law" and "broaden the range of circumstances in which the convictions of criminals will be reversed."

The National District Attorneys Association wrote that the conference report "Does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens."

Mr. President, this is not President Bush talking. This is not the Senator from Texas talking. This is the District Attorneys Association which passed a resolution overwhelmingly and which stated that this bill which is before us, which the President has sworn to veto, "Does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens."

They go on to say "In fact the passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners." They then go on to urge the Senate to "reject this poor excuse for a crime bill."

Mr. President, this is not me talking. This is not the President talking. This is the District Attorneys of the United States of America who rank among the chief prosecuting and law enforcement officials of their States. What they say is that the conference report before us strengthens criminals' rights, weakens the rights of those who are law-abiding citizens, and in essence, as they say, is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners.

Mr. President, why are we on this conference report when it is clear that this conference report is going to be vetoed by the President, when it is clear that we are not going to allow it to pass the Senate? Why is it back up? Why are we debating it again? The reason we are debating it again is because there are Members of the Senate who are trying to bring up a crime bill that can be signed by the President, a crime bill that will grab criminals by the throat, a crime bill that will protect law-abiding citizens.

What happened to make this conference report a sham and a fraud which the District Attorneys Association, in a resolution approved overwhelmingly, say is like giving the keys to the prisoners, to convicts. What happened?

We passed a pretty good bill in the Senate. Let me tell you what happened. On the floor of the Senate, when we considered the President's crime bill and we ultimately adopted the bill in the Senate, I sent an amendment to the desk asking for 10 years in prison without parole for selling drugs to a minor, or using a minor in drug trafficking. That provision was adopted on a voice vote in the U.S. Senate. It provided life imprisonment without parole for a second offense.

What we said in the Senate in the strongest possible terms was if you sell drugs to a child, no matter who your daddy is, no matter how society has done you wrong, if we apprehend you and convict you in the Federal system, you are going to prison for 10 years. You are going to serve every single day. And if you do it again, you are never going to have an opportunity to do it a third time. That was adopted overwhelmingly in the Senate. But what happened when we went to conference in a totally partisan conference and a final bill came out? That provision was dropped.

Here in the Senate, we adopted a provision that said if you carry a firearm and during the carriage of that firearm you commit a violent crime or a drug felony while that firearm is within your possession or your reach, and you are convicted of having possessed that firearm—independent of the crime, you are going to prison for 10 years. You are going to serve every day. If you discharge that firearm with intent to do bodily harm, you are going to get 20 years in prison. If you kill somebody, you are going to prison for life without parole, and in aggravated cases you could be put to death. That is what the Senate said. The Senate adopted those amendments. And it adopted them overwhelmingly.

But what happened in this conference? The conference report was determined on a totally partisan basis. When the final bill was written, without the support of a single Republican in the House and Senate, that provision, 10 years in prison for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging it, a death penalty for killing somebody, was dropped.

We had in the original bill adopted in the Senate the three-time loser rule. I am confident that at least 99 percent of the American people support this provision. The others that do not are afraid they may have it used against them. It says if you commit any combination of violent crimes or drug felonies, and you are convicted the third time, you get life imprisonment without parole. We adopted it right here on the floor of the U.S. Senate. We were for it. But what happened? When we went to conference with the House on a totally partisan basis, that provision was dropped.

In fact, Mr. President, 71 different provisions related to protecting the law-abiding citizens of America that were adopted in either the House or the Senate were dropped in conference. In fact, you can go through the bill, and take the House bill or the Senate bill, and whatever was the toughest provision was dropped. And in some cases, the same or similar provisions that were adopted by the House and the Senate were dropped.

Let me just give you some examples. Let me just take one: Preservation of

harmless error doctrine. That was a provision in law that was not changed here in the Senate. That was based on a judgment that said if there was a harmless technical error, some police officer dashes in, arrests some drug thug, in the panic of the moment makes some technical error, was not intention, was not harmful to the overall prosecution of the case or to the defense, it was simply a mistake—that we do not throw the conviction out.

But what happens here? The conference bill automatically requires the reversal of a criminal conviction based on erroneous admission of incriminating statements by defendants, even if the independent evidence of guilt is overwhelming and it appears beyond a reasonable doubt that the error would not have affected the outcome of the trial.

Mr. President, who is for that? Nobody is for it that is willing to stand up and vote for it. But while we are trying to impugn the motives of the people who are against the bill that the district attorneys in a resolution say weakens existing law, broadens the range of circumstances in which convicted criminals will end up on the streets, nobody wants to stand up and say they are for this provision. But why was the provision adopted here in the Senate dropped in conference? It was dropped because there are still many in Congress who blame society and not the criminal for crime. That is why it was dropped.

Let me give you some other examples. We have in the bill adopted in the Senate provisions related to broadening prosecution as adults for juvenile gang leaders.

That was a provision that was not very controversial when we debated it in the Senate. It was adopted in our bill. But when the conference report came out, it, along with 70 other grab-the-criminals-by-the-throat provisions, was dropped, provisions relating to HIV testing and penalty enhancement for sex offense cases. We debated here on the floor of the Senate, and we adopted provisions that required testing for AIDS on people who commit sex crimes, and enhanced penalties for those who do so knowing that they have AIDS.

But, guess what? We adopted it, we were for it. But when the bill went to conference late at night in some little smoke-filled room, somehow that provision was dropped.

Mandatory restitution requiring criminals who have resources to pay people whom they committed crimes against, we were for it. America is for it. Everybody wants it.

But guess what? We adopted it, we voted for it, but when they went into conference back in a little room somewhere, this provision died.

Domestic violent crime programs, victim's right to an impartial jury, safeguards, on and on and on, provisions that we were for, that we adopted, life imprisonment for incorrigible violent drug offenders, the list goes on and on, dealing with illegal aliens, mandatory deportation of illegal aliens who commit serious offenses.

Mr. President, what happened to these 71 provisions?

Well, what happened to them is they were dropped. What happened to them is we ended up with a bill that came out of conference on a strict party line vote that 16 Republican and 15 Democratic attorneys general urged the President to veto. They say it weakens existing law. The district attorneys, the prosecutors say it does more to advance the interest of convicted criminals than it does to protect law-abiding citizens. In fact, independent of the resolution, independent of the letters sent by 31 State attorneys general, 12 Democratic district attorneys felt so strongly about it that they wrote individual letters to the President urging him to veto this bill that hamstrings efforts to combat crime.

Mr. President, that is the nature of the conference report that is before us.

Let me say something about the money. Our dear colleague has talked about money. One of the things you can always count on our colleagues to do is to talk about money when people are trying to talk about substance—trying to substitute money for ideas.

Let me tell you, when it comes to building prisons and fighting crime and hiring law enforcement officials, our colleagues talk a lot better game than they deliver. I remind my colleagues that we have almost consistently underfunded the President's request for FBI, DEA, and prison construction. When it comes to providing money in appropriations bills, we have almost consistently underfunded the President's requests for DEA, FBI, and other law enforcement activities.

What the conference report before us does is it authorizes a lot of money. It says: We hereby authorize—if some day we ever have the money and volition to spend it—the spending of money. Not one penny is actually provided by this bill.

Our colleague gets upset when, in trying to get a consensus, we have been willing, in our bill, to add the same authorization and, in fact, have increased authorized money for prison construction. But I do not want people to be able to accuse me of what, in essence, I am accusing my colleague of, and that is making a meaningless promise. These are authorizations. It is when you appropriate money that you are shooting with real bullets. Authorizing is wishful thinking. That is saying we would like to do it. What is meaningful is appropriating money. This bill does not provide one nickel.

Mr. President, let me talk about guns. I do not believe in gun control, that is true. I do not believe in it. I do not believe that gun control works. I believe the way to deal with the problem is to grab by the throat people who abuse guns. That is why I want 10 years in prison for carrying a firearm during the commission of a violent crime. That is why I want 20 years for discharging it. That is why I want the death penalty for people who use a gun to kill people.

We have, all over the country, gun control measures. The District of Columbia has the most stringent gun control measures in America and, yet, virtually every night, we have a half-dozen people murdered with guns. The problem in the District of Columbia is that we do not have strict minimum mandatory sentencing. We do not have a death penalty. People are killing people, and they are not receiving the effective punishment that would deter it from happening. That is our problem.

But I know gun control is going to be debated. I also know where the votes are on the floor. What I am saying is, let us bring up a real bill that the President can sign. Is our objective only to pass bills that the President has to veto? Is that the sum and substance of this greatest deliberative body on the face of the Earth? Is that what we are here to do? Why are we wasting all of this time on something that 203 Members of the House have already voted against? It takes 146 Members to sustain a veto.

The President has sworn to veto the bill. Why are we even debating this bill? I will tell you why. Because, in frustration, a half-dozen Members of the Senate got together and said, "Look. Let us break this gridlock. Let us take Democratic provisions, let us take Republican provisions that were adopted in either the House or the Senate so we know that there is a broad base of support for them."

So we went back and looked at the Senate bill that we adopted, a bill that I voted for.

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

Mr. GRAMM. I would be happy to.

Mr. BIDEN. Why did you not include the Brady bill then?

Mr. GRAMM. I am glad you asked. That is the next item.

Mr. BIDEN. One other question. Maybe you can answer this as well. Why do you not let us vote on this, let the President veto the bill, and then we are done with it?

Mr. GRAMM. OK. Let me go ahead and explain, and I will get to the Brady bill, and I will talk about this provision.

What we did in trying to break this partisan gridlock is we took the Senate bill and we took the House bill, one adopted by the Senate, the other adopted by the House, and we took the strongest anticrime provisions of both bills, and we put them together and in-

troduced a new bill. And then we announced that once a week, until we had passed a crime bill that the President could sign, we were going to introduce this bipartisan measure that contained provisions adopted either by the House or the Senate.

The reason that we are on this conference report tonight, the reason that we have already voted on it a couple of times before, is that either I or the senior Senator from South Carolina have sent this composite tough crime bill to the desk and asked for its consideration as an amendment. And every time we have done that, the majority, using its rights, using the power of prior recognition of the majority leader, perfectly within the rules of the Senate, has used its ability to call up the conference report to kill that effort.

In fact, the conference report was called up because, on another bill, this amendment had been offered and was subject to debate. The conference report is a way of preventing our composite, tough crime bill from being debated.

Let me talk about the gun provision. I do not need to come to the floor of the Senate to say that guns are controversial, that the gun issue is controversial. Now, we have voted on gun issues many times. We have a pretty good idea where everybody is on the issue. And it really goes back to I believe a deep philosophical difference.

I do not believe gun controls work. Many of our colleagues do. I do not impugn their motive in believing it. I just look at the world we live in. I look at the fact that we have over 100 million firearms. I look at the fact that in the riots in Los Angeles when the criminals all appeared to be armed or were breaking in places and stealing guns but law-abiding citizens faced a waiting period of 2 weeks when they tried to go out and buy a gun to defend themselves.

The point is that we all know that when we present our crime bill the Senate is going to work its will on guns. So since most of the people that are for our bill believe in criminal control and not gun control, what we did was we wrote a crime bill knowing that the first amendment that will be dealt with will have to do with guns. We will vote on numerous gun amendments, we know that the Senate will work its will on the floor on our proposal, know it will be amended many times.

Do I think it is a better bill getting tough on criminals rather than law-abiding citizens who own guns? Yes, I think it is better. But do I think that the Senator from Delaware or the Senator from Maine or somebody else is going to offer a gun control amendment? Yes, I do. I know they are going to offer an amendment. Maybe it is going to be adopted—maybe it is not—depending on where the votes are.

As I like to tell my colleagues whenever we talk about this issue, my mother lives alone and if criminals are thinking about breaking into her house they not only have to worry about the police or the sheriff, they have to worry about the fact that my 80-year-old mother has a little gun, and that she is liable to sentence them to a sentence that no judge can ever bring them back from.

In my opinion, she has a right to have that gun. My mother is a law-abiding citizen. She has a right to go out and buy that gun.

I take our second amendment rights seriously. There are other people who want to restrict them. That is what the process is about. That is what we decide. But that is why guns are not in here. Our bill is a crime bill, but nobody doubts for a second that Congress, ultimately the Senate now, will work its will on our bill.

Why are we not just letting this bill pass? First of all, this bill is brought up for no other reason than to stop us from having our bill considered. I am opposed to this conference report. I have no doubt that about 45 Members of the Senate will vote against it. The President will sustain the veto. I do not know why we have to go through that.

I just want to ask my colleagues to give us an opportunity to pass a real crime bill. I know our colleague from Delaware is working with some Members on my side, working with the Attorney General, seeing if they can work a bill out. I do not know of any other way to put pressure on both sides to work a bill out than to bring this amendment up every week. I want a crime bill. I know every provision of the crime bill will not be a provision that I like. But, Mr. President, I cannot support and cannot fail to use my powers as an individual Senator to stop from passing a bill which the prosecuting attorneys of the United States—that is of the individual States—say strengthens criminals' rights and weakens the rights of ordinary citizens, of law-abiding citizens.

So, basically, this is where we are, and I will summarize and try to be brief, if anybody else wants to speak on this subject. Basically where we are is this: The President sent to the Congress 1,000—let me be sure I have it right now because obviously it changes every day. The President sent to the Senate over 1,050 days ago a crime bill. It was a tough crime bill. We adopted a very tough crime bill in the Senate. The House adopted a pretty tough crime bill. But when we went to conference on a totally partisan basis, most of the tough provisions, 71 of them that were adopted in the House or Senate, were dropped: 10 years in prison without parole for selling drugs to a minor, dropped; life imprisonment for second offense, dropped; 10 years in prison for possessing a firearm during the commission of a violent crime, dropped; 20 years for discharging the firearm, dropped; mandatory life in prison for killing somebody with a firearm during the commission of a violent crime or drug felony, dropped; the death penalty in aggravated cases, dropped.

Mr. President, provision after provision after provision that was aimed at strengthening law enforcement was dropped. But what did we end up with? We ended up with a bill that overturns some 20 Supreme Court decisions that have strengthened law enforcement. We ended up with a bill that, in the language of the National Association of Attorneys General, the association made up of the attorneys general of the various States, we ended up with a bill which they say in their resolution "weakens existing law, that broadens the range of circumstances in which the conviction of criminals will be reversed."

Despite a good bill passing the Senate and a pretty good bill passing the House, we end up with a bill that our district attorneys say:

> Does far more to advance the interest of convicted criminals than it does to protect the law-abiding citizens. In fact, the passage of this bill is tantamount to handing the jail keys to thousands of convicted State and Federal prisoners. Reject this poor excuse for a crime bill.

Mr. President, that is not the President of the United States talking. That is not George Bush. That is not the Senator from Texas. That is a resolution by the National District Attorneys Association; 16 Republican State attorneys general and 15 Democrats wrote the President urging him to veto this conference report.

Mr. President, that is where we are. So what is our objective? Is our objective to pass a bill the President cannot sign? Is our objective to try to embarrass the President by forcing him to veto a bill which all informed segments of the world know is a bad bill, so that we can have Members of the Senate and the House Members of the opposition party stand up and say, "The President is against passing a crime bill; the President is for the criminals"?

Mr. President, we all know that this is not a good bill. We all know we are capable of passing a better bill. Are there stumbling blocks? Do we differ on issues? Will there be a big fight about gun control? Yes. But that is no excuse for not trying to pass a crime bill which the President can sign.

So, what is my objective here tonight? My objective here tonight is to stop a bill from passing that Democrats and Republicans in key law enforcement and prosecution positions all over America are opposed to, a bill that 203 Members of the House voted against, a bill the President has said

that he will veto, a bill that we know will be vetoed and we know both Houses of Congress will sustain the veto.

I have tried now on several occasions to get the Senate to look at provisions that have already been passed by the Senate or already passed by the House, to begin the debate anew, and each time that I have tried to get consideration of a real crime bill, a crime bill that will in fact be signed by the President, a crime bill where the legitimate differences that exist will be worked out, every time I try to do that up comes this conference report being dug up like some dead animal to prevent the Senate from dealing with this issue.

So all I can say is this: This is Thursday evening. My dear colleague from Delaware and I are here.

But I want to deal with this issue. I hope my colleague from Delaware knows or believes that I am serious and that I want to pass a crime bill. This bill that we have before us, this conference report, is never going to become the law of the land and we all know it.

I want to get on with debating the real issue. I did not know any other way to do it other than to take the strongest provisions of the House, the strongest provisions of the Senate bill—many of those provisions were offered by Democrats, many were offered by Republicans. My objective is to begin the debate not on a bill the President has to veto but on a bill that the President will sign. That is what this debate is about. We have an opportunity to deal with gun control, and I do not doubt that there will be many amendments offered, there will be many votes cast, and I am not so foolish as to believe that prudence and wisdom will prevail in all cases.

But I want a tough crime bill. I want people that are trying to sell drugs to my children put in jail, and I want minimum mandatory sentences. I think the time has come to act. That is why I raise this amendment.

And I just want to say finally to my colleagues—and I know people are weary at the end of a long day—this is not going to go away. I am going to offer this amendment once a week until either this Congress ends or until we pass a bill that the President can sign.

I do not ask the bill be my bill. I do not ask it to be a bill that I agree with every item. I do not ask it to be a bill that the President agrees with every item in it. But I am not going to stop bringing up this crime issue until ultimately we pass a bill the President can sign. I understand what our colleagues are doing here, and I know there are many on the other side who want to work out something on this issue. But we are not going to solve this problem by sending the President a bill that we know he is going to veto and that deep in our hearts I think most Members know he ought to veto.

Mr. ADAMS. Will the Senator from Texas yield?

Mr. GRAMM. I am happy to yield.

Mr. ADAMS. The Senator indicated there were just the two of you on the floor. There are some others of us on the floor.

Mr. GRAMM. May the RECORD show the distinguished Senator from Washington has come on the floor and his presence is greatly appreciated.

Mr. ADAMS. I have been watching this for some time. I just have to make this statement. I know that the distinguished Senator from Texas is a professor of economics and a very good one and knows these things very well. I am a former U.S. attorney. I have had to ask for the death penalty in the shooting of three police officers in the Greenwood bank robbery. I have had to prosecute druggies where we were trying eight and nine cases because we were short of people. I have had to go out on the streets of Washington, DC, because I am chairman of the District of Columbia Subcommittee on Appropriations, to see what is out there. I have had to fire guns at the FBI. So I just wanted the Senator to know that there are some of us who are in favor of this bill who have had considerable experience on the streets and have had considerable experience in the courtroom with criminal cases.

This is not a perfect bill. The Senator's bill is not a perfect bill either. But to allow what happened in Los Angeles to go forward and not pass this conference report is one of the most horrifying things that those of us in law enforcement or who have been in law enforcement can think of.

And I want to say this to the Senator from Texas as a reason. You know the first thing that the Crips and the Bloods, which are the two big gangs there, hit. They hit those assault weapons stores, and they were cleaning out those stores, and those weapons went out on the street, and now we have got the Bureau of Alcohol, Tobacco and Firearms out trying to find them.

I want to compliment Senator BIDEN for his patience and for trying to put this bill together. I just hope that the Senator from Texas will allow us to pass this bill. It would help us on the streets of Washington, DC, where our homicide rate is incredible and where our assault weapon rate is just terrifying. And that is not because the District of Columbia has a crime or a gun bill. You are shipping those guns in from every State in the Union that does not have a gun control bill.

That is the point of the bill. It is to stop interstate shipment. I just thought that the Senator ought to know—and I am very found of the Senator from Texas on a personal basis—but I just though he ought to know there are others of us here besides the chairman of the Judiciary Committee who have been involved in law enforcement—I have tried a lot of criminal cases and afterward I had defended some cases—that feel that we should take this step forward.

I also want to close by just saying this in response to the Senator, that we took the drug money that came to the District of Columbia and we sent it down there. We authorized 1,000 new policemen. We authorized new prosecutors. We authorized a new jail. We went to the President and said, "Hire as many more Federal prosecutors as you need." We hired eight new judges. We did all these things. We have mandatory sentences here also. And, as I told you, I have had to ask for the death penalty, so that is not a hangup with me either. Our crime rate here and our random shooting rate and our killing of innocent citizens has gone up since we did that. So I plead with the Senator from Texas and his colleagues to allow us to move forward with this, and another day will come when he can go forward with his bill.

Yes, I have had habeas corpus cases where I had to go down to the court of appeals as many as three times a month to handle those cases. But, please, let us move ahead and let us move ahead with voter registration.

The Senator is kind to have allowed me to speak and I would be happy to answer any questions.

Mr. GRAMM. I thank our dear colleague for his intervention.

I would just like to say this. The President is committed to vetoing this crime bill and he is committed to vetoing it in part because 31 State attorneys general, 16 Republicans, and 15 Democrats wrote him urging him to veto it. They say that this bill weakens law enforcement. The U.S. Attorney General is adamantly opposed to it. And I know and every Member of this body knows that this bill is never going to become law.

Our objective is to pass a bill that is a crime bill. The Constitution requires that either the President sign the bill or that two-thirds of the Members of the House and Senate override his veto. The President is not going to sign this bill. That veto is not going to be overriden. And he should veto this bill, and we should sustain the veto, and we will.

So I urge my colleagues to help me pass a real crime bill that can be signed, that will become law, that will address these problems and that, in fact, has a death penalty for the District of Columbia, something that I have fought for here for a long time.

So let me yield the floor. I appreciate everybody's patience. I am eager to debate the crime issue on a real bill that the President can sign. I am willing to sit down with any of our colleagues, Democrats or Republicans, to try to

work out a compromise. What I have offered is not my bill but a compilation of the strongest provisions adopted by the House and the Senate. The conference report before us consists of the weakest provisions of the two bills and it overturns 20 Supreme Court decisions which strengthen the hand of law enforcement, which is why so many people oppose this bill.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be brief because I see my friend from Iowa wishes to speak, and I am anxious to hear what he has to say.

Let me just say a few thing based on what my friend from Texas just said. First of all, tell your mom she has nothing to fear in terms of her gun because, as you know and I know, nothing in this bill would have anything to do with her gun—zero, nothing. That was a very skillful way to drop mom in, and I appreciate that.

Mr. GRAMM. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. GRAMM. I do not think my mother ever would give up her gun willingly.

Mr. BIDEN. No one is going to ask your mom to give up her gun.

I will paraphrase something someone once said about my friend from Texas. He said, there are two things you have to know about him. One is that he is smarter than you; two, he is real tough. It was not exactly that quote.

But he once again, shows he is a very skillful debater. He dropped in mom like we are going to take mom's gun. I imagine everybody said, "God, don't take mom's gun."

Well, mom gets to keep her gun. This has nothing to do with mom's gun. All we are saying is if you want to go buy a pistol, if you want to go buy a gun, we want to find out whether you are a felon. Mom is not a felon. Mom can buy that gun and the gun mom already has, nobody has to even check out with mom. Mom gets to keep that gun. Mom can spin it, mom can shoot it, mom can swallow it, mom can get mad at her son and say she is going to buy another one. Anything mom wants to do she can do with that gun.

The Senator from Texas talked about strawmen. That is what we call a red herring. It has nothing to do with anything, but he is a skilled debater. I can see when he said "My mom's gun, and she is 80 years old," the folks up there said gee, you are not going to take mom's gun, are you? That would be awful.

This has nothing to do with mom's gun.

Mrs. Gramm, if you are listening, everybody here has great respect for you and your son—and your gun, and your gun is safe, nobody is going to do anything with it.

My friend stands here and sounds so incredibly reasonable. He said he does not want his bill. He is not insisting on the President's bill. He just wants a bill everybody is for.

The last time I looked, we had a majority of the Members of the House—a majority. Kind of a funny thing. He says 203 people voted against it. But a majority voted for it. There are 435 persons over there. More than 303 voted for it.

Where I come from, democracy says a majority rules.

Again, my friend from Texas, he says he does not want the President's bill. He just will not take any bill the President does not want.

Where I come from that is called a non sequitur. He says, A, the President's bill I am not insisting on. So far so good. He is reasonable.

Then he goes over and says, but I will not be for any bill the President is not for. Good. Got that one. That just clicks right in. That is openminded.

I do not want a bill the majority of the House voted for. I do not want a bill a majority of the Senate voted for. But I want to be reasonable. I am a democrat with a small "d"; I believe in democracy. I do not want to be unreasonable. I do not want what a majority of the Senate wants. I do not want what a majority of the House wants. I want what a majority of George Bush wants.

Sometimes we do not know what George Bush wants. I know that comes as a shock to some people but sometimes we are not sure.

But that is reasonable, is it not? The majority rule. It is like that old joke about the Lincoln Cabinet. I am paraphrasing. I do not know it exactly. The joke goes, there are 6 yeas and 1 nay, and the nays have it. The President has it.

I thought there was a Congress. I thought, funny notion I had, that if a majority of people at the other end of that Hall, called the House of Representatives, and if a majority of people in here, say they want a bill, that is a majority. This is democracy.

Now, the Senator from Texas has the right to thwart the will of the majority. No problem. But I ask my friend from Texas, let us call it for what it is in true Texas fashion. This is an attempt—which he has a right to do—to thwart the will of the majority. That is OK. But do not tell me this is an effort just to get something the majority wants, if the definition of the majority is whatever the President says it is.

Second, or third, we talked about mom's gun. We got that straightened away.

I hope we at least remember our math here and remember what majorities are. It means more for than against. You know? That is a majority. We got a majority here. We got a majority there. "There" being down the hall. I am looking at the House of Representatives. I can see from here the door that enters their Chamber.

I hope we have our math and our definitions straight. All right? One, mom gets to keep her gun. Nothing in this bill has anything to do with it. Two, a majority is a majority is a majority. If one more votes for—or against—than votes against—or for, the one that has the one more vote—and we got more than one more vote—that team wins. Democracy.

Now we have a little caveat here, and it makes sense. There are reasons sometimes to thwart the will of the majority. And the Senator has a right to make that case. But do not be so disingenuous. Stand up here and say I am standing up as a Senator from Texas to thwart the will of the majority because I think the majority is making a mistake. That would be honest. That would be straightforward and that is his right.

I hope we got that second point straightened away.

Now the third point. My friend says everybody knows this does not mean anything because the President is going to veto it. And we are just wasting our time.

There is one easy way for the Senator to get rid of this conference report and not have it come back and haunt him, as he talks about it haunting—I do not know if he used the word "haunt"—but keep coming back and getting in his way, this stumbling block to do what right and justice calls for, as he suggests. There is an easy way. Let us pass it.

If he is so sure the President will veto it, let the President veto it. And if he is so sure there are no votes to override it, we will have a vote and not override it. Then we are finished with it. It is out of the way. Then we start from scratch.

But do you ever ask yourself why will he not let us do that? Well, one of three things. There may be other reasons.

One is that he is wrong about the President vetoing it. I have been here 20 years, from Richard Nixon, God bless his soul, through President Bush. And I acknowledge there is some wistful thinking in that phrase "through George Bush." But nonetheless, "through George Bush."

And guess what, Mr. President. I have heard on a number of times Presidents say, "I will veto this bill," and they never vetoed it. Because wisdom comes to them in the midst of the night.

Maybe it will not come. My experience has been, Presidents do not always veto what they say they are going to veto. Maybe he will veto this. I do not know. But, guess what, we can solve the problem of the Senator from Texas—click—like that. We can pass it tonight. He can veto it tonight if he

wants to stay up late. Or he can veto it tomorrow morning when he gets up at 5 or 6 or 9, whatever. And then I will bet you I can talk the majority leader and the Speaker of the House into having an override vote quickly. I bet you I can do that.

Then we are finished with this. And then we are back. We can then be on the Senator's bill.

Again, why do you think he will not let us do that? We are going to waste too much time? We will waste less time if we go that route than if we continue this ridiculous charade of him continuing to pop this silly bill up all the time, that he has. That could be one reason but it is not very substantial.

A second reason, maybe he is wrong about the President. Maybe the President will not veto it. Maybe that is what he is worried about. I do not know.

The third possible reason: The President will veto it but maybe in this atmosphere, where everyone knows what is in this bill is needed by police today, in the atmosphere of the aftermath of Los Angeles, maybe there are enough votes to override the veto. That could be a third reason he will not let us do that.

Or there could be a fourth reason. I realize—this is highly unlikely—but it could be politics. What do you mean by that, Joe?

Maybe the President does not want to have to look at the police officers of this country and say, guess what, folks, I vetoed your bill. Maybe he does not want to have to do that. Maybe he does not want to have to come clean.

I do not know what the reason is. But I cannot think of any other. What other possible reason could there be? Maybe something, but I cannot think of it, and believe me, I have been thinking of this for a long, long time. This has occupied an awful lot of my waking hours, trying to get a tougher crime bill passed.

So, third point: Why will he not let us settle this if he wants it settled? He can do it quickly. He can do it tonight. The President can veto tomorrow. Early next week we can fail to override the veto if he is right, and we can be right back on this bill. All done. Granted, the folks who are visiting Washington at 9:30 at night will not get to sit in the Gallery and hear us wax not so eloquently. That will be a loss, but I cannot think of any other loss that would occur.

So we took care of mom's gun, No. 1.

No. 2, we learned how to count again about majorities. We got that part straight, I think. Anybody who does not understand that one raise your hand. And now we took care of the fact that he could get everything he says he wants if he will let us vote now without any fear of this bad bill he is worried about passing.

Let us go to point four. Point four is the attorneys general. What does he say, 14 Democrats and 16 Republicans, whatever the number is. My friend from Texas said—let me find the quote here, I am paraphrasing: That every informed—I want to make sure I get this straight and do not misrepresent his position—every imformed person says this is not a good crime bill.

I understand when we stay in this body long enough, we begin to think we are the only informed people. My mother has an expression: Everybody is crazy except thee and thy, and thee is a little nuts.

I have a mom, too. And it could be that some people get infected in this Chamber into thinking that what they think is the only thing that anyone could reasonably think.

But there are 600,000 police officers out there; 600,000 of them. There are how many attorneys general did my friend quote? He quotes 31 attorneys general. By the way, most of whom stand for election, most of whom want to be Senators, Congresspersons, Governors, judges, some of whom, like Mr. Morganthau, the district attorney in New York who just wants to be what he is, he is great at it and spends his whole life doing it. There are a lot of people like that.

I know it comes as a strange notion to people who may listen to this on C-SPAN and anyone in the Gallery but occasionally have you not heard the speech that goes like this: I was attorney general of my State and I think it is important for me to now be Congressperson, Senator, Lieutenant Governor, or Governor, or judge because of my experience. I bet you have heard that speech in your State once or twice. There is nothing wrong with it. It is legitimate, but they are politicians. Politicians. Just like we all are.

There are 600,000 police officers and 31 attorneys general. Let me read to you what the 600,000 police officers say.

The Fraternal Order of Police representing hundreds of thousands of people said: "We call on the Congress to adopt and for the President to sign this bill"—the one we are debating at this moment. "It is the toughest anticrime legislation to emerge from the Congress in recent memory and it should become law."

The National Association of Police Organizations, not politicians like us and attorneys general, police who walk out on the street with a gun strapped to their side to protect my mother, Senator GRAMM'S mother, and all Americans. They make mistakes, but what did they say? Let me quote from the National Association of Police Organizations, not elected officials, not politicians. They said:

"We believe that the bill's positive response to the need for overall improvement in law enforcement far overshadows any possible disagreement over any individual provisions. As a significant body of law enforcement officers who risk life and limb daily to protect the American public, we urge you"—the Congress, the Senate, Senator GRAMM—"we urge you to enact this badly needed anticrime legislation immediately."

Not 31 attorneys general; 600,000 police officers.

Let me read on, if I may, Mr. President. The International Association of Chiefs of Police, what do they say about this? "The provisions in the conference report will benefit the public at large as well as those who are charged to protect them. We support the conference report."

The National Sheriffs Association: "After reviewing the content of the recent compromise reached by House and Senate conferees, the sheriffs of this Nation wish to go on record as supporting the 1991 crime bill"—the conference report that has been filibustered by Mr. GRAMM and others. "This bill is the toughest anticrime legislation to surface in many years. We are convinced it should become law."

Not 31 attorneys general. Brilliant women and men all, honest, decent citizens who, by and large, their most dangerous undertaking is similar to ours: Worrying about a paper cut as we go through our memorandums. Not like the 600,000 police, 600,000 who on a daily basis when they kiss their husbands and wives goodbye in the morning or in the evening, as they do the night shift, wonder as they pull someone over for a routine traffic ticket or have to respond to a domestic quarrel whether or not they will get their brains blown out. That is what they say. Not 31 attorneys general. Fine people. Are you telling me that they know better what the police officer needs on the street than 600,000 police? The gall of them.

Police Executive Research Forum: "The crime bill provisions that mandate waiting periods between the purchase and receipt of a handgun and support for State and local law enforcement agencies are signs to law enforcement that Congress is ready to help police do their jobs. The crime bill will advance law enforcement's commitment to protecting our Nation's citizens." The Police Executive Research Forum supports passage of this legislation.

These are the men and women about whom one of my colleagues said when we debated this last time, the last time they kept us from voting on this, "Well, they have been bought off." I believe that was the exact quote—"bought off." The police have been bought off. That is why they support this. That is not Senator GRAMM. That is what one of our colleagues said. They have been bought off. Great. That is nice. That is real good.

These are people who are not elected officials; these are people who are underpaid; these are people who get shot.

I was supposed to be at this very moment speaking before a police organization tonight as their keynote speaker, a police organization that is in place to honor the people among them who have been shot dead, the people who literally do not know if they are going to come home at night or after the night shift, who have been bought off. That is why they are for the position I am proposing. That is what we are told. They have been bought off. Happy days. They have been bought off. But 31 attorneys general, they say this is a bad bill.

The National Union of Police Associations: "We recognize the real need for enactment of the conference committee version of the crime legislation and support it fully"—f-u-l-l-y.

The National Organization of Black Law Enforcement Executives: "The National Organization of Black Law Enforcement Executives is grateful to you and your colleagues for recognizing the necessity to propose the crime bill." NOBLEE"—which is the acronym for this organization—"an organization representing 2,500 law enforcement executives who in turn represent the populations of most major urban cities in our Nation is pleased to endorse" this bill.

No, we are told 31 attorneys general, not district attorneys, in the Nation, 31 attorneys general are opposed to this. They say it is procriminal, or whatever they said. They say it does more harm than good, whatever they said, and they know better, God bless them and their elitist attitudes, than 600,000 police officers.

I might add that the President, as is his wont and right, the Attorney General, as is his wont and right, have taken the leaders of each—I think each one—but I cannot swear every one, but they have taken the leaders of these major police organizations and invited them to the White House, invited them to private meetings with the President, to the best of my knowledge—I know several at least—invited them to talk with the Attorney General, for the President to use all his persuasive ability to get them to change their mind and be against this.

And guess what? They have not relented.

Now, let us ask ourselves, why is that? Is it because they feel greater loyalty to the Senator from Delaware than the President of the United States? Is it because these mostly conservative police officer organizations are all Democrats? They endorsed a Republican President last time, most of them. They stood in their uniforms, God bless them, with the President, shoulder to shoulder, endorsing him. They have, over the last 20 years essentially been very, very close to, and supportive of, most Republican initiatives on crime.

Is it all of a sudden that the Senator from Delaware showed up and they said, "Ah, he is such a wonderful man. We are going to be for this bill just because we like him better than we like the President; we are going to be for this conference report because the Senator from Delaware knows better than the President; or we are going to be for this report because the Senator from Delaware can do more for us than the President of the United States of America?" Preposterous. Preposterous.

Then, why is it, therefore, down the line, they have resisted the significant pressure which the President has the right to impose on them to change their mind? Why do you think that is?

Again, I do not want to set up straw men. Let us just go through little logical syllogisms. Let us set up the very logical, coherent way what could be the answer.

One is they like the Senator from Delaware more. I wish that were true. That would be wonderful. I would be flattered.

The Senator, from a State that has less than a million people, has more clout than the President of the United States. That could be the second reason.

The Senator from Delaware, when he spoke to them, individually, cast a spell upon them that the President could not break. Possible. If I did it, I would like to remember how I did it because I sure could use it with my sons and daughters.

Or maybe is it that the police organizations whose every instinct is to support the Chief Executive Officer of this Nation are saying, "Mr. President, we love you but you are wrong. We need this." Is that not maybe a more logical reason why they would say to an insignificant Senator from a small State that we support your legislation?

Maybe they just believe it, very strongly. Maybe they are doing this in spite of every other instinct in their body to be supportive of the President.

These are among the most patriotic women and men in America. They support their national leader. They endorsed him last time. Granted, they endorsed me, too, but I am a Senator, not the President.

I kind of have a feeling, Mr. President, it is because they believe in it.

And what is the only rationale offered as to why this is a weak crime bill? Thirty-one attorneys general say it is because they do not like the habeas corpus provision.

I would be willing, if we could, if Ross Perot were President—an interesting thought. If Ross Perot were President, he would put in place his electronic, what was it he is talking about? Something called electronic town meetings.

I guess that means I could say, OK, Mr. President, I want this to go out to the voters right now: Who do you believe, 31 attorneys general or 600,000 cops, as to whether or not this is a strong crime bill?

Thirty-one attorneys general say this is a terrible crime bill, and the Senator from Texas says everybody knows that it is not good on crime, and one of our other colleagues says that the cops have been bought off. That is your one choice over here.

Your other choice is 600,000 cops represented by the following organizations say we need this badly.

Paraphrasing, this is the toughest crime bill to come out of the Congress. I am ready to put that Ross Perot electronic vote right now, right this second. No way we would know, but I would be willing to bet everything, every college loan I have, that 10 to 1 the American people would believe the police officers.

We use a lot of expressions around here: straw men, red herrings. There is another one, weak reed. My friend from Texas is clinging to the weakest of reeds. So now, Mr. President, let us go back and review here. OK? First, Senator GRAMM's mother's gun is safe. Took care of that. Second, we learned how to count. If there is one more for something than against it, that is a majority. And what the President says is a majority does not make it a majority, no matter how wonderful he is.

Third, my friend said we cannot let you have a vote on this even though the President will veto it, even though the veto would not be overridden and even though we could rid ourselves of this thing the next day or so, we are not going to let you do that. That is the third one.

I raise the question: Why will he not let us do that? Maybe the President will not veto. Maybe if he vetoes we will override it. Or maybe it is just politics.

The fourth one, this is a bad bill because the attorneys general do not like it; it is weak on crime.

Let me read one last one. This is dated March 12, 1992. The statement by Dewey Stokes that I sent out to my colleagues. Dewey Stokes is the president of the Fraternal Organization of Police, the largest police organization in America.

To say, as some have done, that the conference report on the crime bill is either a step backward or is soft on criminals is prima facie ridiculous to anyone who actually bothers to read the legislation. The conference report includes many provisions which benefit law enforcement in a variety of ways, and in some cases are drastic improvements over even what President Bush initially proposed.

Let us look at the fifth thing that my good friend raised here. He said, well, beyond all of these things which I hope we have demonstrated make no sense at all, we hope, he said, we believe, he said, that this bill is weak. It is weak because it left out—and he listed four things. Let me tell you what is in the bill, and I will let you decide whether or not this is weak. Let me get down here to the compendium of things that are in the bill.

One, the death penalty. It provides 54 death penalty offenses. Weak as can be, you know. We do everything but hang people for jaywalking in this bill. That is weak stuff. It provides the death penalty for killing Federal law enforcement officers, and killing the State officer in the course of cooperative legislation, with Federal agencies.

Los Angeles. Right now because these guys who held up the crime bill, any law enforcement officer, or any National Guardsmen, when they were there, if, God forbid, they got shot and killed, it is not a Federal offense. It is not something for which the death penalty is available.

They say they want to be tough. As the Brady bill—we heard this—I will get to in a minute—which I heard a very imaginative reasoning as to why it was not included, you know. State and local law enforcement authorizes $1 billion to local officials to fight crime, authorizing $3 billion to put more police on the streets; weak. That is kind of weak, you know.

Penalties for drug and violent crime provides 56 new criminal offenses and increases penalties for drug trafficking, firearms offenses, violent crimes, imposes mandatory prison sentences for 12 serious crimes, including selling drugs to minors, possession of guns by convicted criminals, dealing drugs in a drug-free zone—many more than the administration bill and the bill that these guys introduced. He said he does not like this bill because it does not have mandatory sentencing in it. Fascinating.

Gang violence, launches a major new antigang initiative including expanded juvenile courts. Right now what are you reading about in the paper? They cannot get these folks to court, the ones they arrest. If this bill had been passed, that would not be the problem.

Creates new Federal offense for gang-related drug trafficking and violent crimes; provides death penalty for drive-by shootings. Weak as can be. I admit, man, that is real weak stuff.

Increases Federal aid for the victims of crime. Somebody who is victimized and hurt, allows them to recover damages and get money for their injuries, to put themselves back together. Grants crime victims the right to speak out at the sentencing process to say, "Judge, you are about to sentence this fellow or woman, let me tell you what he did. I want to speak out." Weak, weak, weak.

Bars attempts by the Office of Management and Budget to use the crime victims fund, which they try to do now, so the money goes to the victims of crime. Weak, soft stuff.

Provides $50 million in aid to rural law enforcement agencies. I am sure my friend from Texas has done it. If not, he should ride through the rural parts of Texas and they will tell him how many people in fact are victims of crime in rural America and why they need help in rural America; crime is up more than it is in urban America. The list goes on.

That is a weak crime bill? I have only listed about a third of the provisions in the crime bill.

Point number six: My friend from Texas takes an incredible amount of liberty when he says by the way, you know, the reason we have to do my bill, his bill, he says and not this one that is before us we could vote on immediately, he turns around and he says because we got to act quickly. Then he says, quite honestly I know of numerous amendments, I know it will only be a beginning. I know that the gun provisions will be added.

What I wanted to ask him is did he tell me if we add the gun provisions to his bill that there will not be a filibuster? I would like him to come on the floor and guarantee to me if we pass this bill with the gun provisions in it we will get a vote, guarantee me there is a vote.

If he were on the floor, I would at this moment ask unanimous consent that we guarantee a vote on his crime bill with the gun provision in it. Is that what he is telling me? No. He knows he cannot do that. So what is he telling us? Again, let us be logical here. He says we have to move on his crime bill; notwithstanding we have one right in front of us that passed both Houses already, we have to move on his crime bill that is going to require extensive amendment, that is going to have guns added to it, in all probability. And that is then going to be filibustered, putting us right back where we are now, because he has hurt the dispatch in this process. Ludicrous. Ludicrous.

I know he is probably back there in that room, and I hope he is listening, because I am anxious to hear the answer to some of these arguments. It could be that I am wrong. I have been wrong many times in my life. But how does he get it faster? You know he cannot do it. You know he cannot do it. You know he cannot do it. You know he cannot do it. I know he cannot do it. So, guess what? Maybe it is mildly disingenuous, because I know how smart my friend is. He is a brilliant guy. Unless he knows something I do not know. Maybe he has Senator SYMMS and all of the other people on his side to say: It is OK, PHIL GRAMM, you lose the vote on guns, and we will still be for you. You lose the vote on guns, and we promise you we will vote on a crime bill.

There is a lovely young lady sitting in the gallery who looks to be 6 or 7 years old. I bet she can understand what I am saying. I bet she can figure this out.

What are the other insightful reasons why my friend from Texas says he will not let us vote on this bill, and why should we go to something else? Well, he says, ultimately, that he included in his bill all those provisions which were the toughest on both sides. He admits he left out guns, but I guess that is not tough, trying to keep guns out of the hands of convicted felons. It probably is kind of a wimpish thing, one of those things that only wackos would want to do, because good-thinking people would let felons have those guns, let them buy them, and not bother to check whether they are felons.

Let us assume he is right about that. What does he say? He says, well, the reason why we should go the route of his bill is because it is more what the President would want. Well, we had a vote on what the President wanted. We voted on what the President wanted. What did the President want? He wanted a bill that no one else wanted. The majority of this place, including some Republicans, said, "Hey, Mr. President, that bill is no good, we do not want it." The year before the President introduced a bill, they said, "Mr. President, we do not want it." Almost every amendment I came to the floor with and introduced, Republicans voted for. They added them to the President's bill, saying, "Mr. President, your bill is not so hot."

So, again, let us follow the reasoning here, follow the bouncing ball. The Senator says: First, my bill is more like the President's bill; second, the American people in the Senate and the Congress want the President's bill; third, we voted against the President's bill, because we thought it was too weak; fourth, the Congress rejected and adopted all the tougher amendments that Biden and others offered; fifth, we should vote for this, because it is like the President's bill.

Did you follow that ball? Am I missing something? What else did my friend from Texas say? One of the things he said was that it is "time to get tough," and the way he is going to do this is he started counting days. He said that to me and to all of us, and he started to count down. He said the President introduced his crime bill—this is the last thing I will bother to say in the Senate, because I do not think anything else warrants responding to. He said, OK, let us take a look at this. He said that the President sent us a tough crime bill 1,051 days ago. This tough crime bill—remember, follow this little bouncing ball. Are you with me? That is the same bill the Senate said, "Mr. President, it is not tough enough; we do not like it, and we like the things that Biden and the Democrats and some Republicans are adding to it. It is not good enough, Mr. President."

Anyway, back to the point. One thousand fifty-one days ago, the President sent a bill—parenthetically, that no one liked, and now we are back—and the Senate has not acted on it. Not true. We acted on it. We said, by a vote of 56 to 40, "We do not like your weak

crime bill, Mr. President, It is too weak. We do not like it."

Let me give you some real live statistics. It has been 169 days since my friend from Texas and the Republicans started to filibuster this bill. One hundred sixty-nine days ago, they started their filibuster to prevent the police of this country from having the tough crime bill that the police—over 600,000 of them—say they want. What has happened in that 169 days?

I want to resist doing what some Members occassionally on the other side do on this crime issue. I want to make it clear that what I am about to say does not mean if the conference report passed, none of what I am about to say will happen. Let us look at the figures and play their silly little game.

One hundred sixty-nine days ago, a concerted effort was started by the Republican Party to keep us from voting for a crime bill that all of the police officer agencies want. What has happened in that 169-day period? Let me tell you. In the last 169 days, there have been 11,587 Americans murdered. One hundred sixty-nine days ago, the filibuster began, and the tally now is 11,587 Americans murdered. My friend wants to play this silly little game. Let us get some real numbers in here that matter to people, not to the President and his political agenda.

One hundred and sixty-nine days ago there were 48,802 fewer women in America raped. Put another way, in 169 days—the last 169 days—48,802 American women have been raped; over 48,000 since this filibuster began.

One hundred and sixty-nine days ago, my friends exercised their senatorial and constitutional right to filibuster this conference report, and what has happened is that 318,871 Americans have been robbed, not burglarized, robbed; someone confronting them with a gun, a knife, or greater physical force and taking their belongings and sometimes their lives.

This ridiculous filibuster, in the last 169 days, got underway because somebody does not like the Brady bill.

In the last 169 days since the Republican Party in the Senate has filibustered this bill, 501,966 people have been the victims of aggravated assault. I bet there is not a person sitting in the gallery, I bet there are few people watching this on C-SPAN that do not know an individual, or of an individual, who has either been murdered, raped, robbed, or assaulted in the last 169 days.

If you want to compare numbers, 151 days since the President sent us a latin america crime bill that we rejected as being too weak. Or, 169 days of this sustained filibuster, that in that same time period 11,587 people murdered, 48,802 women raped, 318,871 people have been robbed and 581,966 Americans have been assaulted. Shame on you.

Shame, shame, shame.

The total of 881,236 violent crimes have been committed in America in the last 169 days and you are going to tell me that had we passed this bill providing for 3 billion dollars' worth of aid to local law enforcement, $1 billion for drug control, money for controlling gangs, building more jails, more death penalty, more programs, that we would not have at least saved one woman from being raped; prevented, because we had thousands of additional police in the street, one person from being murdered, prevented 500 people from being robbed, been able to prevent 1,000 people from being assaulted.

Is that what you are going to tell me? That if we gave the police what they have been asking for for the past 169 days that at least some more Americans would not be alive, that at least some more Americans would have been able to avoid being the victims of robbery, at least some Americans would not have been spared the agony of a violent crime?

Shame, shame, shame.

And by the way, I did not make these numbers up. These numbers come from the FBI, 1991, estimated total. They are not Joseph Biden's numbers.

Shame.

So you want to do this silly little game of comparing. Let us compare. We have offended the President for 1,051 days because hundreds of days ago we said, "Mr. President, God bless you, we love you; you do not know what you are talking about on crime. We do not like your crime bill, we are against it, it is not tough enough."

Compare that to the 169-day filibuster which has prevented the police officers of this country from adding to their forces, putting more police on the beat, providing them with greater protection, giving them greater ability once they lock somebody up to be sure they stay in jail, because they built more jails, give them more Federal offenses so they could, in fact, take people into Federal court as well as State court, give them 353 additional death penalties.

Let us compare, compare, compare.

So, Mr. President, I am delighted to continue to debate my friend from Texas. I am delighted to respond to any of his arguments. I hope I have responded to his 6 arguments that he has made today, tonight, none of which hold any water in my humble opinion.

I may be mistaken, but I challenge him to come and assail the logic of my position, tell me where I am wrong. Tell me why what I have said about the six points he raised is not true. Lay it out for me logically and for the American people to understand.

That is called debate. That is called deliberative debate in a deliberative body. We have debated this enough.

I see the majority leader is on the floor. It is presumptuous of me, but I respectfully make a recommendation to the leadership of this body: let us force this thing to a vote. Let us tell the American people if another 169 days go by where we do not give the American police departments of this Nation the added help they want, that there will be another 42,000 women raped, that there will be another 11,000 Americans murdered, that there will be another 319,000 people robbed, that there will be another half a million Americans the victims of aggravated assault, that there will be another 881,000 Americans the victims of violent crime. And I challenge them to tell me if this had been the law, how those numbers would be decreased? How would that be?

It is because, I say to my friends from Maine and Kentucky who are on the floor, because 31 attorneys general say habeas corpus, the writ of habeas corpus has not been constraining sufficiently. That is why we should do nothing, that is why we should let this languish, that is why we should not give the police officers of this country who have been begging, screaming, hollering, getting angry about, as I am, not getting help. They want help, folks.

But 31 attorneys general and probably somewhere around 31 Members of this Senate say the cops are wrong, they are wrong, they do not need this to fight crime, they do not need this to cut down the murder rate, they do not need to cut down the robbery rate, they do not need to cut down the rape rate. They do not need this. What they need is a tougher habeas corpus provision.

Well, Mr. President, there is an easy way, and I am sure I am continuing to belabor the point with the Senate, they have heard me say this many times. But there is an easy way to end this debate. Let us vote. Let us vote. Let us decide by a majority whether or not we want this bill, and let the President exercise his constitutional responsibility and veto the bill or sign the bill, and let us get on with business because that will end this debate. It will end it. It will end it on this bill.

I thank my colleagues for listening and I am delighted that that occurred.

One of my friends just said I woke him up, that he was sleeping. I do not know who said that to me but someone did. I hope maybe I can wake up the President, who I think is sleeping on this issue, who has the worst record of any President in the history of the United States in terms of what has happened to his watch with regard to crime in America. I hope I have wakened the 31 attorneys general. I know the 600,000 police are awake. I know they are awake. I hope I have awakened some little segment of America to understand that the arguments that are used against this bill are specious.

The arguments that have not been used are real and they are: First, it has guns in it; second, they are exercising

their minority rights to keep the majority will from going forward which they have a right to do; and third, they do not like the provisions, one provision in the bill, the habeas corpus provision. They are the reasons why this is not going forward, why the filibuster is on. These are none of the reasons that have been put forward to date, in my opinion.

I thank my colleagues for listening and I yield the floor.

The PRESIDING OFFICER. The majority leader.

## NATIONAL VOTER REGISTRATION ACT

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 250, the national voter registration bill; that the following amendments on the list that I will read be the only amendments in order to this bill; that they must be relevant to the committee substitute; that each amendment be subject to a time limitation of 30 minutes, equally divided and controlled in the usual form; and that there be 1 hour remaining on the bill equally divided and controlled between Senators FORD and STEVENS or their designees.

The list of amendments is as follows: an amendment by Senator MCCAIN regarding no registration at any social services office; an amendment by Senator MCCAIN to postpone the enactment date until 1994; an amendment by Senator GRAMM of Texas regarding use of State offices; an amendment by Senator GRAMM of Texas regarding Federal vote fraud, an amendment by Senator GRAHAM of Florida regarding registration and the correct polling place; an amendment by Senator SIMPSON regarding a driver's license pilot program; an amendment by Senator SIMPSON regarding the registration of illegal aliens; an amendment by Senator SPECTER regarding voter fraud; an amendment by Senator MCCONNELL regarding public corruption and election fraud; an amendment by Senator MCCONNELL regarding a sunset provision; and an amendment by Senator NICKLES regarding the economic cost to cities and States.

I further ask unanimous consent that the Senate return to consideration of this bill on Thursday, May 19, at 10 a.m.; that the listed amendments must be offered prior to 8 p.m. on Tuesday, May 19, and that following the disposition of the listed amendments or at 8 p.m. on Tuesday, May 19, whichever comes earlier, the Senate vote on or in relation to any amendments then pending without any intervening action or debate; that the bill, as amended, be read for the third time; and that the bill then be temporarily set aside until Wednesday, May 20, at 10 a.m.; at which time the Senate proceed, without any intervening action or debate, to vote on final passage of the bill.

I further ask unanimous consent that no call for the regular order serve to displace this bill.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

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

The text of the unanimous-consent agreement is as follows:

*Ordered*, That at 10 a.m. on Tuesday, May 19, 1992, the Senate resume consideration of S. 250, the National Voter Registration Bill, and that the following amendments be the only amendments in order to the bill, that they must be relevant to the committee substitute, that each amendment be subject to a time limitation of 30 minutes, to be equally divided and controlled in the usual form, and that there be one hour remaining on the bill, equally divided and controlled between the Senator from Kentucky (Mr. Ford) and the Senator from Alaska (Mr. Stevens), or their designees:

McCain: No registration at any social services office.

McCain: Postpone enactment date until 1994.

Gramm: Use of State offices.

Gramm: Federal vote fraud.

Graham: Relative to registration and the correct polling place.

Simpson: Driver's license pilot program.

Simpson: Registration of illegal aliens.

Specter: Voter fraud.

McConnell: Public corruption/election fraud.

McConnell: Sunset provision.

Nickles: Economic cost to cities and States.

*Ordered further*, That the listed amendments must be offered prior to 8 p.m. Tuesday, May 19, 1992, and that following the disposition of the listed amendments or at 8 p.m., whichever comes earlier, the Senate vote on, or in relation to, any amendments then pending without any intervening action or debate, and that the bill, as amended, be read for the third time.

*Ordered further*, That the bill then be temporarily set aside until Wednesday, May 20, 1992, at 10 a.m., at which time the Senate proceed, without any intervening action or debate, to vote on final passage of the bill.

*Ordered further*, That no call for the regular order displace the bill.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, this agreement has been reached following several hours of lengthy and painstaking negotiations and I thank all of our colleagues who participated in those negotiations, and most especially my colleagues, the distinguished Republican leader, the distinguished Senator from Kentucky, the manager of the bill, and the distinguished junior Senator from Kentucky, the Republican manager of the bill. This will permit us to complete action on this measure by next Wednesday morning.

Mr. President, it will also enable me to announce that there will be no further rollcall votes this evening. The Senate will be in session only in a pro forma session tomorrow and will not be in session on Monday. So the Senate will return to session at 10 a.m. on next Tuesday. There will be votes throughout the day as there are the listed amendments, 11 in number, which will be taken up on that day. Under the order, if the amendment is not offered by 8 p.m. on Tuesday, the amendment will no longer be in order and then we will complete action with final passage of the bill at a final vote on the bill on Wednesday morning at 10 a.m.

Mr. President, I yield the floor and 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. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## MORNING BUSINESS

Mr. FORD. Mr. President, I now ask unanimous consent that we proceed in morning business with Senators permitted to speak therein.

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

## PRODUCT LIABILITY

Mr. MACK. Mr. President, I wholeheartedly support the amendment on product and aviation liability reform.

Under our current product liability system, a few Americans may win huge awards, but all Americans are eventually the losers. Let me be clear: My decision to cosponsor this legislation is not an attempt to minimize the suffering experienced by a person tragically injured by a defective product. Indeed, I am satisfied that this legislation is not to the detriment of a plaintiff in a legitimate products liability suit.

My goal today is to address the other side of products liability law: American businesses, big and small, that must pass their skyrocketing insurance costs onto American consumers in order to survive. The Department of Commerce found that American producers must pay 20 to 50 percent more for liability insurance than their overseas competitors. American businesses will be unable to compete in the international market on an even playing field with businesses from countries free of product liability laws that promote runaway costs. Consumers lose, too. Often, promising projects remain on the drawing board because businesses are afraid to be innovative. For example, an eagerly awaited AIDS vaccine remains untested and unavailable because of the potential liability inherent in its use. Are we willing to let the

legal system cripple our country's fight to stop this deadly virus?

This amendment would provide a uniform system for addressing product liability issues. Businesses can make a living in any environment, but they have to know the rules of that environment. Currently, each State has different laws and policies on product liability actions. The legal issues are especially complicated when multiple States have an interest in the litigation. This amendment would clarify law and policy on a nationwide level, protecting businesses from having an obscure law sprung on them in some remote forum.

Mr. President, a number of my constituents have expressed an urgent need for product and aviation liability reforms. I strongly recommend that we adopt this amendment, and I urge my colleagues to vote accordingly.

## COMMENDING THE WORKERS OF HAMILTON STANDARD FOR THE RETRIEVAL OF THE INTELSAT-6 SATELLITE

Mr. DODD. Mr. President, last night the Nation was treated to a remarkable display of human ingenuity and technological capability. The dramatic rescue of a wayward communications satellite was a fine moment in our Nation's space exploration history.

Twice before the astronauts had attempted to rescue this satellite, Mr. President, and twice before they had failed. But the third time was the charm. The astronauts laid aside their well-laid plans—and their $7 million, specially designed capture bar—and simply reached out and grabbed hold. With the memorable words, "Houston, I think we've got a satellite," the mission was complete.

Mr. President, this remarkable event was made possible by the spacesuits designed and provided by Hamilton Standard, a Connecticut-based subsidiary of the United Technologies Corp. These spacesuits, known formally as extravehicular mobility units, were the most advanced of their kind. They allowed the astronauts to remain outside their vehicle for more than 8 hours, a record length of time. And when the astronauts discarded the game plan and chose to use their hands instead, they knew they would be safely protected by five layers of material.

But Hamilton Standard's contribution to this rescue went far beyond any typical contractual arrangement. For the last few days, Mr. President, a team of workers from Hamilton Standard had worked around the clock to assist NASA in this heroic effort. This support team worked hand in hand with mission control, constantly checking everything from oxygen level to battery power, and giving regular advice to NASA as the mission proceeded. Now that is a company that stands by its product.

Finally, Mr. President, when the Intelsat-6 satellite was lifted toward its correct destination, it was an engine made by Pratt & Whitney—another United Technologies subsidiary—that provided the power.

Today every supporter of our country's space program discovered yet another reason to believe in American ingenuity. And every Hamilton Standard worker—indeed, every member of the United Technologies family—has a new reason to be proud. I am honored to recognize these workers on this special day.

## A GREAT SPEECH BY A GREAT MAN

Mr. CRANSTON. Mr. President, earlier today Members of Congress heard a great speech by a great man, Mikhail Gorbachev. I ask unanimous consent the remarks delivered by the former President of the Soviet Union, along with the fine introductory speeches given by the bipartisan leadership of the Senate and the House appear in the CONGRESSIONAL RECORD.

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

ADDRESS BY FORMER SOVIET PRESIDENT MIKHAIL GORBACHEV TO CONGRESS, THE CAPITOL, STATUARY HALL, MAY 14, 1992

Speaker of the House of Representatives Thomas Foley: It is my guess that to everyone in this room today, Mikhail Gorbachev is the best known of all foreign personalities, and this at a time when he is no longer in public office and when so many dizzying events on the world scene have conspired to push other names, other personalities on our daily consciousness.

I believe there is a simple reason for this high recognition, and may I say high affection. It is because many Americans first began to hope for true world peace, for an end to the Cold War, against all previous experience, despite years of frustration and superpower standoff, when they understood that Mikhail Gorbachev genuinely saw disarmament and the end of U.S.-Soviet tensions as the only solution to his country's economic and social problems and those of the rest of the international community.

For the first time in my memory, Americans found they could believe in a Soviet leader who wanted peace because he cared for the future of his people. Former President Ronald Reagan was a man the average American trusted to protect this country from foreign threats. President Reagan had appropriated what he told people was an old Russian proverb, when negotiating with Soviet leaders. He said, trust but verify.

When Ronald Reagan, President Reagan, who had once called the Soviet Union the evil empire, found that he could verify what Mikhail Gorbachev said, Mikhail Gorbachev did, it was clear that there was a different Soviet leader, who was a Soviet leader with whom America could work.

And then, of course, President Gorbachev displayed a rapport for the man in the street, for the person in the street, that many in this room who are in public life still envy. He captured our affections with his impromptu forays into crowds of Americans on the streets of this capital and other cities during his visits to this country.

It was therefore with great apprehension for President Gorbachev's safety and the safety of his family that many Americans watched and waited during those anxious hours of the August '91 attempted coup. The swift flow of events that followed brought an end to the Soviet Union, a dissolution that President Gorbachev had not wanted to see. Yet it was his commitment to the welfare of the people of the Soviet Union that ensured a peaceful and orderly transition to the 12 new independent states of the Commonwealth of Independent States.

The peoples of those new nations owe Mikhail Gorbachev thanks for the peaceful relations that have ensued with the United States and its allies. So too does the entire international community. So too does the United States of America.

But it is American gratitude, American appreciation, most of all, American welcome that brings us together today. It is therefore a high honor and a personal privilege to welcome a great leader and in my view, a hero of world peace, Mikhail Gorbachev, to the Capitol of the United States of America.

I would now ask the distinguished Republican leader of the Senate, Senator Dole, to give a word of welcome.

Senator ROBERT DOLE: Thank you. I appreciate that applause very much. (Laughter)

We've informed Mr. Gorbachev it's sort of a bipartisan welcome, and I'm certainly honored as the Republican leader to be here today.

Certainly as we all know, President Gorbachev played a crucial role at a very historic moment in world history. No doubt about it—his vision and his leadership and courage set into motion events which have exploded into experiments in democracy and free enterprise throughout the former Soviet Union.

But now he's turned his remarkable talent and drive to new endeavors, most notably an international foundation for social, economic, and political research, aimed at an important part of helping the fledgling democracies survive and flourish.

And as we all know, these are historic times for all of us. Whether the fledgling democracies of Europe and Asia succeed will have an enormous impact on the security and well-being not only on the people of that part of the world, but of the entire globe.

And of course, we in America have a great stake in the outcome of the great adventure unfolding in Russia and the other republics. If free markets and democracy flourish in Russia, free trade and increased business opportunities will flourish in the United States. If a stable, secure Russia moves to reduce conventional nuclear armaments, America's security will be greatly enhanced and our defense budget can be reduced.

Finally, as Russia and the other republics act to safeguard environmental hazards, the quality of life for all will be safeguarded. This interdependence—these shared stakes in the political, military and economic well-being of Russia and the other republics, make it imperative for the United States to lend a hand.

And as you know, all of the leaders here this afternoon pledge to President Bush their support to craft an aid package in advance of President Yeltsin's visit here in June. And I'm pleased that the Senate Foreign Relations Committee has acted, but most importantly today, it's my honor to help welcome President Gorbachev, Mrs. Gorbachev and to hear his views on what's happening and what's unfolding in the former Soviet Union. (Applause)

Rep. DICK GEPHARDT: Mr. President, Statuary Hall, which once served as the chamber of the House of Representatives, is now devoted to history and is often the scene of gatherings which make history, as it is today. The leader most identified with this room is John Quincy Adams, who served as president of the United States from 1825 to 1829. He was elected president by members of the House in this chamber and then returned in 1831 as the only former president to serve in the House after his presidency. During his 17 years as congressman, he became known as "Old Man Eloquent" for his speeches to abolish slavery.

When we think of this great American leader, we think not just of the offices he held, but of his lifetime of outstanding accomplishments. For him, the presidency was not enough. Before serving in elective office, he was perhaps America's most accomplished diplomat of his day. Adams was no stranger to your country, Mr. President. He first traveled there in 1781 when the newly independent United States wanted Russian support.

Again, in 1809 Adams went to St. Petersburg after Russia's recognition of the United States when he sought to establish a political alliance and open up new trade opportunities.

And so I think it's appropriate that we welcome you today in this historic place, someone who left his country's presidency, unforgettably for me on Christmas day, and who continues to render such inspired and extraordinary service to his citizens and to the world.

Your presence here comes when a new political alliance, a new trade relationship and a new bonding between our peoples is taking hold. And you are the pioneer and the entrepreneur who made so much of this possible today.

Adams would, I think, deeply approve of the fact that your voice and your ideas are about to fill this chamber, and that his work in bringing Russia and the United States together continues two centuries later. It is in this spirit, in this historic place, that we are all honored to welcome you back to the Congress of the United States. (Applause)

Rep. ROBERT H. MICHEL (House minority leader): Mr. President, in April of 1985, I had the honor of being the first American legislator—among the first—to meet with you when you became Soviet Communist Party General Secretary. Speaker "Tip" O'Neill and I, along with two of our House colleagues, spent three hours and 45 minutes with you in your Kremlin office. We had what the diplomats like to call a full and frank exchange of views in plain English and in plain Russian. That means we openly talked about our disagreements.

Mr. President, we owe it to history and to ourselves never to forget the profound differences that existed between our two systems at that time. We can appreciate how far we have come only if we remember why we stood opposed for so many decades.

And when I returned to the United States after our visit, I was asked "What kind of a man is this new Soviet leader?" My notes from that period reminded me that I said: Gorbachev is a younger-than-usual Soviet leader, obviously very articulate, knowledgeable and self-confident. He can laugh, he can crack a joke, he was very much in control of himself.

Believe me, Mr. President, there are many Americans running for elective office this year who would welcome such an analysis. (Laughter)

Seven years have now passed since we first met. A revolution has transformed the former U.S.S.R. and Eastern Europe, a revolution of hope and of freedom carried out by the people. It was the people, after all, who were on the side of history all the time.

Mr. President, the statute above the doorway leading to the Great Rotunda depicts Clio, the muse of history, writing of human triumphs and follies as she rides in time's winged chariot. Your place in her book, Mr. President, is definitely assured. And now it is the turn of the people you once led to create their own place in the history of our time.

They've chosen democracy. It's a difficult path. Leaders in a democracy do not always have the right answers, something all of those in this room clearly understand and can attest to. But democracy gives us the means by which answers can be sought in freedom—and that's no small thing.

We welcome you at this time when your countrymen and their neighbors begin the difficult task of building democracy. We look forward to hear what you have to say about their future, and the future of the world you yourself did so much to change. (Applause)

Senator GEORGE MITCHELL (majority leader): Mr. President, you have gained the respect and the admiration of the American people. For seven years you advocated policies in many respects strikingly different from those the world had come to expect from Soviet leaders. "Perestroika" and "glasnost" became household words in America. You pushed for and signed the INF Treaty and made strategic disarmament a major goal and a realistic possibility. You set in motion the events that led the nations of Eastern Europe to find their freedom and determine their own future. You prompted a profound yet peaceful transformation of your own nation and those around you.

Your actions began a process of change that has in a short time redefined international politics.

Rarely can it be said of an individual that he has fundamentally changed the course of history. There is no doubt that you have done so.

In the often random and unpredictable ways of human history, from time to time one person emerges as the symbol and the vehicle of change, the vessel into which millions pour their hopes and aspirations. You weren't always right and events didn't always take the course you preferred.

But history's ultimate judgment will be that you opened the gates through which freedom flowed. (Applause)

It is therefore fitting that you join us today here in the United States Capitol, the building which we proudly believe to be the pre-eminent symbol of freedom in the world.

Mr. President, we welcome you, we look forward to hearing from you.

Ladies and gentlemen, President Gorbachev. (Sustained applause)

Mikhail Gorbachev (through interpreter): Mr. Speaker, Senator Mitchell, Mr. Michel, Senator Dole, Mr. Gephardt, Ladies and Gentlemen:

I am very conscious of the honor of being invited to speak before your distinguished body. I will take this occasion to share with you some of my thinking on problems which, as I see it, are important for both of us.

First let me say the following. It seems to me that, in discussing the changes which have occurred, especially in the past few years, although we recognize their magnitude and importance, we do not yet fully appreciate that we already live in a different world.

Our consciousness, even when focusing on major changes, in many respects continues to move along well-trodden paths, filtering new realities through the sieve of traditional values and concepts.

This is also true of those who carry the burden of political decisions. Perhaps for that reason these decisions are often, to say the least, inadequate and bear the stamp of earlier approaches, creating obstacles to a subsequent positive unfolding of change. This is encountered in both foreign and domestic policy.

Hence the pressing need to think in a new way. Sometimes the expression, New Thinking, is taken merely as an invitation to a new foreign policy. I interpret it in a much broader sense. To have a truly new policy one must evaluate the changing realities correctly. And this, in turn, demands an often painful break with previous conclusions, evaluations, sympathies, and antipathies. If this is not done, there will inevitably be miscalculations and abrupt changes of policy, which are always dangerous.

I felt a great sense of satisfaction in reading the speeches of President Bush in the Rose Garden, on April 21, and of Secretary of State Baker in Chicago, April 22. I realize that they were rethinking the course of world events, in these genuinely changed circumstances, in a truly new way and on a truly large scale. Although I cannot accept everything they say about "American leadership," I was very impressed by their interpretation of U.S. interests, including economic, and of national security as closely linked to support for democracy in Russia and the other states of the former USSR.

Another theme I would like to mention is the problem of national interests in an international world. This seems to me exceptionally important, today.

There is no point trying to demonstrate that states will now neglect their national interest in favor of something else, or even less that they will reject national interest altogether. National interest still dominates the formulation of foreign policy and its implementation. But at the same time, we must take into consideration the new processes in the world.

These are: interdependence, the integration and unity of the world, and the fact that challenges are global in scale.

They dictate the need for other priorities, as part of a true policy based on realities.

But such a policy must be premised on the idea that the very content of national interest itself has changed. This is a point I would particularly stress. Indeed, can the interest of any country, even more, a great power, be considered as given once and for all and absolutely unchanging? One recalls what the ancient Greeks stated in this connection. It is good that today, at the beginning of a new era and a time of fundamental change in both Europe and the world, the idea is becoming increasingly accepted that the very system of national priorities and mechanisms of their implementation, are also undergoing alteration.

Politicians also bear responsibility for ensuring that nations have a correct understanding of their interests—their vital interests. We know from our own experience how we could be carried away, for instance, by the ideologically rooted conviction that the Soviet Union had a vital interest in maintaining a military presence in some country of equatorial Africa. I think that the United States has had equivalent "experience" of this sort.

The national priority is the supreme interest of the state, the nation, and the peoples comprising it. It is neither easily ascertained

nor precisely defined. But to confuse it with the momentary or selfish demands of some domestic group or class, even a very influential one, is dangerous, whether the demands originate in the economy, the military-industrial complex, or in some political party.

President Bush and I on several occasions had very far-ranging discussions on this point. We tried to find our way in the very delicate problem of what sorts of relations between our countries correspond to the genuine national interests of both one and the other side, as well as of both together—meaning, also those of the international community. These musings were not without their impact on our policies vis-a-vis one another. They yielded very definite results. Naturally, I would hope that this not be lost to the interrelationship between the American and Russian leadership.

In general terms, I would say the following about the international priorities of a sensible contemporary foreign policy corresponding to the common interests of all. These must include:

The continuing improvement of international relations;

Unifying our efforts to remove threats to the environment in which we live;

Cooperation to assure energy and food supplies;

Interaction in the disarmament process;

The promotion of democratic transformation and protection for human rights.

My trip around the United States has shown how much interest is manifested by the most varied groups in American society with respect to everything occurring in our country, especially in Russia.

The CIS is more of a formal structure in the sense that the countries emerging through the breakup of the USSR must seek some sort of formula for integration. Otherwise, most of them will not only have extreme difficulty emerging from the crisis in isolation, but thereafter they will find themselves on the margin of global processes.

At present, however, the situation is confused. The United States has to deal with a number of different states on the territory of the former USSR.

It is also obvious that among these states the Russian Federation comes first in the system of foreign-policy priorities. I do not say this because I am a citizen of that state but rather because of certain indisputable facts which must be taken into consideration. Russia is legally recognized as the successor state to the USSR; it has taken the latter's seat in the United Nations Security Council. Russia is a major nuclear power. And even the sharp reduction in its defense does not relegate it to the sidelines. Even in its altered form, Russia remains territorially the largest country in the world. It has a population of 150 million people. It possesses enormous natural resources, a highly skilled labor force, a gigantic, even if antiquated, industrial potential, and outstanding scientific personnel in many areas.

Today the Russian Federation is in severe difficulty. But foreign policy, after all, should be directed not only at today, but also at tomorrow. Russia tomorrow—and that day will come—will be a large and flourishing state whose impact on the world will be on a scale with its mighty potential.

In the relations between our countries much will depend upon the steps which are taken today. And judging by what I have learned from the recent statements of your President and Secretary of State on this very theme, such understanding does exist. Therefore I would like to tell you how I envisage these relations.

After 1985 major positive shifts occurred in the relations between the USSR and the USA. Today we must not forget what was gained during those years and, indeed, we must develop them further.

In general terms, I repeat, this necessity is understood, and statements to this effect have been made on both sides. But, as is well known, statements are not enough. The real obstacles come to the surface when something concrete is attempted. As the proverb states: "the devil hides in the details." For instance, much very exacting work must be done to analyze and confirm a number of agreements which were made with the Soviet Union.

Take, for example, the series of agreements on disarmament. The obligations assumed by the Soviet Union must be carried out by all the states members of the CIS, without any exceptions.

This applies especially to nuclear weapons. But the problem is different today from what it was when these particular agreements were concluded. The nature of the nuclear threat has altered in principle. Now the major danger is not that there will an exchange of nuclear strikes by global opponents, but rather that control over these weapons will be lost.

The reduction in the accumulated potential must continue. That much is clear. The ultimate goal remains a nuclear-free world, but prior to that moment, and it may be a long time coming, supplementary non-proliferation guarantees will be needed.

For many years world public opinion has been concerned that countries which are not signatories to the non-proliferation treaty may be working to develop nuclear weapons. Anxiety on this score has intensified since the collapse of the Soviet Union. The world breathed a sigh of relief when agreement was reached to concentrate all Soviet tactical nuclear weapons on Russian territory and to establish a centralized mechanism of command and control over strategic weapons.

But the increasingly tense relationship among the "nuclear" republics has given rise to some uncertainty as to whether the agreement will be carried out. I think that the United States and Russia should jointly keep this problem under control until there is a full guarantee that it has once and for all been removed from the agenda.

The world press has recently written a great deal about the threat of an unravelling of nuclear technology through emigration by Soviet scientists and other specialists in this area. I must say that what has been written on this subject is full of exaggerations. There has not yet been any mass exodus of our nuclear and rocket specialists, and those who do leave generally head for countries like the USA, England, France, etc. where nuclear technology is already on a high level. But there is indeed a potential danger of such emigration if only because the press campaign, so to speak, tells those who are hunting for nuclear weapons what address to write to.

I welcome the measures undertaken by the USA and Russia, and also the initiative of President Mitterand, to prevent such a turn of events. Even so, I cannot conceal my feeling that the measures proposed are inadequate. Large scale international research programs must be developed immediately which could provide work for most of the physicists who will be losing their jobs, including both Russians and Americans.

Up until now I have been calling Russia the successor state to the Soviet Union, but this is only one side of the coin. The Russian Federation has been recognized as a new state with its own specific national geopolitical and economic interests, foreign-policy priorities, and problems.

Also in the defense sphere, Russia will have to solve its new national security problem. It has the right to count on understanding from America and NATO.

One problem which is assuming an acute and, at times, dramatic character in Russia is that of ethnic enclaves which, thanks to the breakup of the formerly unified state organism, are being violently separated from their accustomed Motherland and now find themselves on the other side of a national boundary. This is true, first and foremost, of Russians, but also of other nationalities which are organically connected with Russian culture, the Russian language, and the Russian way of life.

The situation is aggravated by the paroxysms of extreme nationalism which have here and there generated direct discrimination against minorities. Sometimes this is carried to a point which resembles apartheid.

In this situation any incautious step by anyone, however well intentioned, can be misinterpreted and used in a way which is contrary to what was anticipated. And, of course, any actions which contradict extraterritorial principles of human rights should be called by their true name. Assistance here by the US, the UN, or the European Community would be no less significant than the West's humanitarian food assistance.

We must also realize that no Russian government can ignore discrimination against a Russian-speaking population, especially when this leads to armed clashes and the creation of hundreds of thousands of refugees. If the democrats cannot resolve their problem, it will be resolved by totalitarian nationalists. It can hardly be in the interests of the United States not to consider this circumstance in its relations with Russia and the other states of the CIS.

The related, but broader, issue of European instability must also be considered. The United States has its obligations in Europe and cannot just turn its back on them. For Russia, European stability is an absolutely vital issue which affects it directly. In this way, life itself obliges us to take common actions. We must move more rapidly to create a system of European conciliation, arbitration, and, if need be, even measures of compulsion to prevent or to end conflicts. In this connection I fully support the proposal to set up a sort of European Security Council endowed with broad powers. I think such a step would be fully in the interests of the United States as well.

Russia in its European policy can never ignore the danger of becoming isolated from Central and Western Europe. Such a tendency can already be seen in outline. On Russia's western boundaries a chain of countries has emerged which can either become a bridge or a wall between Russia and the rest of Europe. Both Russia's geographic interests and the needs of Russian democracy demand rapprochement with these countries. Isolating Russia, and squeezing it off into the East, is in the interests neither of the United States nor of Western Europe.

The Russian Federation must still work out some new type of relationship with the former Central Asian republics. In our country and in the West there is today much speculation about the growing danger from a politicized Moslem fundamentalism. I consider this to be exaggerated. In any case, history, economic interdependence, and many

psychological, cultural, and political factors reflecting a century of closeness between the peoples of Central Asia and Russia, suggest that the effect of liberation from the "shackles of imperialism" will inevitably die down and that rapprochement on a new basis will then take place on a voluntary and natural basis. But for this to happen there must be a policy which has been thought through in all its details, especially on the part of Russia itself. Here a substantial role may be allotted to the relations, based upon contemporary democratic principles, of the United States and the other major Western powers with the countries of Central Asia. What Washington has already undertaken along these lines seems to me to be acceptable.

It is obvious that the interests of the USA and the Russian Federation in this area are close.

The area of contact of these interests includes problems of global security, of regional policy in the Middle East, in the Asia-Pacific Region, and also in Latin America and Africa. I discussed this matter some days ago in New York.

In conclusion, you will doubtless have noted that the basic thrust of my speech favors a partnership of equal rights and equal benefits between the United States and Russia. Of course, I realize that some in the United States feel that your interests are better served by a weak and dismembered Russia, one which has been reduced to a secondary position in world affairs. I will not polemicize with this viewpoint but would just like to formulate what seem to me two important propositions.

The first: is it sensible to put an insoluble task at the center of one's policy? After all, Russia cannot be permanently kept, so to speak, "offside" in world politics. Any such attempt would be hopeless. All they could do would be to harm Russian democracy and maybe scuttle it for good.

The second proposition: can the United States really get along without a good and rather reliable partner in its highly moral and intelligent foreign policy? Russia can become such a partner. There is no difference of view today between it and the United States on the basic problems of human existence. Geopolitically it is not in opposition to the United States. Nor is it a competitor. It has no real interest in that and it lacks any immediate motivation. In any case, the "superpower era" will presumably fade further and further into the past.

And if these considerations are true, it is in the American interest to extend genuine support to the reforms in Russia. Today they are in their most difficult stage, and we have not yet gone through the worst of the crisis.

The people are courageously bearing up under their burdens because they do not want a return to the past. But in the very near future we must pass through even more severe trials and make some difficult decisions. This is connected, first and foremost, with the liberalization of energy prices.

I would ask the members of both chambers of Congress, when the decision is taken on the Administration's proposal to support reforms in my country, to bear in mind how much is staked on this card. I hope that Congress will follow its best traditions of bipartisanship and responsibility. This is a historical moment and a historical opportunity. We cannot afford to miss it.

It would not be superfluous to recall that even in the worst of times the Russians, and other peoples of my country, never felt hostility toward the American people. When Russia emerges from the present severe crisis, the national memory will forever remain cognizant of the magnanimity displayed by Americans at this moment of difficulty. This has happened before, more than once especially at the end of the war with fascism. Of course, those feelings were at the time rapidly suppressed and swept away by the new wave of Stalinist moral, and even physical, terror. That could never happen again today.

All this leads me to state that the prospects are very good for rapprochement and cooperation between a democratic Russia and America. And I am sincerely happy that in this chamber there are so many people ready to apply themselves to this task.

Let us act together!

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON DEVELOPMENTS CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 238

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

I hereby report to the Congress on developments since the last Presidential report on November 13, 1991, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c). This report covers events through March 31, 1992. My last report dated November 13, 1991, covered events through September 30, 1991.

1. The Iranian Transactions Regulations ("ITRs"), 31 CFR Part 560, were amended on December 3, 1991, to further interpret the documentary requirements for obtaining a license to import Iranian-origin carpets from third world countries, and to permit the importation of certain household and personal effects by persons arriving in the United States. A copy of these amendments is attached to this report. Except for minor clerical changes, the Iranian Assets Control Regulations ("IACRs"), 31 CFR Part 535, have not been amended since my last report.

2. The Office of Foreign Assets Control ("FAC") of the Department of the Treasury continues to process applications for import licenses under the ITRs. However, the December 3, 1991, amendments to the ITRs have resulted in a substantial reduction in the number of license applications received relating to the importation of nonfungible Iranian-origin goods, principally carpets, claimed to have been located outside of Iran prior to the imposition of the embargo. Those amendments have also made specific licenses unnecessary for most Iranian-origin goods permitted entry as duty-free household goods and personal effects by persons returning to the United States.

During the reporting period, the Customs Service has continued to effect numerous seizures of Iranian-origin merchandise, mostly carpets, for violation of the import prohibitions of the ITRs. FAC and Customs Service investigations of these violations have resulted in forfeiture actions and the imposition of civil monetary penalties. Numerous additional forfeiture and civil penalty actions are under review.

FAC worked closely with the Customs Service during the reporting period to further develop procedures to expeditiously dispose of cases involving the seizure of noncommercial importations of nonfungible Iranian goods by certain first-time importers. The opportunity for immediate re-exportation of such goods, under Customs supervision and upon payment of a mitigated forfeiture amount, has been made available in a greater number of cases to reduce the total cost of the violation to those importers.

3. The Iran-United States Claims Tribunal ("the Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 7 awards, for a total of 528 awards. Of that total, 357 have been awards in favor of American claimants: 217 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 140 were decisions adjudicated on the merits. The Tribunal has issued 34 decisions dismissing claims on the merits and 80 decisions dismissing claims for jurisdictional reasons. Of the 57 remaining awards, 3 approved the withdrawal of cases and 54 were in favor of Iranian claimants. As of March 31, 1992, payments on awards to successful American claimants from the Security Account held by the NV Settlement Bank stood at $2,045,284,993.99.

As of March 31, 1992, the Security Account has fallen below the required balance of $500 million 34 times. Iran has periodically replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. The last transfer of interest occurred on November 27, 1991, and resulted in a transfer of $26.6 million from the interest account to the Security Account. The aggregate amount that has been transferred from the interest account to the Security Account is $859,472,986.47. As noted in my last report, Iran has also replenished the Security Account with the proceeds from the sale of Iranian-origin oil imported into the United States, pursuant to transactions licensed on a case-by-case basis by FAC.

The Security Account was also increased on December 3, 1991, by an $18 million payment from the United States that was a part of the settlement of case B/1 (Claim 4). This payment brought the balance of the Security Account up to the required $500 million for the first time since June 1990. As of March 31, 1992, the total amount in the Security Account was $500,334,516.76, and the total amount in the interest account was $8,322,610.75.

4. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for $250,000.00 or more. Since the last report, six large claims have been decided, including two claims that were settled by the parties. Approximately 85 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 89 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being resolved, sometimes with sizable damage awards to the U.S. claimant. Since September 30, 1991, U.S. claimants have been awarded over $4 million by the Tribunal.

5. As anticipated by the May 13, 1990, agreement settling the claims of U.S. nationals against Iran for less than $250,000.00, the Foreign Claims Settlement Commission ("FCSC") has begun its review of 3,112 claims. The FCSC has issued decisions in 460 claims, for total awards of over $8 million. The FCSC expects to complete its adjudication of the remaining claims by September 1993.

6. In coordination with concerned Government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since the last report, the United States Government has settled one case with Iran, resulting in a payment to Iran of $278,000,000. As noted above, $18 million of this payment was deposited into the Security Account for replenishment purposes. The Department of State also represented the United States before the Tribunal in a case filed by an Iranian national.

7. As anticipated in my last report, after a final determination that there were no longer any bank syndicates pursuing claims against Dollar Account No. 1 at the Federal Reserve Bank of New York, appropriate steps were taken to close the account. On February 19, 1992, the remaining balance in the dollar account, $134, 128.56, was transferred to Bank Markazi. On March 12, 1992, the United States and Iran filed a joint submission to the Tribunal requesting termination of Case No. A/15 (I:G), the case brought by Iran involving the syndicate claims.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals, and presents an unusual challenge to the national security and foreign policy of the United States. The IACRs issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. Similarly, the ITRs issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

GEORGE BUSH.

THE WHITE HOUSE, *May 14, 1992.*

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## LIFELONG LEARNING ACT OF 1992—MESSAGE FROM THE PRESIDENT—PM 239

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Labor and Human Resources:

*To the Congress of the United States:*

I am pleased to transmit today for your immediate consideration and enactment the "Lifelong Learning Act of 1992." Also transmitted is a section-by-section analysis.

This legislation would provide to all Americans, including working men and women and the unemployed, access to grant and loan help throughout their lives that is not now available. This additional help would make it possible for more Americans to further their education and increase their job skills and productivity.

Enactment of this legislation would help move America forward in achieving National Education Goal Five: "Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship."

This legislation would:

—*Extend eligibility for Pell Grants and the three Guaranteed Student Loan (GSL) programs to students studying less than half-time.* Providing grant and loan assistance to individuals taking as little as one course at a time offers American men and women the flexibility they need to improve their employment skills while recognizing their commitments to jobs and families. This program would extend loan eligibility to individuals who are enrolled in non-degree granting education and training programs and who are taking only one course at a time. These individuals have a legitimate need for skill enhancement and training that is not being met under existing loan programs. For example, a working mother in a low-wage job could receive financial assistance for courses that would qualify her for better paying, high-skilled jobs.

—*Extend new opportunities for education and training to all U.S. citizens.* Additional student loan eligibility would be available for full- or part-time students. The Student Loan Marketing Association (Sallie Mae) would be authorized to originate up to $25,000 in loans, in addition to current GSL loan limits, through the Lifelong Learning Line of Credit for those borrowers who want the option of repaying loans on a basis tied to their actual income. The concept of basing student loan repayment on a borrower's future earnings has long been attractive to the Administration and to many in the Congress. However, a program of this type presents unique and complex design issues that demand careful analysis and structuring. This Act would call upon Sallies Mae, a leader in student loan administration, to offer $100 million per year in loans and to work with Secretary of Education to devise actuarially and fiscally sound loan options that would be widely available.

—*Explore the use of high-quality education and training programs offered by non-school based providers.* The Secretaries of Education and Labor would be authorized to develop regulations under which students attending programs offered by nontraditional types of providers could be eligible for the Lifelong Learning Line of Credit. Community-based organizations, public or private agencies, and private employers are some examples of the types of providers that might participate. These providers could participate only if the high quality of the pro-

grams could be ensured and if these funds do not replace funds already being spent for this training.

I believe that all Americans should have an opportunity to pursue education and training throughout their lives. I look forward to working with the Congress on this legislation and welcome your recommendations on how this legislation can best secure this opportunity for all Americans.

I urge the Congress to give the Lifelong Learning Act of 1992 prompt and favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *May 14, 1992.*

## MESSAGES FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 111— A concurrent resolution authorizing the 1992 Special Olympics Torch Relay to be run through the Capitol Grounds.

The message further announced that pursuant to section 203(b)(D) of Public Law 102-166, the minority leader appoints Ms. Lynne O'Shea of Chicago, IL, from private life, to serve as a member of the Glass Ceiling Commission on the part of the House.

The message also announced that pursuant to section 1081(c)(1)(E) of Public Law 102-240, the minority leader appoints Mr. Francis X. Lilly of Washington, DC, from private life, to serve as a member of the Commission to Promote Investment in America's Infrastructure on the part of the House.

### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 6:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes;

S. 749. An act to rename and expand the boundaries of the Mound City Group National Monument in Ohio;

S. 838. An act to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such Act and for other purposes;

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes; and

H.J. Res. 388. A joint resolution designating the month of May 1992, as "National Foster Care Month."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

## 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-3217. A communication from the Assistant Adminstrator of the Environmental Protection Agency, transmitting, the annual report on the total number of applications for conditional registration and, with respect to those approved, the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, together with the quantities of such pesticides produced; to the Committee on Agriculture, Nutrition and Forestry.

EC-3218. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-3219. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on foreign government and individual contributions to the Department of Defense as of September 30, 1991; to the Committee on Armed Services.

EC-3220. A communication from the Secretary of Commerce, transmitting, pursuant to law, notice that the Department of Commerce is imposing new foreign policy export controls on certain equipment and technologies that are being transferred from the State Department's United States Munitions List to the Department of Commerce's Control List; to the Committee on Banking, Housing and Urban Affairs.

EC-3221. A communication from the Secretary of Commerce, transmitting, pursuant to law, notice that the Department of Commerce is expanding foreign policy export controls on supercomputers; to the Committee on Banking, Housing and Urban Affairs.

EC-3222. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the semiannual report of the Office of Inspector General at the National Endowment for the Humanities; to the Committee on Governmental Affairs.

EC-3223. A communication from the General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation to authorize the Secretary of the Interior to transfer certain lands in the Shenandoah National Park to the Secretary of the Treasury for use as a United States Customs Service Canine Enforcement Training Center, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3224. A communication from the 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-3225. A communication from the 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-3226. A communication from the Adminstrator of the General Services Adminstration, transmitting, pursuant to law, a report of building project survey and copies of prospectuses; to the Committee on Environment and Public Works.

EC-3227. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a quarterly report on the nondisclosure of Safeguards Information for the quarter ending March 31, 1992; to the Committee on Environment and Public Works.

EC-3228. A communication from the Assistant Secretary of State (Legal Adviser for Treaty Affairs), transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States in the sixty day period prior to May 7, 1992; to the Committee on Foreign Relations.

EC-3229. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General of the International Trade Commission for the period October 1, 1991, through March 31, 1992; to the Committee on Governmental Affairs.

EC-3230. A communication from the Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, a report on the final rule of the Domestic Mail Classification Schedule; to the Committee on Governmental Affairs.

EC-3231. A communication from the Acting Chief Financial Officer, Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, a report on the necessary documentation to alter an existing Privacy Act system of records entitled "Commerce/Census-3"; to the Committee on Governmental Affairs.

EC-3232. A communication from the Assistant Secretary of the Interior, transmitting, a draft of proposed legislation to reauthorize Titles I and III of the Tribally Controlled Community College Assistance Act of 1978, as amended (25 U.S.C. 1801, et seq.), and for other purposes; to the Select Committee on Indian Affairs.

EC-3233. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report of the Department of State for calendar year 1991; to the Committee on the Judiciary.

EC-3234. A communication from the Director, Office of Policy and Communication, Department of Justice, transmitting, pursuant to law, the annual report of the Department of Justice under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-3235. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal years 1993, 1994, and 1995; to the Committee on the Judiciary.

EC-3236. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend provisions of title 35, United States Code, regarding the late payment of patent maintenance fees and the membership on the Board of Patent Appeals and Interferences in the Patent and Trademark Office; to the Committee on the Judiciary.

EC-3237. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Helen Keller National Center for Deaf-Blind Youths and Adults for calendar year 1991; to the Committee on Labor and Human Resources.

EC-3238. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the an-

nual report detailing test and evaluation activities of the Foreign Comparative Testing Program for fiscal year 1991; to the Committee on Armed Services.

EC-3239. A communication from the Acting Secretary of the Navy, transmitting, pursuant to law, notification that the Supersonic Low Altitude Target program has breached its unit cost threshold by more than 15 percent; to the Committee on Armed Services.

EC-3240. A communication from the Secretary of Defense, transmitting, pursuant to law, notice of the establishment of a new United States Strategic Command and changes to the missions of certain other commands; to the Committee on Armed Services.

EC-3241. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the anticipated impact of termination of the funding by the Department of Defense for the activities and operations of the National Board for the Promotion of Rifle Practice; to the Committee on Armed Services.

EC-3242. A communication from the Deputy Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice that the performance of a Rockwell B-1B Full Scale Development contract will continue for a period exceeding ten years; to the Committee on Armed Services.

EC-3243. A communication from the Secretary of Defense, transmitting a draft of proposed legislation to provide for effective acquisition, maintenance, and operation of sealift for the Armed Forces, and for other purposes; to the Committee on Armed Services; to the Comittee on Armed Services.

EC-3244. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to enhance the ability of the Army's Civilian Markmanship Program to provide training in the use of rifled arms to American youth; to the Committee on Armed Services.

EC-3245. A communication from the Assistant Secretary of Commerce (Administration), transmitting, pursuant to law, notice of a proposed reorganization of the National Technical Information Service; to the Committee on Commerce, Science, and Transportation.

EC-3246. A communication from the 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-3247. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report entitled "Mormon Island Auxiliary Dam, Safety of Dams Modification Report"; to the Committee on Energy and Natural Resources.

EC-3248. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on published articles relating to environmental issues for individual geographic locations; to the Committee on Environment and Public Works.

EC-3249. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the final report on activities and programs under section 319 of the Clean Water Act entitled "Managing Nonpoint Source Pollution"; to the Committee on Environment and Public Works.

EC-3250. A communication from the Senior Attorney of the Environmental Protection Agency, transmitting, pursuant to law, the final rule promulgated by the Environmental Protection Agency on Lender Liability; to the Committee on Environment and Public Works.

EC-3251. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report entitled "Skilled Nursing Facilities Prospective Payment Demonstration: Report on Research Findings"; to the Committee on Finance.

EC-3252. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to increase the availability, portability, and affordability of health insurance, especially health insurance for small employers, by prohibiting discriminatory practices and promoting broad risk pooling among health insurers, and for other purposes; to the Committee on Finance.

EC-3253. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Department of Housing and Urban Development during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3254. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the District of Columbia Public Works Act of 1954, as amended, to require Federal agencies to reimburse the District of Columbia for water and sewer services; to the Committee on Governmental Affairs.

EC-3255. A communication from the Vice Chairman and Chief Financial Officer of the Potomac Electric Power Company, transmitting, pursuant to law, a copy of the Balance Sheet of the Company as of December 31, 1991; to the Committee on Governmental Affairs.

EC-3256. A communication from the President of the Chesapeake and Potomac Telephone Company, transmitting, pursuant to law, a statement of receipts and expenditures of the Company for calendar year 1991; to the Committee on Governmental Affairs.

EC-3257. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, a report on the adjustment of the compensation schedule of the Administration; to the Committee on Governmental Affairs.

EC-3258. A communication from the Chairman of the Thrift Depositor Protection Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Board during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3259. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Commission during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3260. A communication from the President and Chief Executive Officer of the Farm Credit System Assistance Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Board during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3261. A communication from the Deputy Director of the Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Office during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3262. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Commission during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3263. A communication from the Staff Director of the United States Commission on Civil Rights, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Commission during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3264. A communication from the Executive Director of NeighborWorks, transmitting, pursuant to law, the annual report on audit and investigative activities for fiscal year 1991; to the Committee on Governmental Affairs.

EC-3265. A communication from the Chairperson of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Commission during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3266. A communication from the Chairman of the National Commission on Migrant Education, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Commission during fiscal year 1991; to the Committee on Governmental Affairs.

EC-3267. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to authorize employees, who received lump-sum annual leave payments when moving between nonappropriated fund and civil service employees, the option to keep such payments in lieu of required leave transfer; to the Committee on Governmental Affairs.

EC-3268. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, recommendations relative to legislation that would grant Federal recognition to Indian groups; to the Select Committee on Indian Affairs.

EC-3269. A communication from the President of the Institute of American Indian Arts, transmitting, pursuant to law, the annual report of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development; to the Committee on the Judiciary.

EC-3270. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Department of Transportation under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-3271. A communication from the President of the American Academy and Institute of Arts and Letters, transmitting, pursuant to law, the annual report of the Academy and Institute for calendar year 1991; to the Committee on the Judiciary.

EC-3272. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to implement and authorize Weed and Seed activities, and for other purposes; to the Committee on the Judiciary.

EC-3273. A communication from the Secretary of Veterans Affairs, transmitting a

draft of proposed legislation to amend title 38, United States Code, to consolidate the accounts used to fund the housing loan programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Jerome H. Powell, of New York, to be an Under Secretary of the Treasury; and

John Cunningham Dugan, of the District of Columbia, to be an Assistant Secretary of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

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. Buster C. Glosson, [redacted] United States Air Force.

## 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. GLENN (for himself, Mr. NUNN, and Mr. LEAHY):

S. 2711. A bill to ensure the fair treatment of members of the Selected Reserve of the Ready Reserve of the Armed Forces who are adversely affected by certain reductions in the size of the reserve components of the Armed Forces; to the Committee on Armed Services.

By Mr. ROTH:

S. 2712. A bill to establish a National Economic Council within the Executive Office of the President; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 2713. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow medicare administrative funding to increase and thereby combat waste, fraud, and abuse, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that of one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SANFORD:

S. 2714. A bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers, to provide matching funds for the promotion of mathematics or science secondary schools, and for other purposes; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. DECONCINI):

S. 2715. A bill to require the Secretary of Veterans Affairs to carry out demonstration projects to determine the feasibility and desirability of installing telephones in Department of Veterans Affairs health-care facilities for use by patients of such facilities; to the Committee on Veterans Affairs.

By Mr. AKAKA:

S. 2716. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to assert jurisdiction in a labor dispute which occurs on Johnston Atoll, an unincorporated territory of the United States, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON (by request):

S. 2717. A bill to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the Volunteers in the Parks Program, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2718. A bill to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 2719. A bill to require the United States Trade Representative to take action authorized under section 301 of the Trade Act of 1974 against certain foreign countries in retaliation for the imposition by such countries of a ban on the importation of rice and rice products of the United States, and for other purposes; to the Committee on Finance.

S. 2720. A bill to suspend until January 1, 1995, the duty on Tetrabromocyclooctane; to the Committee on Finance.

S. 2721. A bill to suspend until January 1, 1995, the duty on N,N'-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide); to the Committee on Finance.

S. 2722. A bill to suspend until January 1, 1995, the duty on 1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2723. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SHELBY:

S. 2724. A bill to restore the value of the Section 29 credit and to make the credit permanent; to the Committee on Finance.

By Mr. CRAIG:

S. 2725. A bill to authorize extension of time limitations for a FERC-issued license; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (by request):

S. 2726. A bill to implement and authorize Weed and Seed activities, and for other purposes; to the Committee on the Judiciary.

By Mr. MACK:

S. 2727. A bill to provide for the revitalization of small business concerns, promote job growth, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 2728. A bill to make emergency supplemental appropriations to provide emergency short term assistance for American youth and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

By Mr. SARBANES:

S. 2729. A bill to amend the provisions of chapter 35 of title 5, United States Code, to assist Federal employees who were separated from service as a result of a reduction in force in finding new employment, and for other purposes; to the Committee on Governmental Affairs.

S. 2730. A bill to amend title 10, United States Code, to permit certain personnel who are involuntarily separated from the Armed Forces to enroll temporarily in health benefits plans of the Federal Employee Health Benefits Program; to the Committee on Governmental Affairs.

By Mr. DOLE (for himself and Mr. CHAFEE):

S. 2731. A bill to amend the Internal Revenue Code of 1986 to make deduction for health insurance costs of self-employed individuals permanent, and to provide for a phased-in increase in the deductible amount of health insurance costs from 25 to 100 percent; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. CHAFEE):

S. 2732. A bill to increase the availability, portability, and affordability of health insurance, especially health insurance for small employers, by prohibiting discriminatory practices and promoting broad risk pooling among health insurers, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. BIDEN, Mr. THURMOND, Mr. CHAFEE, Mr. STEVENS, Mr. HEFLIN, Mr. AKAKA, Mr. D'AMATO, Mr. KASTEN, Mr. KOHL, Mr. LAUTENBERG, Mr. SEYMOUR, and Mr. SPECTER):

S.J. Res. 304. A joint resolution designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DIXON, Mr. ADAMS, Mr. BIDEN, Mr. BRADLEY, Mr. BURDICK, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. HEFLIN, Mr. JEFFORDS, Mr. KASTEN, Mr. KERRY, Mr. LIEBERMAN, Mr. LEVIN, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. RIEGLE, Mr. SARBANES, Mr. SPECTER, and Mr. ROTH):

S.J. Res. 305. A joint resolution to designate October 1992 as "Polish American Heritage Month"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 306. A joint resolution designating October 1992 as "Italian-American Heritage and Culture Month"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GARN (for himself, Mr. GLENN, Mr. HOLLINGS, Mr. GORE, and Mr. DOLE):

S. Res. 296. A resolution to commend and congratulate the crew of the National Aeronautics and Space Administration STS-49 mission for their magnificent rescue of the INTELSAT VI satellite and a memorable maiden voyage of the Space Shuttle Endeavour; considered and agreed to.

By Mr. FORD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 297. A resolution to authorize testimony and document production by and representation of employee of the Senate in United States v. Charles E. Hughes, Sr; considered and agreed to.

By Mr. COCHRAN:

S. Con. Res. 119. A concurrent resolution to state the finding of Congress that the Amendment to the Constitution of the United States relating to compensation for Members of Congress has been duly ratified, and for other purposes; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN (for himself, Mr. NUNN, and Mr. LEAHY):

S. 2711. A bill to ensure fair treatment of members of the selected Reserve of the Ready Reserve of the Armed Forces who are adversely affected by certain reductions in the size of the reserve components of the Armed Forces; to the Committee on Armed Services.

NATIONAL GUARD AND RESERVE PERSONNEL TRANSITION BENEFITS ACT

Mr. GLENN. Mr. President, on April 8, 1992, the Subcommittee on Manpower and Personnel of the Committee on Armed Services, a subcommittee that I Chair conducted a hearing on the substantial strength and force structure cuts in the National Guard and Reserve that have been proposed by the administration. Specifically, the Department of Defense [DOD] wants to reduce the strength and force structure of the National Guard and Reserve components by 16 percent by the end of fiscal year 1993. This is not a small number of people. In all, at least 185,000 people, National Guard and reservists, would have to come out of the selected Reserve if the proposed reductions are approved by the Congress, and that assumes that no new people are brought into the selected Reserve during this time.

Mr. President, setting aside the question of the validity of the reductions that the administration wants to make—and the case for these reductions has yet to be made—I was dismayed to learn at our hearing that DOD had done nothing to provide for the orderly and fair transition of the guardsmen and reservists who would be affected by its proposed reductions. I want to read extracts of the testimony we received from Mr. Stephen M. Duncan, the Assistant Secretary of Defense for Reserve Affairs, to underscore this particular point.

Senator GLENN. "Is there a DOD plan to provide transition benefits to Guard and Reserve personnel that separate because of strength reductions you proposed?

Mr. DUNCAN. "We don't have a plan in place, but we are working * * *."

Senator GLENN. "What would you do with a drilling reservist who was enrolled in the Reserve G.I. bill whose unit was being deactivated? What happens to him?"

Mr. DUNCAN. I don't know. * * * I just don't have a sense for it yet."

Senator GLENN. "How about the same fellow who has 15 years of service for Reserve retirement who is unable to affiliate with another unit? You don't have an answer for that yet?"

Mr. DUNCAN. "I don't have an answer, but * * *."

Senator NUNN. "I think it may be a good thing we didn't go along with what the Secretary of Defense proposed last year because, obviously, you were not equipped to deal with it."

Mr. DUNCAN. "In what sense, Senator?"

Senator NUNN. "Well in the sense that a year later, we still don't have a plan of transition for people who are going to be hurt. * * *"

Mr. DUNCAN. Well, but the reason we don't know who is going to be hurt is because answering the question of which units will be cut does not answer that question. One then has to find out to what extent will we be successful in the future in helping the individuals in those units find another Reserve home. I can't answer that until we—"

Senator NUNN. "But that doesn't preclude you from having a plan for those who don't get replaced, but there is no plan for that either."

Senator GLENN. "Do you have any standard replacement rules?" That's the question. * * *

Mr. DUNCAN. "Well, there has been no DOD directive, Senator, but we have some planning principles * * * and now we are working to develop a plan."

Senator GLENN. "Well, I think that should be a very high priority for you because the hurt is out there right now. The people are worrying about where they are going to go right this very moment."

Mr. DUNCAN: "Well, of course, I understand that, and that is why we are working so hard to come up with a—"

Senator GLENN: "Do you have any idea when you can have that done, just guidelines on transfers?"

Mr. DUNCAN: "No, but believe me, I have at least as much interest as the committee in making sure it happens faster rather than slower."

Senator GLENN: "Yes, I know, but I'm just trying to speak on behalf of the people that are out there. Can they expect some guidance on how they will be dealt with within 30 days or 6 months or a year from now? Can you give us—"

Mr. DUNCAN: "Well, I can assure you it is not going to take a year."

Mr. President, it is very clear from these questions and answers that our men and women in our National Guard and Reserve units are left out in the cold right now and that DOD is, at best, in a scramble mode as far as providing adequately for the people who would have to leave the selected Reserve under the reductions proposed by DOD.

Given this state of affairs, I have worked with Senator NUNN to develop a legislative proposal that I am introducing today, the National Guard and Reserve Personnel Transition Benefits Act of 1992, to ensure one thing, and that is to ensure the fair treatment of guardsmen and reservists who will be affected by the Defense build down, and to provide authorities to facilitate the management of the selected Reserve personnel inventory as DOD restructures the National Guard and Reserve components.

I want to take a few moments to describe the features of our proposal.

Before I do that let me say that this is a companion piece to what we did last year in dealing fairly with the All-Volunteer Forces, most of them thinking they had a career and now they are told they do not. We are reducing force levels by 100,000 a year. We put together a package that would deal fairly with those people, fairly underlined 6 times, fairly. That is what we are talking about. Now we are trying to do the same thing for guardsmen and reservists who put their faith in the Government, contributed to our buildup all these years as part of our total force, went to the gulf, conducted themselves admirably there and now are told, "Even though you depend on this as a second income, even though you are going to school under the reserve GI bill waiver, thank you and good bye," and that is it. What we are doing with this benefits package is trying to deal fairly with these people. Let me take a few moments to describe the features of our proposal.

ESTABLISHMENT OF RESERVE FORCE REDUCTION TRANSITION PERIOD

The provisions of our proposal would apply to personnel in the selected Reserve, those who are called up to active duty from time to time, the selected Reserve, in fiscal year 1992 through the end of fiscal year 1995. This package is sunsetted; it does not go into the indefinite future. All of the authorities provided are therefore temporary, and are provided for the purpose of aiding the transition of selected reservists who must leave the selected Reserve because of the downsizing of the National Guard and Reserve components during this period.

REQUIREMENT FOR A TRANSITION PLAN

This has some history behind it. Our proposal would prohibit the deactivation of any selected Reserve unit or the involuntary separation of a selected reservist—except for personnel being separated because of adverse personnel actions—during the transition period until the Secretary of Defense has promulgated and submitted to the Congress regulations that implement the provisions of our proposal. This particular provision would ensure that selected Reserve personnel are provided a uniform, fair safety net of benefits if they must leave the selected Reserve because of the National Guard and Reserve component downsizing during the transition period.

We put this in because the Pentagon did not operate in a timely fashion on some of the provisions that we provided for the active duty component of the All Volunteer Force. People thought that they were going to have certain benefits, that certain things were going to happen. The regulations were not promulgated promptly, creating some real problems. What we are doing now is saying that DOD cannot go ahead and separate these people until DOD puts this plan into effect. In other words, we want to deal fairly with people and not have these benefits

delayed for whatever reason by the Pentagon.

This provision would also require DOD to prescribe uniform procedures for the recruitment, the reassignment, the retraining, and the separation and retirement of personnel consistent with the needs of the selected Reserve, and with equal consideration for the fair treatment of personnel, using that word again "fair" treatment of personnel.

AUTHORITY FOR EARLY RETIREMENT

Our proposal would allow selected reservists who have 20 years of credit for Reserve retirement and who are in a selected Reserve unit to apply for reassignment from the selected Reserve to the Retired Reserve in order to draw an immediate, reduced retirement annuity.

Under current rules, selected reservists who have completed at least 20 years of service creditable for Reserve retirement are eligible to draw their reserve retirement annuity at age 60, only then. This rule tends to entice selected reservists to remain in the selected Reserve well after they accumulate 20 years of credit for reserve retirement. Consequently, there is a relatively rich supply of these individuals in the selected Reserve. Our provision would provide an incentive for some of these people to voluntarily leave the selected Reserve and reduce the pressure on involuntary removals as the Reserve components build down.

The reduced retirement annuity under this provision would be calculated using the same reduction formula currently authorized for the early retirement of Federal civilian personnel under section 8339 of title 5 of the United States Code. This reduction formula would reduce the retirement annuity normally due at age 60 by 1 percent per year for each year the individual is under age 60, and an additional 2 percent per year for each year the individual is under age 55.

For example, a noncommissioned officer in the E-7 grade who has 20 years of credit for Reserve retirement would receive $550 per month in retired pay at age 60. Under this provision, assuming that the NCO is in the selected Reserve, is 50 years of age, and is approved for early retirement, the NCO would have his or her monthly annuity reduced by 15 percent, and draw it immediately. Therefore, the NCO would receive $468 per month and draw the reduced amount for 10 years more than he would if he or she had to wait until age 60.

Our proposal would also allow selected reservists who have at least 15 years but less than 20 years of credit for Reserve retirement to apply for assignment from the selected Reserve to the Retired Reserve. Such personnel would be eligible for Reserve retirement pay at age 60 based on the number of years of Reserve retirement credit they have accrued. For example, a noncommissioned officer in the E-7 grade who had 20 years of credit for Reserve retirement would receive $550 per month at age 60. Under this provision, the same NCO with 15 years of service for reserve retirement would draw $413 per month at age 60. As in the selected Reserve population with 20 years of service for Reserve retirement, there is a rich supply of personnel with 15 to 20 years of credit for Reserve retirement.

Both of these retirement provisions—an immediate annuity for those with over 20 years, and the 15-year retirement authority—will aid the National Guard and Reserve components in encouraging the voluntary retirement of selected reservists who become surplus to requirements, and facilitate the realignment of personnel among remaining billets as Guard and Reserve units are down sized to maintain a better balance between youth and experience. And it is fair, I once again repeat that term.

AUTHORITY FOR SEPARATION PAY

Our proposal would authorize the payment of separation pay to selected reservists who have 6 but less than 15 years of service and who are being involuntarily released from the selected Reserve because their units are being deactivated during the transition period. The separation pay authorized would parallel the separation pay being paid to active personnel who are being separated, and be equal to 15 percent of 2 months of basic pay multiplied by the number of points accrued for Reserve retirement divided by 60.

This may sound a little complicated, but basically it puts the calculation back on the same formula of 2.5 percent per year as the regular establishment has had for a long time.

Such a formula would yield a lump-sum separation payment for a typical reservist with 10 years of service or 6 months of drill pay. For example, an officer with 10 years of service in the grade of O-4, would receive about $3,400. An enlisted person with 10 years of service in the E-6, would receive about $1,700.

I mentioned earlier the Reserve GI bill assistance. Our proposal would allow selected reservists who must leave the selected Reserve because of the National Guard and Reserve downsizing during the transition period to continue to receive Reserve GI bill educational assistance.

Under current rules, a selected reservist must agree to complete 6 years of selected Reserve service in order to be eligible for 36 months of Reserve GI bill assistance, $170 per month.

Our provision would authorize selected reservists who have completed two-thirds of the required service—in other words, 4 years out of that 6—to be eligible for the full 36 months of Reserve GI bill assistance. Those who have completed at least one-half of the required service would be eligible for 27 months of assistance, and those who have completed at least one-third of the required service would be eligible for 18 months of assistance. Once again, I think this is only fair.

CONTINUED COMMISSARY AND EXCHANGE PRIVILEGES

Our proposal contains a provision that would authorize selected reservists who must leave the selected reserve because of the National Guard and Reserve downsizing during the transition period to continue to retain their eligibility to use military commissary and exchange shopping facilities for 1 year following the date they leave the selected Reserve.

EXTENSION OF SERVICE GROUP LIFE INSURANCE

Finally, our proposal would provide for the continued coverage of selected reservists who must leave the selected Reserve because of the National Guard and Reserve downsizing during the transition period under the Service Group Life Insurance Program at no cost to the individual.

Mr. President, that summarizes the provisions in our proposal. If enacted, we expect that the only provisions in our proposal that would result in costs to the Department of Defense would be the provision that authorizes an immediate payment of retired pay for personnel who have 20 or more years of service, the provision that authorizes involuntary separation pay, and the provision that would provide for continued service group life insurance coverage. I have asked the Congressional Budget Office to estimate the cost of our proposal. I believe that the cost estimate will be sensitive to the Guard and Reserve strength cuts that the Congress ultimately approves. By my rough calculations, I believe the net cost of our proposal over the entire 4-2 year transition period could range between $100 to $200 million at most. We hope the CBO can get those figures for us promptly so that we can quote a more accurate figure and ascertain the cost of this proposal.

Mr. President, I believe the proposal I have just outlined fills a void that I mentioned earlier. Quite frankly, I am disappointed that DOD dragged its heels in proposing a transition package along these lines. DOD proposes immediate Guard and Reserve cuts yet the package that they have told us that they are thinking about is not there. I am disappointed that DOD has dragged its heels in proposing a package.

DOD's attitude tells me that the Pentagon puts guardsmen and reservists in a second class category, and that is very unfortunate. I hope this proposal serves at least as a wake up call to the Pentagon that our guardsmen and reservists are people too and deserve to be treated with dignity and fairness. So I challenge the Pentagon to evaluate this proposal and work with us to do right by the people who will be affected

by the Guard and Reserve build down over the transition period.

Mr. President, I urge my colleagues to join us in sponsoring and enacting our proposal, and 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. 2711

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Guard and Reserve Personnel Transition Benefits Act of 1992".

**SEC. 2. FORCE REDUCTION TRANSITION PERIOD DEFINED.**

In this Act, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

**SEC. 3. MEMBER OF SELECTED RESERVE DEFINED.**

In this Act, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

**TITLE I—PERSONNEL PROTECTIONS TRANSITION PLAN**

**SEC. 101. RESTRICTION ON RESERVE FORCE REDUCTION.**

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be deactivated and no member of the Selected Reserve may be involuntarily separated from the Armed Forces, involuntarily reassigned to a unit or position not in the Selected Reserve, or otherwise involuntarily given a status not in the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and the House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

**SEC. 102. TRANSITION PLAN REQUIREMENTS.**

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 101 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit deactivations and other involuntary changes in their status as members of the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this Act and the amendments made by this Act; and

(2) such other policies and procedures for the recruitment of personnel for the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations promulgated under this title shall include the following:

(1) The giving of a priority to personnel referred to in section 101 for reassignment to Selected Reserve units not being deactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this Act, by the amendments made by this Act, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

**SEC. 103. INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.**

The protections, preferences, and benefits provided for in regulations prescribed pursuant to this title do not apply with respect to personnel who are separated or transferred under adverse conditions, as characterized by the Secretary of the military department concerned.

**TITLE II—RETIRED PAY**

**SEC. 201. FORCE REDUCTION PERIOD RETIREMENTS.**

(a) TEMPORARY SPECIAL RETIREMENT AUTHORITY.—(1) Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

**"§ 1331a. Temporary special retirement authority**

"(a) IMMEDIATE RETIREMENT WITH 20 YEARS OF SERVICE.—Except as provided in section 1331(c) of this title, the Secretary concerned may grant a person under the age of 60 years, upon the application of such person, immediate reduced retired pay computed under sections 1401 and 1413 of this title if—

"(1) as of October 1, 1991, that person has performed at least 20 years of service computed under section 1332 of this title or after that date and before October 1, 1995, he completes 20 years of service computed under that section;

"(2) the person is a member of the Selected Reserve;

"(3) the person satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of this title; and

"(4) the person applies for the immediate reduced retired pay within one year after the later of—

"(A) the date of the enactment of the National Guard and Reserve Personnel Transition Benefits Act of 1992; or

"(B) the date on which the person satisfies the applicable years-of-service requirement in paragraph (1).

"(b) RETIREMENT WITH 15 YEARS OF SERVICE.—Except as provided in section 1331(c) of this title, the Secretary concerned may grant a person, upon the application of such person, retired pay computed under section 1401 of this title if—

"(1) as of October 1, 1991, that person has performed at least 15 years of service computed under section 1332 of this title or after that date and before October 1, 1995, he completes 15 years of service computed under that section;

"(2) the person is a member of the Selected Reserve;

"(3) the person satisfies the requirements of paragraphs (1), (3), and (4) of section 1331(a) of this title; and

"(4) within one year after the later of the date referred to in subsection (a)(4)(A) or the date on which the person satisfies the applicable years-of-service requirement in paragraph (1), the person—

"(A) applies for retired pay; or

"(B) requests transfer to an inactive status list authorized under section 1335 of this title.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of subsection (a) or (b) to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 102(a) of the National Guard and Reserve Personnel Transition Benefits Act of 1992.

"(d) DATE OF ENTITLEMENT.—Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under subsection (a) or (b) shall be the date on which the requirements of that subsection have been completed.

"(e) MEMBER OF SELECTED RESERVE DEFINED.—In this section, the term 'member of the Selected Reserve' means—

"(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

"(2) a Reserve designated pursuant to section 268(b) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement authority.".

(b) COMPUTATION OF EARLY RETIREMENT RETIRED PAY.—The item relating to formula 3 in the table in section 1401(a) of such title is amended by inserting "1331a" below "1331" in the second column.

(c) COMPUTATION OF REDUCED RETIRED PAY.—(1) Chapter 71 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1413. Reduced retired pay for certain chapter 67 retirees**

"The retired pay computed under section 1401 of this title for a person authorized such retired pay under section 1331a(a) of this title shall be reduced by 1/12 of 1 percent for each full month not in excess of 60 months, and 1/6 of 1 percent for each full month in excess of 60 months, that such person is under 60 years of age on the effective date of the commencement of the payment of retired pay to that person.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1412 the following new item:

"1413. Reduced retired pay for certain chapter 67 retirees.".

**SEC. 202. CONFORMING AMENDMENTS.**

(a) YEARS OF SERVICE.—(1) Section 1332(a) of title 10, United States Code, is amended by inserting "or 1331a" after "section 1331".

(2) Section 1338(a) of such title is amended by inserting "or 1331a (a)(1) or (b)(1)" after "section 1331(a)(1)".

(3) Section 1405(a)(3) of such title is amended by inserting "or 1331a" after "section 1331".

(b) RETIRED PAY BASE.—(1) The table in section 1406(b) of such title is amended in the second item under the heading "For a member entitled to retired pay under section:" by inserting "1331a" below "1331".

(2) Subsections (c)(1) and (d)(1) of section 1407 of such title are each amended by inserting "or 1331a" after "section 1331".

(c) DEATH BENEFITS.—Section 1483(f)(2) of such title is amended by inserting "or 1331a" after "section 1331".

(d) APPOINTMENTS TO SERVICE ACADEMIES.—Sections 4342(b)(1)(B), 6954(b)(1)(B), and 9342(b)(1)(B) of such title are each amended by inserting "or 1331a" after "section 1331".

## TITLE III—ADDITIONAL BENEFITS

### SEC. 301. SEPARATION PAY.

(a) ELIGIBILITY.—A member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily separated from the Armed Forces during the force reduction transition period is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(1) the years of service credited to him under section 1333 of title 10, United States Code; and

(2) 62 times the daily equivalent of the monthly basic pay to which he was entitled at the time of his separation from the Armed Forces.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

### SEC. 302. CONTINUING ELIGIBILITY FOR MONTGOMERY G.I. BILL EDUCATIONAL ASSISTANCE.

(a) TITLE 10 PROGRAM.—Notwithstanding sections 2131(c)(2) and 2134(2) of title 10, United States Code, and subject to section 3695 of title 38, United States Code, a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period may be provided educational assistance in accordance with the other provisions of chapter 106 of title 10, United States Code, for the following maximum number of months:

(1) In the case of a person who has completed 4 or more years of the service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, for 36 months (or the equivalent in part-time educational assistance).

(2) In the case of a person who has completed at least 3, and less than 4, years of such service, for 27 months (or the equivalent in part-time educational assistance).

(3) In the case of a person who has completed at least 2, and less than 3, years of such service, for 18 months (or the equivalent in part-time educational assistance).

(b) TITLE 38 PROGRAM.—Notwithstanding section 3013(e) of title 38, United States Code, and subject to section 3695 of such title, a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period may be provided educational assistance in accordance with the other provisions of chapter 30 of title 38, United States Code, for the following maximum number of months:

(1) In the case of a person who has completed 4 or more years of the service required by section 3012(a) of title 10, United States Code, for 36 months (or the equivalent in part-time educational assistance).

(2) In the case of a person who has completed at least 3, and less than 4, years of such service, for 27 months (or the equivalent in part-time educational assistance).

(3) In the case of a person who has completed at least 2, and less than 3, years of such service, for 18 months (or the equivalent in part-time educational assistance).

(c) SAVINGS PROVISIONS.—(1)(A) If a person receiving educational assistance under a provision of law referred to in subsection (a) or (b) is enrolled in an educational institution regularly operated on the quarter or semester system and the period of such person's entitlement under such provision of law would, under paragraph (2) or (3) of such subsection, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(B) If a person receiving educational assistance under a provision of law referred to in subsection (a) or (b) is enrolled in an educational institution not regularly operated on the quarter or semester system and the period of such person's entitlement under such provision of law would, under paragraph (2) or (3) of such subsection, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

(2) A person referred to in subsection (a) or (b) who, before involuntarily ceasing to be a member of the Selected Reserve, receives educational assistance under a provision of law referred to in that subsection for a number of months in excess of the maximum number authorized by that subsection may not be required to reimburse the United States the amount of the excessive educational assistance.

(d) REFUND OF CONTRIBUTIONS.—(1) A person whose entitlement to educational assistance under chapter 30 of title 38, United States Code, is reduced below 36 months (or the equivalent in part-time educational assistance) by this section shall be entitled to a refund of the amount equal to the excess, if any, of—

(A) the total amount by which the basic pay of that person has been reduced under section 3012(c), 3018(c), or 3018A(b) of title 38, United States Code, over

(B) the amount equal to $1,200 times the percent determined by dividing—

(i) the maximum number of months for which that person may be provided full-time educational assistance under chapter 30 of such title pursuant to this section, by

(ii) 36.

A refund amount computed under this paragraph that is not a multiple of $1 shall be rounded up to the nearest even dollar amount.

(2) The Secretary of the military department who administered the payment of the reduced basic pay to a person entitled to a refund under paragraph (1) shall make the refund payment required by that paragraph out of funds available to the Secretary for the pay of active duty personnel of the armed force under the jurisdiction of that Secretary.

### SEC. 303. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

### SEC. 304. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) CONTINUED COVERAGE.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) ELIGIBILITY.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) PAYMENT OF PREMIUMS.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

### SEC. 305. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under this title to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 102(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—The provisions of this title do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under this title terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

Mr. NUNN. Mr. President, I join Senator GLENN in sponsoring the legislative proposal that we have developed—the National Guard and Reserve Personnel Transition Benefits Act of 1992. We intend for this to be a companion piece to the comprehensive package of transition and conversion programs that we are currently working on.

Like Senator GLENN, I was very disappointed to learn at our Manpower Subcommittee hearing on April 8, 1992, that the Department of Defense [DOD] had done nothing to provide for the transition of the more than 258,100 drilling reservists who would lose their positions as a result of the reductions it proposes by the end of fiscal year 1995. The proposed reduction is front loaded so that over 70 percent, or 185,000, of the proposed reduction would occur over the next 2 years, and there are no transition benefits for anyone.

While I do not endorse the size and pace of the Guard and Reserve reductions that the Pentagon proposes, because I think they go too far too fast, I believe some of the reductions may be justified. We haven't settled on a number yet; however, I believe it would be irresponsible for any substantial reduction to be made before DOD has in place a program for the transition of the people who would be displaced by such a reduction. Common decency with regard to how we treat people who have served their country dictates this.

At the same time, I believe DOD has not really thought through how it should realign its Reserve personnel inventory so that the smaller force it proposes will contain the proper balance of age and experience, and grade and skills. Nor has DOD thought through how it can best use those military personnel who are leaving our Active Forces who have the recency of experience and skills that can be applied in strengthening our Reserve Forces.

For example, when I questioned the Assistant Secretary of Defense for Reserve Affairs about this at the April 8 Manpower Subcommittee meeting, he responded by saying: "There are a lot of questions we don't have the answers to yet, but I am meeting, even as soon as the next few days, with the military departments and the Reserve chiefs to identify precisely these kinds of things that may be problems so we can start trying to anticipate how we react to them." He further stated: "I just simply do not know the individual personnel impact of those unit reductions, but we are scrambling to find out."

So I believe it is fair to say that the Pentagon on the one hand wants us to approve large cuts in the Guard and Reserve, and on the other hand has no plan or proposal for taking care of the over 258,100 people whose positions would be cut out by the end of fiscal year 1995. I don't see how we could in good conscience approve the Pentagon's proposal under these circumstances.

Aside for the matter of personnel impacts, there is the matter of whether or not the proposed cuts themselves are justified. Quite frankly, I do not know of any methodology that we could rely on at this point to validate the Pentagon's proposal. We were in the same boat last year when the Pentagon proposed similar large cuts, which we rejected.

At the same time, we mandated in the National Defense Authorization Act for Fiscal Years 1992 and 1993 last year, a study of the Active/Reserve mix of our military services to be conducted by an independent federally funded research and development corporation. That study is due to us February 15 next year.

At our April 8 hearing, the study director, Dr. Bernard Rostker of the RAND Corp., briefed us on the status of the study. I was very encouraged by the approach being taken in the study, and if Dr. Rostker succeeds in providing us with alternative Active/Reserve Force mixes to consider, we will be in a much stronger position to deal with this issue on a comprehensive, total force basis.

In this regard, to the question as to whether or not he knew of any methodology we could use now to evaluate effectively the Guard and Reserve cuts proposed by the Pentagon, Dr. Rostker responded: "Not that we are aware of."

He further testified that with regard to the methodology the study group has developed that:

> We have been active in exposing the methodology to all interested parties to get the feedback to make sure that we are approaching the problem in the right way, and now we are in a systematic way trying to fill in the gaps with numbers that we can defend and that are the very best estimates of what the underlying structure is and the type of mobilization system that really will be out there.

I think we are all looking for this kind of analysis in order to be able to make informed judgments. For example, the Senate National Guard caucus sent a letter to the Armed Services Committee signed by 54 Senators that underscores this point, and I ask unanimous consent that the letter be included in the RECORD at the end of my statement. Quoting from the letter:

> The Caucus recognizes that the Armed Services Committee has continued to take the lead in attempting to further define the impact of recent changes, both in threat and force structure requirements, and we support your efforts. The provision in the National Defense Authorization Act for Fiscal Years 1992 and 1993 directing the Secretary of Defense to submit to Congress a report containing an independent assessment of a wide range of alternatives on the structure and mix of active and reserve forces for the mid-to-late 1990's is a positive step in the right direction.

Mr. President, it is clear that we are dealing with two problems here. The first involves the fair treatment of guardsmen and reservists. The second involves the validity of the Guard and Reserve cuts proposed by the Pentagon.

It is also clear that we can do something right now about the first problem—the fair treatment of guardsmen and reservists. That is what the proposal that Senator GLENN and I are introducing today addresses.

Our proposal, which Senator GLENN has spelled out in greater detail; would:

Prohibit the involuntary separation of selected reservists until DOD prescribes regulations which implement the provisions of our proposal, and which provide uniform rules for the reassignment and priority placement of affected Guard and Reserve personnel to ensure a proper balance of age and experience and grade and skill in remaining units;

Authorize the voluntary early retirement of selected reservists with 15 years of service;

Authorize the immediate receipt of a reduced retirement annuity for selected reservists who have over 20 years of service so they would not have to wait until age 60 to receive their full retirement annuity;

Authorize selected reservists who have 6 years but less then 15 years of service and who are being involuntarily released from the selected Reserve because their units are being deactivated to be paid a separation pay equal to 15 percent of 2 months of basic pay multiplied by the number of reserve points accrued by the member divided by 360—about 6 months of drill pay for a typical member with 10 years of service;

Authorize selected reservists who have at least 2 years of service and who are being separated because of Guard and Reserve strength reductions to continue to receive Reserve GI bill educational assistance;

Authorize selected reservists who are being separated because of Guard and Reserve strength reductions 1 year of cost-free coverage under the service group life insurance plan; and

Authorize selected reservists who are being separated because of Guard and Reserve strength reductions 1 year of continued eligibility to shop in military commissaries and exchanges.

Mr. President, these authorities would be temporary and cover only the period of the defense builddown. As Senator GLENN indicated, the costs associated with the provision for the immediate receipt of a reduced retirement annuity for personnel who have over 20 years service, the provision for involuntary separation pay, and the provision that authorizes continued service group life insurance coverage may be largely offset by savings that would result from a reduction in the senior element of the selected Reserve inventory. We do not have the numbers yet, and have asked the Congressional Budget Office to give us an estimate.

With regard to the second problem that I spoke about—the validity of the Guard and Reserve reductions proposed by the Pentagon, I do not know of an immediate solution. We will be addressing this as we proceed to our markup. Given the situation I have described, I see no urgency to making any substantial cuts that may have an irreversible effect on force structure

and force mix decisions we may wish to make after we receive the mandated study from the Pentagon early next year.

Mr. President, I urge my colleagues to join Senator GLENN and I in cosponsoring and enacting the Guard and Reserve personnel transition legislation we propose.

U.S. SENATE,
*Washington, DC, April 8, 1992.*

Hon. SAM NUNN,
*Chairman, Committee on Armed Services, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR NUNN: In the short three-year history of the National Guard Caucus, dramatic changes have taken place throughout the world. Several of those changes, such as the disintegration of the Warsaw Pact and the dissolution of the Soviet Union, have had an immediate and far-reaching impact on our Nation's defense strategy and military force requirements. In addition, the continuing slow economic recovery in this country and the growing federal deficit have also affected the support for our military and led to a wide range of demands for swift and deep reductions in the defense budget.

These dramatic changes have reinforced the position of the National Guard Caucus as first defined in mid-1989. At that time, the Caucus questioned the benefits, in cost-effectiveness and combat-effectiveness of reducing the Guard and Reserve while overall requirements and mix of Active, Guard and Reserve forces were under review. The Caucus belief that the Total Force Policy had made the Guard and Reserve essential and capable participants in any limited or regional conflict has been proven beyond a doubt in Desert Shield/Desert Storm.

The Caucus recognizes that the Armed Services Committee has continued to take the lead in attempting to further define the impact of recent changes, both in threat and force structure requirements, and we support your efforts. The provision in the National Defense Authorization Act for Fiscal Years 1992 and 1993 directing the Secretary of Defense to submit to Congress a report containing an independent assessment of a wide range of alternatives on the structure and mix of active and reserve forces for the mid-to-late 1990s is a positive step in that direction.

Because of the uncertainties in both the projected threat and defense requirements to meet an undefined threat, the Caucus continues to support the FY 1993 strength levels contained in the 1992 Defense Authorization Act. We believe the changing threat and decreasing defense budgets will lead to even greater reliance on the National Guard and Reserve. While reductions are inevitable, stability is the backbone of the effectiveness of the reserve forces and cuts should only be made when firm and more permanent decisions are possible. The Caucus does not believe we have reached that point.

We commend the Armed Services Committee for its efforts in defining long range defense requirements and we encourage you to maintain the interim level of Guard and Reserve forces in FY 1993 as approved in the 1992 Defense Authorization Act.

Sincerely.

Kit Bond, Robert C. Byrd, John Seymour, J. Bennett Johnston, Bob Kerry, Patrick Leahy, Mitch McConnell, Conrad Burns, Don Riegle,

Wendell Ford, Strom Thurmond, Jake Garn, James Exon, Fritz Hollings, Quentin Burdick, David L. Boren, Joe Biden, Chris Dodd,

David Pryor, Tom Daschle, Jay Rockefeller, Terry Sanford, Kent Conrad, Dennis DeConcini, Steve Symms, Al D'Amato, Wyche Fowler, Jr., Bob Packwood, Bob Graham, Don Nickles,

Richard Shelby, Barbara A. Mikulski, Bob Kasten, Jim Jeffords, Daniel K. Akaka, Arlen Specter, Larry E. Craig, Dale Bumpers, Alan J. Dixon, Thad Cochran, John Breaux, Paul Wellstone,

Tom Harkin, Chuck Grassley, Larry Pressler, Frank R. Lautenberg, Mark Hatfield, Herb Kohl, Richard H. Bryan, Clairborne Pell, Howell Heflin, Frank H. Murkowski, Bill Bradley, Max Baucus.

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By Mr. ROTH:

S. 2712. A bill establish a National Economic Council within the Executive Office of the President; to the Committee on Governmental Affairs.

NATIONAL ECONOMIC COUNCIL ACT OF 1992

Mr. ROTH. Mr. President, I rise today to introduce legislation to establish a National Economic Council within the Executive Office of the President which would be comparable to the President's National Security Council.

The No. 1 issue facing our Nation is the creation of new jobs. The role of the Federal Government in providing for an economic environment that stimulates growth requires the consideration of many different, complex policy considerations.

A National Economic Council, with the President at its helm, should be established to coordinate these policies.

No one in this Chamber can dispute the fact that domestic and international economic competitiveness are essential elements of our national security. America's leadership in the world can be attributed in large measure to the success of our Nation's economic vitality. Yet, that success, and our Nation's security, is being challenged by international economic competition. To be successful, national policies to meet the challenge of competitiveness must be given the same coordinated high level attention as our national security policy.

That is what this legislation will accomplish. The ability of American businesses to compete, within our borders and internationally, is fundamental to the Nation's economic prosperity and security. Exports account for more than 10 percent of our country's gross domestic product and represent an increasingly significant role in enhancing job opportunities for American workers. At the same time, international competitors throughout the world are gaining in markets and products that should be natural extensions of our industries and services.

As we enter the postcold war period, our Nation's ability to compete internationally is in need of constant and high level attention by our Nation's policy makers. One of the fundamental lessons of the cold war is that a strong military nation can not achieve national security without economic security. Military power alone is insufficient. Our Nation's economy, built on free market principles, has demonstrated the long lasting vitality of our market-based system. Now is the time to expand our markets and reap the benefits of international commerce.

However, unless more attention is dedicated to competitiveness policies, our Nation could lose this grand opportunity.

Shortly after World War II, the Congress and the President recognized the need to establish the National Security Council as the President's coordinating body to confront the most pressing issue of the day—national security in the aftermath of the war. As we enter the postcold war period, Congress and the President should once again join together to establish a coordinating body to confront the most pressing issue of today—America's competitiveness in the postcold war period, a period when a nation's position in the world is not simply a measure of its military might but rather its economic potency.

The President's National Security Council has played a vital and constant role in the successful development and coordination of America's national security policy since the creation of the Council in 1948. We need to replicate that vitality with regard to domestic and international economic policy. In order to remain a strong economic force in the increasingly competitive environment of international markets, America needs a coordinated economic strategy which will allow our Nation to be on an equal basis with foreign competitors.

I believe the President must have available a permanent council of experts and advisors with whom he has direct access to coordinate the complex components of the President's economic policy. A coordinated economic strategy to increase our Nation's competitiveness involves a complex set of policy formulations, including trade, tax, monetary, budget, education, labor, environmental, science and technology, and regulatory policies. All of these policies impact our Nation's ability to compete and it is vital that each be considered as within the context of our competitive position. The President understands this. In fact, the President recently reorganized the White House and established the Policy Coordinating Group to smooth executive branch consideration of domestic policy.

While the President's reorganization is clearly a step in the right direction, we should put into statute a National Economic Council to develop and coordinate economic policy. While some may argue that this will intrude upon the President's discretion in organizing

the White House, no one will argue that the National Security Advisor has played an insignificant role in the development of foreign policy.

A permanent National Economic Council should be established as a comparable office. Each President will ultimately decide what issues to focus on, and what staff to rely on in implementing his program. The National Economic Council will make permanent a framework for coordinating domestic policy in the way that national security has been successfully coordinated.

This is particularly vital as international trade and competitiveness emerge as essential elements of our economic and national security. Such a council would bring focus and coordination to domestic and international economic issues at the highest level of government.

Under this legislation, the Council would advise the President with respect to the integration of domestic and international policies relating to the economy and competitiveness and enable the Government to operate more effectively in these matters. The Council would formulate, and at the direction of the President, implement a coordinated economic strategy which will provide the economic environment necessary for our Nation to be on an equal basis with foreign competitors. In addition, the Council would be responsible for assessing the ability of the United States to compete internationally, and the risks of a failure to meet this challenge.

Former President Richard Nixon, in his book "Seize the Moment: The Renewal of America," calls for the creation of a National Economic Council and writes:

> In our embassies abroad and our bureaucracies at home, economic issues must receive the same priority attention as political and military issues. Today they seldom get it. In Japan, government is an ally—and some say even an instrument—of business. Too often in America, government is an opponent of business. This does not mean that we should adopt a national industrial policy under which unqualified bureaucrats would dictate business decisions.

Nor does it mean that we should subsidize American industry to even the score with Japan or other industrialized powers. But it does mean that we must take steps to ensure that we have a coherent strategy to prevail in the global economic competition and that U.S. multinational corporations are enabled to compete on a fair and equal basis with their foreign rivals.

President Nixon makes a very strong case for the need to highlight and coordinate comprehensive international economic strategy in the same way that the President considers national security issues.

Both involve areas vital to our national security and prosperity and require high level attention by the President and his policy advisors.

On April 7, I introduced S. 2531, legislation to establish a Commission on Federal Government Reform to examine executive and legislative branch organization and structure. In order for our Nation to become more competitive, Government must be more responsive and efficient. Unlike past reorganization efforts, this Commission would have significant powers, with its recommendations going into effect unless rejected by either the President or Congress.

While the Commission is comprehensive long-term reform, the National Economic Council is part of a package of reforms I believe is necessary to make our Nation more competitive.

The No. 1 challenge facing us is our ability to compete internationally. This is more than a question of breaking down trade barriers, and requires a comprehensive economic strategy. Such a strategy demands the sustained attention at the highest levels of the Federal Government. With the creation of the Policy Coordinating Group, President Bush moved a step in the right direction.

But this legislation raises the stature of that group to the equivalent of the National Security Council, and given the critical nature of the challenge confronting us, I believe a statutory backing of this council is required.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the bill discussed in my statement.

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

S. 2712

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Economic Council Act of 1992".

**SEC. 2. FINDINGS.**

The Congress finds that:

(1) Domestic and international economic policy are essential elements of our national security. America's leadership in the world can be attributed in large measure to the success of our nation's economic vitality. That success, and our nation's security, is being challenged by the growth in international economic competition.

(2) One of the fundamental lessons of the Cold War period is that a strong military nation can not achieve national security without economic vitality.

(3) The ability of the United States to compete internationally is central to the nation's economic prosperity and security. Exports now account for more than ten percent of our nation's gross domestic product and are a growing percentage of our nation's output. Increased exports are fundamental to facilitating job creation and economic growth.

(4) As we enter the post-Cold War period with an increased focus on a nation's ability to compete in world markets, America's ability to produce exports and be competitive is in need of constant and high level attention by our nation's policy makers.

(5) The President's National Security Council has played a vital and constant role in the successful development and coordination of America's national security policy since the creation of the Council in 1947.

(6) To be successful, policies to meet the challenges of international competitiveness must be given the same coordinated high level attention as our successful national security policy. In order to remain a strong economic force in the increasingly competitive global economy, America needs a coordinated economic strategy which will allow our country to be on a competitive basis with other nations, taking into account the free market system which has been the hallmark of our economic system.

(7) The President must have available a permanent council of experts and advisors which have direct access to the President and can coordinate the complex components of the President's economic policy to facilitate exports and job creation.

(8) An organization equivalent to the National Security Council should be established within the Executive Office of the President to develop and coordinate economic policy as trade and global competition emerge as essential elements of our national security. The National Economic Council should bring focus and coordination to domestic and international economic policies at the highest level of government and should be recognized as the President's organization for developing and coordinating these policies.

**SEC. 3. ESTABLISHMENT OF THE NATIONAL ECONOMIC COUNCIL.**

(a) There is established a council to be known as the National Economic Council (hereinafter in this Act referred to as the "Council").

(b) The President of the United States shall preside over meetings of the Council: Provided, that in his absence he may designate a member of the Council to preside.

(c) The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the United States Trade Representative;

(4) the Secretary of Commerce;

(5) the Secretary of Treasury;

(6) the Director of the Office of Science and Technology Policy;

(7) the Director of the Office of Management and Budget;

(8) the Chairman of the Council of Economic Advisors; and

(9) any other individual as the President may direct.

(d) The Council shall have a staff to be headed by the National Economic Advisor who shall be appointed by the President. The National Economic Advisor is authorized, subject to the civil-service law and chapter 51 and subchapter III of chapter 53 of Title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

**SEC. 4. FUNCTIONS OF THE NATIONAL ECONOMIC COUNCIL.**

(a) The function of the Council shall be to advise the President with respect to the integration of domestic and international policies relating to the economy and international competitiveness so as to enable the Federal government to operate more effectively in matters involving our nation's ability to compete in the global economy.

(b) In addition to performing such other functions as the president may direct, the Council shall—

(1) formulate and implement a coordinated economic strategy which will provide the

economic environment necessary for our country to be on a competitive basis with other nations;

(2) assess the ability of the United States to compete internationally, and the risks of a failure to meet this challenge, for the purpose of making recommendations to the President in connection therewith;

(3) consider policies and matters of common interest of the departments and agencies of the Government concerned with the economy and international competitiveness, and to make recommendations to the President in connection therewith; and

(4) define a set of guidelines for government interaction with the market, taking into account the free market system which has been the hallmark of our national economy.

(c) The functions of the council under this Act shall be performed—

(1) subject to the direction of the President; and

(2) for the purpose of effectively coordinating the policies and functions of the Federal departments and agencies relating to the economy and international competitiveness.

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

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By Mr. HARKIN:

S. 2713. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow Medicare administrative funding to increase and thereby combat waste, fraud, and abuse, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

MEDICARE PROGRAM PROTECTION ACT

Mr. HARKIN. Mr. President, I am introducing the Medicare Protection Act of 1992. This legislation, if enacted, would protect the Medicare Program from billions of dollrs now lost to overpayment, fraud, and abuse. This legislation, if adopted, would save an estimated $2 billion in its first year of operation.

Mr. President, this is an issue that I have been following for sometime in my capacity as chairman of the Labor, Health and Human Services and Education Subcommittee. The very first hearing I held as chairman of the Subcommittee in February 1989 was on this issue.

As the Members know, the Medicare Program is managed by 64 different contracts awarded by the Health Care Financing Administration. These contracts are funded by an appropriation which in 1992 totaled $1.7 billion. Included within this line item for Medicare contractors is an amount of $324 million made available for audit activities. Even though these audit activities save $13 for every dollar spent, the administration has never funded this audit activity at an appropriate level. This is because the need to process claims and make payments on time has always taken priority. In these times of fiscal stress this fact of life has held down funding for the audit activity.

In the spring of 1989 I had discussions with Senator SASSER, chairman of the Senate Budget Committee and with Richard Darman, Director of the Office of Management and Budget. In these discussions I tried to reach agreement on excusing funds spent on audit activities in the Medicare Program from budget ceilings. The precedent for doing that was included in previous omnibus budget reconciliation bills when the Finance Committee was given credit for directing increased appropriations for this audit activity. So in other words, the Finance Committee received spending relief by directing discretionary spending to be made by transfers from the trust fund to the audit activities of Medicare. This relief had been given to the Finance Committee. Chairman SASSER and OMB Director Dick Darman, while sympathetic to my arguments, were unable to provide my Appropriations Subcommittee with similar relief.

Mr. President, in the Budget Enforcement Act of 1990, another precedent for what I am now proposing was adopted into law. Included in that act was authority for the IRS to spend up to specified amounts in each of 5 years on audit activities without these additional appropriations being scored against budget ceilings. The logic of this provision is that these additional expenditures will produce collections or revenues for the government well in excess of the actual amount spent. The logic of this provision is that to unnecessarily inhibit spending on these audit activities is counter production to our efforts to reduce the deficit.

Mr. President, the bill I am introducing today is based on exactly the same logic that supports increased funding for IRS audit activity.

The Medicare Protection Act of 1992 will encourage, for each year, starting with fiscal year 1992, through fiscal year 1995, audit activities of the Medicare contractors appropriation to be set at a level of 11.6 percent over the previous year's level. This increased amount over the freeze level would not count against the budget ceilings. These increases in audit activity will permit substantial savings each year.

It is my view that these audit activities should at least keep up with the increased growth rate in claims if we are to have adequate protection for taxpayer dollars. The 11.6 percent allowable growth is included in the legislation as it represents the 10 year historical average of growth in Medicare claims workload.

Mr. President, the Medicare Program Protection Act of 1992, if enacted, would save approximately $2 billion in the first full year of implementation and additional billions for each year through fiscal year 1995. I ask unanimous consent that the text of the bill be printed in the RECORD.

Their being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2713

*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 "Medicare Program Protection Act of 1992"

**SEC. 2. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.**

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end the following:

"(G) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,457,000,000 for new budget authority) for the administration of the medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1992, $157,000,000 in new budget authority and $157,000,000 in outlays;

"(ii) for fiscal year 1993, $187,000,000 in new budget authority and $187,000,000 in outlays;

"(iii) for fiscal year 1994, $209,000,000 in new budget authority and $209,000,000 in outlays; and

"(iv) for fiscal year 1995, $223,000,000 in new budget authority and $233,000,000 in outlays; and the prior year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the adjustments that were allowable in the preceding fiscal years under this subparagraph.".

**SEC. 3. CONFORMING AMENDMENT.**

Section 606(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "251(b)(2)(G)," after "251(b)(2)(D),"

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By Mr. SANFORD:

S. 2714. A bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers, to provide matching funds for the promotion of mathematics or science secondary schools, and for other purposes; to the Committee on Finance.

MATHEMATICS AND SCIENCE TEACHER REQUIREMENT AND RETENTION ACT

Mr. SANFORD. Mr. President, remaining economically competitive in the world economy demands an education system that can produce top-quality math and science specialists. Furthermore, in today's job markets, where technological skills are becoming increasingly important, it is imperative that every American student receives an adequate education in mathematics and the natural sciences. Our Nation's graduate schools—the world's best—won't be able to train the highest caliber engineers, scientists, and mathematicians unless our high schools give our students the basic education they need in these subjects.

Yet, sadly, math and science education in many primary and secondary education systems is not what it should be. In a recent study by the Educational Testing Service, American 13-year-olds performed at or near the bottom on an international mathe-

matics and science assessment. In another ETS study, fewer than half of all American high school seniors demonstrated a solid grasp of decimals, percents, fractions, or simple algebra. Only 5 percent showed an understanding of geometry or advanced algebra—subject matter that is a necessary preparation for the study of advanced mathematics at the postsecondary level.

These statistics bode ill for the future. It is estimated that 10 years from now the United States will need a million more chemists, physicists, biologists, and engineers than it will graduate. The number of American college students majoring in math and science is shrinking. At the high school level, as many as half of all math and science teachers are not trained to teach their subjects, and schools often have difficulties filling vacancies in these positions. The education community has handled teacher shortages in such subjects as physics, mathematics, chemistry, and computer science by reducing requirements for entry into the profession, so that nearly one-third of all high school students take math or science courses from instructors who have little or no specialized training in that subject matter.

I am introducing legislation today that will offer help to our children and their teachers. Provisions in my bill seek to motivate qualified educators and professionals to teach math and science in our public elementary and secondary schools. The legislation also encourages States to place special emphasis on math and science education by creating schools for students with a particular aptitude for these subjects.

The Mathematics and Science Teacher Recruitment and Retention Act offers a $1,000-a-year Federal tax credit to any teacher with at least 5 years' teaching experience who takes 6 college credits of science and/or math courses. The bill also provides for a Federal income tax deduction for education expenses incurred by qualified professionals in math and science who take courses leading to teacher certification. We should be doing all we can to encourage experts in these fields to share their knowledge with our young people, and my legislation promotes that goal.

These provisions in the bill will help eliminate the shortage of math and science teachers by encouraging experienced teachers to receive training in these subjects and by helping professionals in the math and science fields to make a career change to teaching. The bill also encourages current math and science teachers to enhance their teaching skills by taking advanced training in their areas of interest.

In addition to increasing the supply of math and science teachers, my bill also provides matching funds for special schools of math and science. North Carolina some 16 years ago created a high school for science and mathematics, a residential school drawing promising students from across the State. The results have been outstanding. We are creating scientists for the future. The faculty attracted to this kind of school is superb. Leaders from other States have toured this institution with great envy. The bill I am introducing today is designed to encourage the development of these kinds of specialized schools across the country, by offering modest planning grants which must be matched three to one by States with an interest in such a school.

Our work force will be equipped to handle the high-tech jobs of the future only if American students receive an adequate education in our Nation's elementary and secondary schools. I believe this bill represents an innovative and effective new way to protect our future, to ensure that our children get the education they deserve and that our country continues to lead the world in technological innovation into the 21st century.

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By Mr. SPECTER (for himself and Mr. DECONCINI):

S. 2715. A bill to require the Secretary of Veterans Affairs to carry out demonstration projects to determine the feasibility and desirability of installing telephones in Department of Veterans Affairs health-care facilities for use by patients of such facilities; to the Committee on Veterans' Affairs.

TELEPHONES FOR PATIENT USE IN DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE FACILITIES

Mr. SPECTER. Mr. President, I am pleased to introduce a bill today to authorize the Department of Veterans Affairs to establish two demonstration projects to assess the feasibility of installing telephones in patient rooms throughout the VA's health care system. This bill is intended to implement the recommendations of a General Accounting Office report, dated July 31, 1991, which concluded, in summary, that telephone service should be provided in VA patients' rooms in order to ease the burdens on VA nursing staff and to enhance the quality of care provided to VA patients.

Mr. President, VA operates the largest health care system in the United States. For the most part, VA medical centers—unlike almost all private sector hospitals today—do not have telephones in patients' rooms. As a result, VA patients place outgoing phone calls at pay telephones in hospital corridors or on carts which are wheeled to the patient's bedside by nursing staff. Incoming calls to VA patients are generally routed to the nursing staff in the patient's ward, necessitating that nursing staff take a telephone handset to the patient's bedside so that he or she may receive the call.

According to the GAO, assisting patients in making telephone calls is a primary nonclinical task which adversely affects nurse productivity. In short, Mr. President, VA nursing professionals spend entirely too much of their valuable time assisting patients in making and receiving telephone calls. One analysis cited in the GAO report, for example, estimated that VA's Boise, ID hospital—a relatively small VA facility—expended 1600 hours per year in nurse time in providing telephone-related services to patients before donated telephones were installed in patient rooms in 1986. In my view, receiving and forwarding patient calls is not the most productive use of professional nursing staff time—not in these times of nurse shortages generally and VA reports of difficulties in recruiting and retaining nurses.

The solution, of course, is for VA hospitals to do what almost all private sector hospitals have done: VA should install telephones in patient rooms for patient use. As we approach the 21st century, telephone service cannot be characterized as a frivolity or a luxury. Today, ready access to telephone service is a therapeutic necessity which should not be denied to the Nation's hospitalized veterans.

As I have stated, Mr. President, the GAO has concluded that VA's current system for patient telephone access distracts nurses from their professional duties, and is, therefore, counterproductive from the standpoint of efficient utilization of VA resources. The extent, however, to which the inefficiency of misdirected nurse time would be offset by the direct costs of installing and maintaining telephone systems in VA hospitals is not yet known. Further, while the GAO notes that systems are currently in use in private sector hospitals which allows for the direct billing of local and/or long distance fees to patients, such billing structures may not be fully adaptable to VA's unique patient populations. In addition, the full range of technical options for costing out patient telephone services are not yet fully known. Nor have all the potential policies and procedures for providing such services to physically disabled veterans, including those who are blind or hearing impaired, been fully identified. These issues, I believe, need to be explored further before VA will be prepared to procure telephones for all of its health care facilities.

This bill directs the VA to establish demonstration projects at two VA medical centers—Philadelphia and Tucson—where these and related issues may be explored. These two medical centers are appropriate demonstration project sites since both are tertiary care facilities which offer a wide range of special medical programs, including post traumatic stress disorder inpatient treatment programs and hospital-

based home care services. Further, Tucson will be the site of VA's newest blind rehabilitation center. Armed with data generated by these two demonstration projects, the VA—and the Veterans' Affairs Committees and the Congress as a whole—will be in a position to determine how to proceed toward the installation of telephone service in patient rooms throughout the VA's health care system.

To summarize, this bill directs VA to set up two demonstration projects, and requires that VA report, not later than September 30, 1994, on the costs of—and the savings attributable to—demonstration project telephone installations. The bill also requires VA to report on the extent to which therapeutic advantage is gained from ready access to telephones by VA patients, including disabled VA patients. These are important first steps for VA to take now so that it may be in a position to meet my ultimate objective: Telephone installations throughout VA's hospital and nursing home system by 1996. I urge my colleagues to support this important measure.

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. 2715

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

**SECTION 1. DEMONSTRATION PROJECTS TO EVALUATE TELEPHONES FOR PATIENT USE AT DEPARTMENT HEALTH-CARE FACILITIES.**

(a) DEMONSTRATION PROJECTS.—In accordance with this section, the Secretary of Veterans Affairs shall carry out demonstration projects to evaluate the feasibility and desirability of—

(1) the installation of telephones in Department of Veterans Affairs health-care facilities; and

(2) the use of such telephones by the patients of such health-care facilities.

(b) DEMONSTRATION FACILITIES.—The Secretary shall carry out a demonstration project under this section at the following Department health-care facilities:

(1) Philadelphia Department of Veterans Affairs Medical Center, Philadelphia, Pennsylvania.

(2) Tucson Department of Veterans Affairs Medical Center, Tucson, Arizona.

(c) PROJECT ACTIVITIES.—(1) In carrying out a demonstration project under this section at a facility referred to in subsection (b), the Secretary shall—

(A) install and maintain telephones of an appropriate number and type (as determined by the Secretary) in patient rooms of the facility; and

(B) subject to paragraph (2), provide for the use of such telephones by patients who are assigned to such rooms while receiving care at the facility.

(2) The Secretary shall ensure that patients who use telephones pursuant to paragraph (1)(B) shall bear financial responsibility for the cost of any long-distance telephone calls made during such use.

(d) PROJECT EVALUATION.—In evaluating the feasibility and desirability of the installation and use of the telephones referred to in subsection (c), the Secretary shall determine—

(1) the cost to each health-care facility referred to in subsection (b) of the installation, use, and maintenance of such telephones, including—

(A) the cost to the facility of such installation, use, and maintenance;

(B) the amount of any savings which accrue to the facility by reason of such installation and use (including the amount of any savings that result from a decrease in the amount of assistance in using telephones that the staff of the facility would otherwise provide to patients); and

(C) any costs that result from the necessity of providing special telephones or other special equipment to facilitate the use of telephones by disabled veterans (including veterans who are receiving long term psychiatric care or nursing care or who are blind or hearing impaired); and

(2) the impact of the use of such telephones on the therapeutic course of veterans who receive care at the facility, including the veterans referred to in paragraph (1)(C).

(e) REPORT.—Not later than September 30, 1994, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report containing—

(1) the determinations of the Secretary under subsection (d);

(2) an assessment by the Secretary of the feasibility and desirability of providing telephones for patients in other health-care facilities of the Department; and

(3) any additional information and recommendations with respect to the provision and use of patient telephones at Department health-care facilities as the Secretary considers appropriate.

Mr. DECONCINI. Mr. President, VA medical centers do not, and historically have not, provided bedside telephones for the use of patients. VA patients consequently must receive incoming calls and place outgoing calls from pay phones in hospital corridors or mobile phones which are brought to them. Bedridden patients lacking access to mobile phones may require help in reaching corridor phones. Where mobile phones are available, the patient must wait for someone to bring it. In either case, the consequent inconvenience to both patient and nurse—not to mention the additional burden of dependency demanded of patients who can't even make a simple telephone call by themselves—is unwarranted and very costly.

This bill, which I am pleased to cosponsor with Senator SPECTER, would establish two demonstration projects. These projects would explore how the human inefficiencies of the current system would be offset by the costs of installing and maintaining bedside phones in VA hospitals.

Ready access to telephones can ease the social isolation often felt by bedridden patients who are away from home and family. Such access can thus potentially provide a therapeutic benefit to long-term patients. This humanitarian aspect of the problem will also be addressed, as the VA would be required to report on any therapeutic advantage gained from ready access to telephones by VA patients.

Mr. President, I again thank my friend from Pennsylvania, the ranking member of the Committee on Veterans' Affairs, Senator SPECTER, for his leadership on this issue and so many other issues of importance to our Nation's veterans. I am very pleased to be an original cosponsor of this important legislation and urge all other Members to support this cost effective and compassionate legislation.

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By Mr. AKAKA:

S. 2716. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to assert jurisdiction in a labor dispute which occurs on Johnston Atoll, an unincorporated territory of the United States, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL LABOR RELATIONS ACT AMENDMENT

Mr. AKAKA. Mr. President, today I am introducing legislation to require the National Labor Relations Board to exercise jurisdiction over civilian employees working on Johnston Atoll.

Johnston Atoll, an unincorporated territory of the United States, is used by the Department of the Army and the Defense Nuclear Agency as a storage, incineration, and disposal site for chemical weapons. The atoll, located 171 miles southwest of the State of Hawaii, employs over 1,250 civilian and military employees to safely dispose of these lethal chemical weapons.

Over 400 of these workers are employed by a private firm under a cost reimbursement contract with the Department of the Army to maintain and operate the Johnston Atoll Chemical Agent Disposal System [JACADS] on the island. JACADS is a Government-owned, contractor-operated facility. Handling toxic and radioactive materials and running a high-temperature incinerator, the employees work in a potentially dangerous environment day in and day out. Such hazardous duty is essential, however, if the United States is to destroy its arsenal of chemical weapons and reduce the international threat posed by these armaments by the 1997 deadline, set by Federal law and international agreement.

Yet, the highly skilled workers on Johnston Atoll are deprived of the rights afforded all other American workers. They are denied the ability to organize as a recognized collective under the National Labor Relations Act.

In a 1991 ruling, written by the San Francisco NLRB Regional Director, the Board denied a petition for recognition filed by 185 full-time and regular part-time operations and maintenance employees on the atoll, despite an acknowledgement by the Board of its statutory jurisdiction. The NLRB found that the employer engaged in

commerce within the meaning of the National Labor Relations Act, and that the unit petitioning did qualify for collective bargaining purposes. Further, in its Decision and Order (Case 37-RC-3053), the Board notes the fact that Federal statute lists the atoll as an unincorporated territory within the judicial district of Hawaii and finds no evidence that Congress intended to exclude Johnston Atoll from NLRB jurisdiction.

The Board denied the employer's claim that it lacked statutory authority to assert jurisdiction over employers on Johnston Atoll who satisfy the Board's jurisdictional standards. The Board also determined that the employer in question did satisfy NLRB standards. Yet, the Board declined to assert jurisdiction because "such an assertion would not effectuate the purposes and policies of the Act."

The NLRB cited a 1973 decision (Facilities Management Corporation, 202 NLRB 1144), declining jurisdiction over Wake Island, as the closest applicable precedent. The author of the Johnston Atoll case identifies four factors as the basis for both decisions: the lack of local permanent residents, remoteness of location, difficulty of access, and the almost exclusive control of an island by the military as an installation.

Yet, the NLRB determined that if it were to exercise its discretion to assert jurisdiction, it would be appropriate to assert this jurisdiction over the contractor/employer since "the employer rather than the Federal Government controls the labor relations and terms and conditions of employment of the unit employees."

Examining the decision, and the Federal court and NLRB precedents supporting the petitioners claim, I am amazed at the conclusion, based on one prior case, that the assertion of jurisdiction over Johnston Atoll would not effectuate the purposes of the act.

Regardless of the merits or shortcomings of the Facilities Management Corp. case, the circumstances extant on Wake Island are distinguishable from the situation on Johnston Atoll. Johnston Atoll is not as distant as Wake Island from the United States, and it is regularly serviced by commercial air and shipping services. In addition, technological and communication advances between 1973 and 1992 permit our geographically distant territories and possessions linkage and integration to the U.S. mainland.

In recent years, the NLRB has taken jurisdiction in Micronesia, which has commonwealth status, and Midway Island. If the 1973 precedent cited did not preclude the assertion of jurisdiction in these cases, its primacy in this instance is extremely questionable.

Mr. President, allow me to review the findings in this case preceding the dismissal of the representation petition: the hearing officer found Congress did not intend to exclude Johnston Atoll from coverage under the act, the NLRB clearly has statutory authority to assert jurisdiction in this case, the employer involved satisfied the Board's jurisdictional standards, and the employee's unit is appropriate for collective-bargaining purposes.

Despite these findings supporting the merit and validity of the petition, the NLRB declined jurisdiction. In doing so, it has effectively denied American workers on Johnston Atoll the constitutional rights and protections afforded to every other citizen. The result of this decision is clear—the employees on Johnston Atoll are victims of geography. In spite of the fact that many of these workers have been employed on the atoll for years, some as many as 20 years, they are denied the right to organize and bargain with their employer solely because they work on an island installation under military regulation and governance. With no State or local agencies to appeal to, they have been denied the only vehicle available to voice their concerns and redress this grievance.

I question the logic of the conclusion that asserting jurisdiction will not effectuate the purposes and policies of the act. The hearing officer writes that he was "constrained to conclude under existing precedent" that the Board should dismiss the JACADS workers' petition and decline to assert jurisdiction.

The legislation I am introducing today removes this constraint upon the National Labor Relations Board, directs the Board to assert its rightful and federally mandated jurisdiction over Johnston Atoll, and extend equitable treatment to the employees on the atoll. I urge my colleagues to join me in providing simple fairness to every American worker, irrespective of how far they work from the shores of the continental United States.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2716

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

**SECTION 1. JURISDICTION OF NATIONAL LABOR RELATIONS BOARD.**

Paragraph (1) of section 14(c) of the National Labor Relations Act (29 U.S.C. 164(c)(1)) is amended by inserting before the period the following: "; *Provided further*, That the Board shall not decline to assert jurisdiction over a labor dispute which occurs on Johnston Atoll, an unincorporated territory of the United States".

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By Mr. JOHNSTON (by request):

S. 2717. A bill to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the volunteers in the Parks Program, and for other purposes; to the Committee on Energy and Natural Resources.

INCREASES IN AUTHORIZATION CEILINGS FOR LAND ACQUISITION

Mr. JOHNSTON. Mr. President, pursuant to an Executive Communication referred to the Committee on Energy and Natural Resources, at the request of the Department of the Interior, I send to the desk a bill "That section 108 of the National Historic Preservation Act, as amended (16 U.S.C. 470f), is further amended by striking "1992" and inserting in lieu thereof "1997"."

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

**SECTION 1. ACQUISITION CEILING INCREASES.**

The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(a) Channel Islands National Park, California: section 208 of the Act of March 15, 1980 (94 Stat. 77; 16 U.S.C. 410ff-7), is amended by striking out "$30,000,000" and inserting in lieu thereof "$37,815,438";

(b) Santa Monica Mountains, California: section 507(r) of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 460kk(r)), is amended by inserting after the first sentence the following: "In addition to the sums appropriated for acquisition of lands and interests in lands prior to October 1, 1992, there is authorized to be appropriated for such purposes $14,000,000 for fiscal year 1993."

**SEC. 2. DEVELOPMENT CEILING INCREASES.**

The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(a) Chesapeake and Ohio Canal National Historical Park, Maryland and District of Columbia: section 8(b) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y-6(b)) is amended by striking out "$17,000,000:, inserting in lieu thereof "$18,835,000.", and deleting the remainder of the section;

(b) Cuyahoga Valley National Recreation Area, Ohio: section 6(b) of the Act of December 27, 1974, as amended (16 U.S.C. 450ff-5(b)), is amended by striking out "$13,000,000" and inserting in lieu thereof "$40,517,000";

(c) John D. Rockefeller, Jr., Memorial Parkway, Wyoming: section 4 of the Act of August 25, 1972 (86 Stat. 620), is amended by striking out "$3,092,000" and inserting in lieu thereof "$6,608,000";

(d) Klondike Gold Rush National Historical Park, Alaska and Washington: section 4 of the Act of June 30, 1976 (90 Stat. 719; 16 U.S.C. 410bb-3), is amended by striking out "$5,885,000" and inserting in lieu thereof "$6,158,000";

(e) Lyndon B. Johnson National Historical Park, Texas: section 3 of the Act of December 2, 1969 (83 Stat. 279), as amended (16 U.S.C. 410kk-2), is amended by striking out "$4,100,000" and inserting in lieu thereof "$4,917,000"; and

(f) Martin Luther King, Jr., National Historic Site, Georgia: section 6 of the Act of October 10, 1980 (94 Stat. 1842), is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,195,000".

**SEC. 3. VOLUNTEERS IN THE PARKS INCREASE.**

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

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DEPARTMENT OF THE INTERIOR,
*Washington, DC, March 18, 1992.*

Hon. J. DANFORTH QUAYLE,
*President of the Senate,*
*Washington, DC.*

DEAR MR. SPEAKER: Enclosed is a draft bill, "To amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund."

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed draft bill would extend through fiscal 1997 the period in which $150,000,000 per year is authorized to be included in the Historic Preservation Fund from Outer Continental Shelf Lands Act revenues. Under the National Historic Preservation Act, such revenues are included in the Fund through fiscal 1992. Monies in the Fund are available for appropriation for matching grants to the National Trust for Historic Preservation, the States, and Indian Tribes.

The Fund was last extended by the Act of October 9, 1987 (101 Stat. 800), to authorize revenues to be included in the Fund from fiscal years 1987 through 1992. In fiscal years 1987 through 1991, a total of $126,121,504 was appropriated from the Fund, and for fiscal year 1992, the President's budget requested, and the Congress appropriated, an additional $35,931,000.

Although the enclosed legislation would authorize $150 million in appropriations annually for five fiscal years, the actual amounts recommended will be set forth in annual Administration budget requests. Our recommendation that the Fund be reauthorized is not a commitment, in advance, to future budget requests in specific amounts.

Enactment of this legislation would have no "Pay-as-you-go" implications under the Budget Enforcement Act, since it would provide for neither direct spending nor increased revenues.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

JENNIFER A. SALISBURY,
*Deputy Assistant Secretary.*

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By Mr. JOHNSTON (by request):

S. 2718. A bill to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund; to the Committee on Energy and Natural Resources.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENT

Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a bill "To provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the Volunteers in the Parks Program, and for other purposes."

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2718

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 108 of the National Historic Preservation Act, as amended (16 U.S.C. 470f), is further amended by striking "1992" and inserting in lieu thereof "1997".

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DEPARTMENT OF THE INTERIOR,
*Washington, DC, March 30, 1992.*

Hon. J. DANFORTH QUAYLE,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the Volunteers in the Parks Program, and for other purposes."

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The President's budget estimate for fiscal year 1993 for the National Park Service includes funds for land acquisition at two units of the National Park System, and for development at six units, which exceed the statutory limitation on authorization for appropriations for these purposes.

In addition, the budget estimate for the Volunteers in the Parks Program for fiscal year 1993 exceeds the statutory authorization for appropriation ceiling for this program.

The enclosed draft bill would amend the enabling Act of each of the eight specific units of the National Park System, and the Volunteers in the Parks Act of 1969, to increase the ceiling of the authorization for appropriation by an amount sufficient to accommodate the President's budget estimate.

It should be noted that this Department submitted legislation in the First Session of the 102d Congress to accommodate increases in the fiscal 1992 budget for Channel Islands National Park and Cuyahoga Valley National Recreation Area. The enclosed draft bill would also increase ceilings for these two areas, but by different amounts. Since it represents authorization for appropriations through fiscal 1992 and current Administration budgetary policy, the enclosed bill should be viewed as superseding the proposed legislation submitted earlier, insofar as those two park areas are concerned.

Enclosed is a chart showing the existing statutory ceiling on authorization for appropriations for each of the areas and programs concerned, and the amounts appropriated through fiscal year 1992, the fiscal year 1993 request, and the new authorization for appropriations established under this draft legislation.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

JENNIFER A. SALISBURY,
*Acting Assistant Secretary.*

NATIONAL PARK SERVICE OMNIBUS STATUTORY CEILING INCREASES—FISCAL YEAR 1993

[Amounts in dollars]

| | Existing ceiling | Appropriation through fiscal year 1992 | Fiscal year 1993 request | New ceiling |
|---|---|---|---|---|
| Land acquisition: | | | | |
| Channel Islands National Park, CA | 30,000,000 | 33,790,438 | 4,025,000 | 37,815,438 |
| Santa Monica Mountains National Recreation Area, CA | 125,000,000 | 128,953,709 | 14,000,000 | 142,953,709 |
| Development: | | | | |
| Chesapeake and Ohio Canal National Historical Park, MD-DC | 17,000,000 | 18,035,000 | 800,000 | 18,835,000 |
| Cuyahoga Valley National Recreation Area, OH | 13,000,000 | 37,997,000 | 2,520,000 | 40,517,000 |
| John D. Rockefeller, Jr., Memorial Parkway, WV | 3,092,000 | 5,174,000 | 1,434,000 | 6,608,000 |
| Klondike Gold Rush National Historical Park, AK-WA | 5,885,000 | 5,227,000 | 931,000 | 6,158,000 |
| Lyndon B. Johnson National Historical Park, TX | 4,100,000 | 3,917,000 | 1,000,000 | 4,917,000 |
| Martin Luther King, Jr., National Historic Site, GA | 1,000,000 | 955,000 | 2,240,000 | 3,195,000 |
| Volunteers in parks: Annual authorization | 1,000,000 | 1,234,000 | 1,750,000 | 1,750,000 |

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By Mr. PRYOR:

S. 2719. A bill to require the United States Trade Representative to take action authorized under section 301 of the Trade Act of 1974 against certain foreign countries in retaliation for the imposition by such countries of a ban on the importation of rice and rice products of the United States, and for other purposes; to the Committee on Finance.

AUTHORIZATION OF ACTION AGAINST CERTAIN FOREIGN COUNTRIES IN RETALIATION FOR BANS ON RICE AND RICE PRODUCTS

Mr. PRYOR. Mr. President, I rise today to offer a bill which would require the administration to commence proceedings that will force the Governments of Japan, Taiwan, and South Korea to end unjust and illegal bans on rice imports. This ban is an insult to American rice farmers, international trade negotiations, and the universal rules of fair play. The legislation I am introducing would require the U.S. Trade Representative to file a complaint under section 301 of the Trade Act of 1974 against Japan, Taiwan, and South Korea, all of whom maintain bans on the import of rice from the United States and other exporting countries.

The affront by these three nations warrants a strong reaction by the Bush administration. As a matter of prin-

ciple and an expression of determination this administration should, in my opinion, have already taken such steps. Indeed, the authority to initiate these proceedings rests with the executive branch of government, yet we have reached a point where we should not wait any longer for the Bush administration to make up its mind.

As Japanese, Taiwanese, and South Korean electronics, automobiles and other products continue arriving in our Nation, American rice farmers have attempted to cope with a less than satisfactory price for their commodity and continuing increase for the cost of production. As U.S. agriculture has received tremendous budget reductions in its programs it as become clear that access to markets abroad is critical. This access is vital not only for the financial viability of our farmers, but for the creditability of these countries and their roles in the GATT. The administration is not only guilty of foot dragging on this act of fairness; it will likely oppose my bill. The administration will claim this legislation interferes with the negotiating process currently underway in GATT, but in truth, this is not interference. This would not enact proceedings until after the GATT negotiations are complete. Some will ask us to wait until the negotiations are over, but Mr. President, we have been waiting for 5 years. The Japanese track record in this area doesn't give Arkansas farmers much reason for hope: Earlier this year, the government of Japan refused to include rice on a list of tariff reduction offers that were submitted to the GATT. This is only the latest action that demonstrates the Japanese are not serious about participating in the current multilateral effort to reform world trade. Japan has continued to block progress in the Uruguay round by insisting that it be allowed to maintain its GATT illegal rice policy, which includes subsidies to their rice producers that are eight to ten times the world market price.

This bill will allow negotiations to continue until March 1, 1993, the last day when trade legislation can be submitted to Congress under the fast track legislation. If the United States is not successful in securing access to the rice markets in Japan, Taiwan, and South Korea by then, a period of over 9 months from today, the Trade Representative would be required to take retaliatory action under the two options provided under section 301(c) of the Trade Act of 1974. These include either suspending existing trade concessions or imposing duties, tariffs or other restrictions on products imported from those countries. It is my hope that this type of action will not be required to secure access to the rice markets in these countries. It is instead, my strong belief that this legislation will act as an incentive in promoting an early and fair agreement on market access.

Economic success for the three nations this bill is directed toward has been greatly assisted by the presence of open markets abroad, including the United States. We have done more than our share as a nation in showing patience with this outdated and unnecessary practice. It is time for a firm, fair and contemporary approach to this ongoing problem. If Japan, Taiwan, and South Korea are not prepared to reform and acknowledge the sound reason in lifting their rice bans, then let them face this bill as the alternative.

I urge my colleagues to join me in supporting this bill.

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By Mr. JOHNSTON (by request):

S. 2723. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION ACT OF 1972 AMENDMENTS

Mr. JOHNSTON. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Chairman of the Pennsylvania Avenue Development Corporation, I sent to the desk a bill "To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes".

Mr. President, this draft legislation was submitted and recommended by the Chairman of the Pennsylvania Avenue Development Corporation, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2723

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 17(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, 40 U.S.C. 871, as amended) is amended to delete all that follows "1992", an insert in lieu thereof the following: "$2,686,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994 and 1995.".

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION,
*Washington, DC, March 12, 1992.*

The PRESIDENT of the Senate,
*U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT: There is enclosed with this letter a draft bill for consideration of the Congress.

Additional legislative authorization is required to support the budget for the Pennsylvania Avenue Development Corporation's salaries and expenses account as presented in the President's Budget for FY 1993. Authorization is also needed for Fiscal Year 1994 and 1995.

The Office of Management and Budget has advised us that there is no objection from the standpoint of the administration's program to the submission of this draft legislation to the Congress, and that its enactment would be in accord with the President's program.

Thank you.

Sincerely yours,

RICHARD A. HAUSER,
*Chairman.*

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By Mr. SHELBY:

S. 2724. A bill to restore the value of the Section 29 credit and to make the credit permanent; to the Committee on Finance.

NONCONVENTIONAL FUELS ACT

• Mr. SHELBY. Mr. President, I rise today to introduce the Nonconventional Fuels Act of 1992. The amendments in this legislation are virtually important to the future development of nonconventional fuel sources.

The Nonconventional Fuels Act would restore the usefulness of the section 29 credit. This credit was created by the Crude Oil Windfall Profit Tax Act of 1980. However, its value was diminished by the passage of the Tax Reform Act of 1986. The imposition of the alternative minimum tax created by that legislation has greatly reduced the incentive to produce nonconventional fuels.

Without relief from the alternative minimum tax, the production of nonconventional fuels could come to an end. While the initial cost of nonconventional wells is similar to that of conventional wells, the long-term operating costs of a nonconventional well can be so much as 400 percent more than the cost of a conventional well.

Certainly the war in the Persian Gulf demonstrated the need to develop and maintain domestic energy sources. The Clean Air Act Amendments of 1991 and the National Energy Security Act of 1992 affirm the importance of natural gas in meeting the Nation's energy needs in an environmentally sound manner. However, while the Federal Government encourages the production of nonconventional fuels in these important bills, it discourages production with the alternative minimum tax.

The Nonconventional Fuels Act of 1992 restores the usefulness of the section 29 credit in three important ways:

First, this measure would reduce the required tentative minimum tax by 50 percent, effectively reducing the alternative minimum tax to 10 percent. Second, this legislation permits producers to carry forward credits earned, even if they do not make money in a given year. Finally, the Nonconventional Fuels Act would make the section 29 credit permanent, allowing producers to plan for long-term development of the nonconventional fuels industry.

The Nonconventional Fuels Act of 1992 is critical to our country's envi-

ronment and our future energy security.•

By Mr. CRAIG:

S. 2725. A bill to authorize extension of time limitations for a FERC-issued license; to the Committee on Energy and Natural Resources.

EXTENSION OF TIME ON AN FERC-ISSUED LICENSE

• Mr. CRAIG. Mr. President, I am today introducing legislation to authorize the Federal Energy Regulatory Commission to extend for up to 6 years the date for the commencement of construction of the Arrowrock Dam hydroelectric project, FERC Project No. 4652. This legislation would authorize FERC to extend that date through a single order, or a series of orders, for up to 6 years.

This 56-megawatt hydroelectric project is located at an existing Bureau of Reclamation dam in the State of Idaho. The dam was completed in 1915.

On March 27, 1989, the FERC issued a license for the Arrowrock project. Before doing so, the applicant had to prove to the satisfaction of the FERC that it would comply with all applicable environmental laws and regulations.

Under the Federal Power Act, a licensee has 2 years to commence construction, with the right to extend that commencement of construction date once for 2 extra years. The licensee filed for and received its 2-year extension. Under the terms of the Federal Power Act the FERC is powerless to further authorize an extension of the commencement of construction date, regardless of how meritorious such extension might be. Thus, without this legislation the license will expire on March 26, 1993, and this environmentally benign project located at an existing dam may not come to pass.

It is important to note that no new water impoundments will be created as part of this hydroelectric project. It is a retrofit of an existing dam and impoundment with power generating equipment. Irrigation and flood control releases from the existing Arrowrock reservoir will be used to generate electricity. The hydroelectric project is incidental to the operation of the reservoir.

No significant environmental impacts will occur from the project. State and Federal agencies, such as the Idaho Fish and Game, the Idaho Department of Parks, the U.S. Forest Service, the U.S. Bureau of Reclamation, and the U.S. Corps of Engineers have reviewed the project in detail. All environmental concerns have already been fully addressed through the FERC licensing process.

The licensee is committed to construct the project, having made or committed to make expenditures already in excess of $500,000 to obtain the license. It would be a shame if, after such an expenditure of moneys, the project lost its license.

Mr. President, it is for these reasons that I am introducing this legislation and I hope that it will be acted on expeditiously by the committee of jurisdiction, the Committee on Energy and Natural Resources.•

By Mr. BIDEN (for himself and Mr. THURMOND) (by request):

S. 2726. A bill to implement and authorize weed and seed activities and for other purposes; to the Committee on the Judiciary.

WEED AND SEED IMPLEMENTATION ACT OF 1992

Mr. THURMOND. Mr. President, I am pleased to join my distinguished colleague and chairman of the Judiciary Committee, Senator BIDEN, in introducing this important measure. The Weed and Seed Implementation Act of 1992 authorizes the necessary appropriations for the expanded Weed and Seed Program for fiscal year 1993 and succeeding fiscal years. It also includes various other proposals pertaining to the implementation of the Weed and Seed Program.

Despite its success as a demonstration project, some are still unfamiliar with what weed and seed actually is. Weed and seed is a comprehensive, multiagency approach to combating violent crime, drug use, and gang activity in high-crime neighborhoods. Simply, the objective is to weed out the crime for targeted areas and then seed these communities with a variety of social programs to keep crime from returning. In these days of tight fiscal budgets, weed and seed appropriately coordinates resources and services to ensure that limited dollars are spent effectively.

This legislation substantially expands the Weed and Seed Program. In particular, the bill authorizes $500 million in 1993 for the weed and seed effort. This legislation will foster further cooperation between the Federal agencies which will result in a coordinated social service and community assistance effort for those targeted areas. A majority of this additional funding will go to areas designated by the Secretary of Housing and Urban Development.

Mr. President, this legislation recognizes that only by combining tough law enforcement with economic and moral revitalization of high-crime areas will we be able to clean up these communities. The previous failures of social programs which simply threw money at the problem can no longer be tolerated. Congress must support administration efforts to coordinate our social programs and integrate them with law enforcement. As Attorney General Barr recently stated;

The challenge for the 1990's is to deploy and focus both our law enforcement assets and our social resources—at the same time, at the same place, and in the same mutually reinforcing way.

This legislation furthers this important objective.

For these reasons, I urge my colleagues to support the proposal.

Mr. President, 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. 2726

*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 "Weed and Seed Implementation Act of 1992".

**SEC. 2. WEED AND SEED PROGRAM IMPLEMENTATION.**

(a) IN GENERAL.—To implement Weed and Seed activities throughout the United States, the Attorney General with the cooperation of the Secretaries of Labor, Education, Health and Human Services, Transportation, Agriculture and Housing and Urban Development, and the Director of the Office of National Drug Control Policy shall encourage implementation of the weed and seed strategy by providing local communities with technical assistance and related information to coordinate existing public and private neighborhood revitalization program.

(b) COORDINATED FEDERAL FINANCIAL ASSISTANCE.—(1) The Attorney General shall enter into Weed and Seed agreements with State or local governments or private, nonprofit entities to promote neighborhood revitalization through a coordinated effort for the use of Federal funds made available under laws administered by the Departments of Justice, Labor, Education, Health and Human Services, Transportation, Agriculture and Housing and Urban Development.

(2) Weed and Seed agreements under paragraph (1) of this subsection shall meet the requirements set forth in section 3 of this Act and shall include specific and measurable goals, as well as timetables for achieving those goals.

(c) PROGRAM PARTICIPATION.—In entering into Weed and Seed agreements under subsection (b) of this section, the Attorney General shall solicit Weed and Seed plans from State or local governments or private, nonprofit entities to revitalize neighborhoods using programs administered by, and grants approved by, the appropriate Federal agency listed in subsection (a) of this section.

(d) REGULATIONS.—The Attorney General, in consultation with the heads of the Federal agencies listed in subsection (a) of this section, may promulgate such regulations as may be necessary to implement the Weed and Seed program.

(e) WEED AND SEED PLAN REVIEW AND APPROVAL.—(1) The Attorney General shall review and, if all applicable requirements are met, approve Weed and Seed plans.

(2) In reviewing and approving Weed and Seed plans, the Attorney General shall consult with the heads of the Federal agencies listed in subsection (a) of this section and may consult with such other agency heads as the Attorney General deems appropriate.

(3) Each agency head shall be responsible for approval of the parts of the plan that are within the agency's responsibility.

(f) If the Attorney General, in consultation with the heads of the Federal agencies listed

in subsection (a) of this section, determines that a State or local government or a private, nonprofit entity is not in substantial compliance with the terms and provisions of an approved Weed and Seed plan, the Attorney General may revoke the approval of that Weed and Seed plan.

**SEC. 3. WEED AND SEED PLAN CONTENTS**

(a) IN GENERAL.—Weed and Seed plans shall demonstrate that any Federal funds requested are part of an integrated and comprehensive plan for the use of Federal, State, local, and private sector resources to accomplish specific and measurable goals for neighborhood revitalization in accordance with stated timetables.

(b) Federal Funds Supplemental.—Any Federal funds proposed for use in a Weed and Seed plan shall supplement, and not supplant, State and local funds or private sector funds from other sources already in use for activities comparable to those included in a Weed and Seed plan.

(c) Submission of Applications.—(1) One comprehensive Weed and Seed application shall be submitted for a targeted neighborhood to receive approval as a Weed and Seed site.

(2) A Weed and Seed plan application shall—

(A) target a geographically defined and compact neighborhood with documented drug, gang, or violent crime problems;

(B) identify Federal, State, and local resources for the targeted community that will be dedicated to the Weed and Seed effort;

(C) demonstrate a strong commitment of community groups in the targeted community for the Weed and Seed effort;

(D) identify private sector resources, including corporate contributions and individual commitments, to be included in the Weed and Seed effort; and

(E) demonstrate a balanced, comprehensive plan, which addresses removing violent offenders from the neighborhood streets, supports drug and crime prevention, and includes other proposals for neighborhood revitalization through strategies to create jobs and other economic opportunities.

**SEC. 4. WEED AND SEED COUNCIL.**

(a) ESTABLISHMENT.—The Attorney General shall establish and chair a "Weed and Seed Council".

(b) MEMBERSHIP.—(1) In addition to the Attorney General, members of the Weed and Seed Council shall include the Secretaries of Labor, Education, Health and Human Services, Agriculture, Transportation, Treasury, and Housing and Urban Development, and the Director of the Office of National Drug Control Policy.

(2) The Attorney General may designate such other members of the Weed and Seed Council as he deems appropriate.

(c) DUTIES OF THE WEED AND SEED COUNCIL.—Each member of the Weed and Seed Council shall work closely with the Attorney General to—

(1) review the Weed and Seed plans submitted for the Attorney General's approval and advise the Attorney General thereon;

(2) coordinate funding under any program referred to in section 5 of this Act that is administered by a member of the Weed and Seed Council, as appropriate, to implement an approved Weed and Seed plan;

(3) coordinate technical assistance to public agencies and community organizations; and

(4) coordinate available services.

(d) PROGRAM EVALUATION.—No later than five years after the date of enactment of this Act, the Weed and Seed Council shall prepare and submit to the President a report containing a formal, independent evaluation of the impact of Weed and Seed programs in designated communities.

**SEC. 5. WEED AND SEED RESOURCES.**

(a) NEW RESOURCES.—(1) For the fiscal year ending September 30, 1993, there are authorized to be appropriated to the Attorney General $30,000,000 to fund intergovernmental agreements, including cooperative agreements and contracts, with State and local law enforcement agencies or other entities engaged in Weed and Seed plans approved pursuant to section 2 of this Act.

(2) For implementing Weed and Seed plans approved pursuant to section 2 of this Act, there are authorized to be appropriated to the Secretary of Education for the fiscal year ending September 30, 1993, $56,000,000, to become available on July 1, 1993 and remain available through September 30, 1994, to be used for program purposes authorized by section 1005 and part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Drug-free Schools and Communities Act, the Adult Education Act, the Talent Search and Upward Bound programs of title IV, part A, subpart 4 of the Higher Education Act of 1965, and for after hours use of school buildings: *Provided*, That $46,400,000 of these funds shall be used to fund approved plans submitted by areas designated Enterprise Zones in accord with the Enterprise Zone-Jobs Creation Act of 1992, if such Act is enacted by July 1, 1993: *Provided further*, That if such legislation is not enacted, or if it is enacted and if the zones so designated do not submit plans pursuant to section 2, or if the funding needs for educational services in the approved plans do not require the full amount of funds provided herein, the remaining funds shall be transferred to and merged with the following accounts, to be available for the purposes, as follows:

(A) in the Compensatory education for the disadvantaged account, up to $35,000,000 shall be added to funds otherwise available for section 1005 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and $5,000,000 shall be added to funds otherwise available for part B (Even Start) of said Act;

(B) in the School improvement programs account, up to $1,000,000 shall be added to funds otherwise available for part D of title V of the Elementary and Secondary Education Act of 1965;

(C) in the Vocational and adult education account, up to $3,400,000 shall be added to funds otherwise available for Adult Education Act State grants; and

(D) in the Higher education account, up to $2,000,000 shall be added to funds otherwise available for Special programs for the disadvantaged.

(b) EXISTING RESOURCES.—(1) Of the amounts authorized to be appropriated for the Department of Housing and Urban Development for the fiscal year ending September 30, 1993, not to exceed $90,000,000 shall be for implementing Weed and Seed plans approved under section 2 of this Act, as follows:

(A) in the "Community development grants" account, not to exceed $44,000,000;

(B) in the "Annual contributions for assisted housing" account, for modernization of existing public housing projects, as authorized by Section 14 of the United States Housing Act of 1937, as amended, not to exceed $20,000,000; and for the housing voucher program, as authorized by section 8(o) of such Act, not to exceed $20,000,000; and

(C) in the "Drug elimination grants for low-income housing" account, from funds available to public housing agencies for use in eliminating drug-related crime in public housing projects, not to exceed $6,000,000.

(2) Of the amounts authorized to be appropriated for the Department of Labor and the Department of Health and Human Services for the fiscal year ending September 30, 1993, not to exceed $224,800,000 shall be for implementing Weed and Seed plans approved under section 2 of this Act, as follows:

(A) in the "Alcohol, drug abuse, mental health" account, not to exceed $93,800,000 for drug abuse treatment and prevention;

(B) in the "Health resources and services" account, not to exceed $35,000,000 for community and migrant health centers;

(C) in the "ACF service programs" account, not to exceed $54,000,000 for Head Start;

(D) in the "Training and employment services" account, not to exceed $24,000,000 from funds available for part A of title II of the Job Training Partnership Act; not to exceed $4,000,000 available for part B of title II of such Act; not to exceed $5,000,000 from funds available for youth demonstration projects; and

(E) in the "Community service employment for older Americans" account not to exceed $9,000,000 from funds available to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations.

(3) Of the amounts authorized to be appropriated for the fiscal year ending September 30, 1993, for the Special Supplemental Food Program for Women, Infants and Children (WIC), not to exceed $5,200,000 shall be set aside for further allocation to approved Weed and Seed sites to permit all eligible persons to receive WIC benefits in these location service areas. The Secretary shall develop a method of equitable allocation of available funds, based on the needs of the Weed an Seed sites, that maximizes access of persons who are eligible under existing local and State WIC eligibility criteria and who are located in Weed and Seed service areas. Any funds unused or remaining after such allocation shall be available for allocation to all States under the WIC Funding formula prescribed by existing law and regulations.

(4) Of the contract authority made available by Public Law 102-240 for the fiscal year ending September 30, 1993, to carry out sections 3, 9, and 26 of the Federal Transit Act, and of the amounts authorized to be appropriated for the fiscal year ending September 30, 1993, to carry out section 3, 9, and 26 of the Federal Transit Act, a total not to exceed $1,000,000 shall be for implementing Weed and Seed plans approved under section 2 of this Act.

(C) PERMANENT AUTHORIZATION.—Of the appropriations which are hereafter authorized for the programs described in subsections (a) and (b) of this section for fiscal years ending after September 30, 1993, such sums as may be necessary are authorized to be made available to implement Weed and Seed plans approved under section 2 of this Act.

(d) RELATIONSHIP TO NATIONAL DRUG CONTROL STRATEGY.—Drug-related funds authorized to be appropriated by this section shall be consistent with the goals, objectives, and priorities of the National Drug Control Strategy, developed under 21 U.S.C. 1504.

**SEC. 6. RELATIONSHIP TO ENTERPRISE ZONES.**

(a) AREAS DESIGNATED AS ENTERPRISE ZONES.—(1) For the fiscal year ending September 30, 1993, and for each succeeding fiscal year, of the funds authorized to carry out Weed and Seed plans, an amount not to exceed $400,000,000 is authorized for Weed and

Seed plans only in areas that have been designated as enterprise zones in accordance with the Enterprise Zones-Job Creation Act of 1992, if that Act has been enacted by July 1, 1993.

(2) If the Enterprise Zones-Job Creation Act of 1992 has not been enacted by July 1, 1993, the authorized amounts are available under whatever authority otherwise exists.

(b) AREAS NOT DESIGNATED AS ENTERPRISE ZONES.—For the fiscal year ending September 30, 1993, and for each succeeding fiscal year, of the funds that are authorized to carry out Weed and Seed plans, an amount not to exceed $100,000,000 is authorized only for Weed and Seed plans in areas not included in subsection (a)(1) of this section.

**SEC. 7. WAIVERS.**

(a) IN GENERAL.—(1) In carrying out Weed and Seed activities under this Act, the Secretaries of Education, Labor, Health and Human Services, Transportation, Housing and Urban Development and Agriculture may waive any regulation or provisions of law, with the Exception of the laws listed in paragraph (3) of this subsection, under such Secretary's jurisdiction that—

(A) restricts the distribution of funds; or

(B) is otherwise inconsistent with the requirements of the agreements entered into under section 2 of this Act.

(2) A waiver under paragraph (1) of this subsection may not alter or otherwise affect the eligibility of a person for the programs or services provided under the Weed and Seed plans approved under section 2 of this Act.

(3) No waiver may be granted under this section of any law respecting public or individual health or safety, civil rights, environmental protection, law relations, occupational health or safety, or any other law that the Attorney General shall by regulation determine.

(b) PUBLICATION OF WAIVER.—Notice of any waiver granted under subsection (a) of this section shall be published in the Federal Register.

**SEC. 8. REPORT TO THE PRESIDENT.**

The Attorney General, in consultation with the Secretaries of Education, Labor, Health and Human Services, Transportation, Agriculture and Housing and Urban Development, and the Director of the Office of National Drug Control Policy, shall report to the President describing the activities of the Weed and Seed program and the expenditure of funds in accordance with this Act at such times as the President may require.

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By Mr. MACK:

S. 2727. A bill to provide for the revitalization of small business concerns, promote job growth, and for other purposes; to the Committee on Finance.

SMALL BUSINESS REVITALIZATION AND JOB GROWTH ACT OF 1992

Mr. MACK. Mr. President, today I am introducing the Small Business Revitalization and Job Growth Act of 1992. It is my hope that this legislation will help bring to this body's attention the importance of America's small business community and their invaluable contribution to our continued economic viability. I look forward to working with my colleagues to develop this legislation and to explore new and innovative ways to encourage the growth of this vital sector of our economy.

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By Mr. SARBANES:

S. 2729. A bill to amend the provisions of chapter 35 of title 5, United States Code, to assist Federal employees who were separated from service as a result of a reduction in force in finding new Federal employment, and for other purposes; to the Committee on Governmental Affairs.

S. 2730. A bill to amend title 10, United States Code, to permit certain personnel who are involuntarily separated from the Armed Forces to enroll temporarily in health benefits plans of the Federal Employee Health Benefits Program; to the Committee on Governmental Affairs.

ASSISTANCE FOR WORKERS AFFECTED BY THE DEFENSE CUTBACKS

• Mr. SARBANES. Mr. President, today I am introducing two bills to assist Federal workers and members of the Armed Services who are being adversely affected by defense cutbacks.

The first bill would help former Federal workers, who have lost their jobs due to a reduction in force, find employment elsewhere in the Federal Government. The legislation would require agencies to give priority to laid-off civil servants when filling vacancies.

The Office of Personnel Management [OPM] encourages agencies to do all that they can to avoid reductions in force [RIF's]. When reductions in employment are required, agencies turn first to hiring freezes and implementation of an early retirement system. However, it is clear that major reductions, such as those now occurring in the Department of Defense, will require many RIF's. In fact, a recent Office of Technology Assessment report indicates that as many as 25,000 civilians will lose their jobs during each of the next few years. While there are obviously differing views on how large our defense cutbacks should be, every scenario under consideration includes the loss of thousands of military and civilian jobs.

There are already a number of programs in place to assist employees who are fired due to a reduction in force. Each agency, including the Department of Defense, administers a Priority Placement Program. Such programs assist career employees who have received a RIF notice in finding a similar job elsewhere in the same agency. These programs have historically placed as many as 50 percent of employees but, more recently, have been less successful. Given the projections, it is unlikely that the Department of Defense will be able to place many RIF'd workers through its Priority Placement Program since there will be far fewer vacancies throughout the Department.

Career employees who have been notified that they will be RIF'd also qualify for an Interagency Placement Program run by OPM. A similar effort, the Displaced Employee Program [DEP], is designed to assist employees after they have actually been RIF'd. In both cases, employees voluntarily join a data base that identifies their occupational and geographic preferences. When Federal agencies are trying to fill a vacancy, OPM forwards information about potential candidates from the two programs. Agencies are supposed to give priority to considering these candidates but often skirt that guideline.

I understand that there have been many examples where agencies have used alternative methods, such as the outstanding scholars program, to fill vacancies and avoid hiring displaced workers. However, according to recent GAO testimony, these placement programs are not working effectively. Speaking before the House Subcommittee on Human Resources, GAO noted that:

> Agencies have options other than hiring a DEP registrant or objecting to the registrant's qualifications. Although blocked from hiring competitively, agencies may leave vacancies unfilled, or fill them noncompetitively through merit promotion, transfer, or reinstatement.

Yet another placement program is the Defense Outplacement Referral System, which assists Department of Defense employees in finding both government and private sector positions.

Mr. President, all of these programs are well-intentioned and I am confident that OPM has tried to make them work. However, the bottom line is that RIF'd workers often have problems finding another Federal job. I understand that some Federal managers even avoid hiring RIF'd workers because of a belief that they are tainted or perhaps not up to par with other potential applicants.

It is my view that Congress should mandate that Federal agencies give top priority to rehiring the workers RIF'd by the Defense Department and other departments. It is the least we can do to assist these workers, many of whom find themselves facing unemployment and the related financial problems after 10 or even 20 years of hard work for the citizens of this Nation.

At this time, Mr. President, I want to emphasize that my bill would assist only those workers who have consistently received good performance appraisals. This legislation does not give any special preference to an employee who has received an unsatisfactory appraisal. I also want to point out that my bill in no way affects the preference given to veterans in Federal hiring.

The second bill I am introducing would ensure that military personnel who lose their jobs have health insurance coverage. Currently, separated military personnel retain their CHAMPUS benefits at no cost for either 60 or 120 days, depending upon their length of service. Following that, they are able to join a USVIP plan, op-

erated by a private insurer under a contract with the Department of Defense.

Coverage under the USVIP plan runs for 3-month periods. I understand that renewal is not automatic and some former members of the armed services may be forced out of the plan. At the same time, the maximum amount of time that an individual or family can stay in USVIP is four three-month periods or one year. After that, they are on their own.

In a tough economy like we are currently experiencing, one year may not be enough time to find a new job. My bill would allow former members of the armed services to purchase up to 18 months of coverage in any of the Federal employee health benefit plans. An individual or family would be able to choose whichever plan was best suited to their expected health needs and budget situation.

The bill I am introducing would also eliminate the need for a separate administrative system for these veterans and military families. Instead, they would have access to the wide variety of coverage and plans now available to civilian workers who lose their positions.

Mr. President, in developing these proposals I have worked closely with my Maryland colleague, Representative STENY HOYER. Congressman HOYER is working to enact companion proposals in that body.

As a member of the Democratic Task Force on Defense Conversion and a cochair of the Federal Government Service Task Force, I recognize that we in the Congress must act and must act soon to help each American who will be adversely impacted by lower defense spending. In the weeks since I started working on these two bills, other Members of the House and Senate have introduced their own measures to assist military and civilian employees who are losing their jobs. It is my view that the Congress should move swiftly to examine not only my proposals but all that have been introduced in an concerted effort to enact the best possible package as soon as possible.

Mr. President, we cannot forget how devastating it is to lose a job. Whether you're a young former Marine and find yourself without adequate health insurance or a longtime civilian engineer at the Defense Department and lose your family's sole income source, it hurts. My legislation would provide needed assistance and I urge my colleagues to join me in pushing for timely consideration and enactment.●

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By Mr. DOLE (for himself and Mr. CHAFEE):

S. 2731. A bill to amend the Internal Revenue Code of 1986 to make the deduction for health insurance costs of self-employed individuals permanent, and to provide for a phased-in increase in the deductible amount of health insurance costs from 25 to 100 percent; to the Committee on Finance.

S. 2732. A bill to increase the availability, portability, and affordability of health insurance, especially health insurance for small employers, by prohibiting discriminatory practices and promoting broad risk pooling among health insurers, and for other purposes; to the Committee on Finance.

HEALTH BENEFITS FOR SELF-EMPLOYED INDIVIDUALS ACT AND HEALTH INSURANCE MARKET REFORM ACT

Mr. DOLE. Mr. President, one of the most critical issues facing the country today is the need for reform of our health care delivery system. But while we all agree on the need, we have been guilty of simply giving lipservice to our concerns. It is the hope of this Senator that the situation is about to change.

Today, joined by my distinguished colleague from Rhode Island, Senator CHAFEE, who also serves as the chairman of the Republican Health Care Task Force, the Senator from Kansas is introducing two of the President's proposals related to health care reform. The first provides for raising the allowable deduction for health insurance premiums for the self employed to 100 percent. The second bill contains the administration's small market reform legislation.

Both of these bills are similar, if not identical, to bills or portions of bills introduced by both Republicans and Democrats. There is, in fact, little in dispute with respect to the goals we hope to obtain in the passage of these bills, that is, increased access to affordable health insurance which translates into increased access to care. One would think we could agree on the details and move these bills this year. But unfortunately it appears election year politics may prevent even this limited progress from being made. There are those who want to hold out for everything—and who may ultimately get nothing. I, for one, hope that won't be the case.

We introduce these bills today, so that the administration will have the opportunity to have their views known as we begin the debate on health care reform. These do not represent their entire plan, but rather two initial components—with more to follow. And while we may not agree on every detail, they deserve to be heard.

The distinguished chairman of the Finance Committee, my good friend Senator BENTSEN, has taken a strong stand in support of the need for health care reform. His own bill reflects views similar to my own with respect to small market reform and I am sure, that given the chance, we could all come to agreement.

I am pleased the administration has put forward its own proposal and hope the opportunity to make at least some limited progress, is given to us.

Mr. President, I ask that the text of the bills and the accompanying materials be printed in the RECORD.

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

S. 2731

*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 "Health Benefits for Self-Employed Individuals Act of 1992".

**SEC. 2. PERMANENT EXTENSION AND INCREASE IN HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED.**

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to—

"(A) 25 percent in the case of taxable years beginning on or before December 31, 1993,

"(B) 50 percent in the case of taxable years beginning on or after January 1, 1994, and on or before December 31, 1995, and

"(C) 100 percent in the case of taxable years beginning on or after January 1, 1996,

"of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(b) PERMANENT DEDUCTION.—Section 162(l) of such Code is amended by striking paragraph (6) thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

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THE SECRETARY OF THE TREASURY,
*Washington, May 5, 1992.*

Hon. DAN QUAYLE,
*President, U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT: On February 6, the Administration published the "President's Comprehensive Health Reform Program." The document provides extensive detail on the President's plan for reforming the health care system, including provisions addressing: market reforms, universal access to affordable health care, cost containment, administrative cost reforms, improved consumer information and containment, and substantial reform of the Medicaid program. Today I am transmitting the "Health Benefits for Self-Employed Individuals Act of 1992," which implements the President's proposal to extend the current twenty five-percent deductibility of health insurance premiums for the self-employed, and to raise the allowable deduction to one hundred percent of the premium costs.

The Department estimates that this legislation will reduce federal revenue by the following amounts:

*Fiscal Year*

[In millions of dollars]

| | *Total* |
|---|---|
| | *Total* |
| 1992 | −58 |
| 1993 | −246 |
| 1994 | −544 |
| 1995 | −885 |
| 1996 | −1,292 |
| 1997 | −2,022 |
| 1992–97 | −5,047 |

These costs must be offset under the Budget Enforcement Act of 1990. The President's Budget includes $5.5 billion in mandatory outlay reduction proposals for fiscal year 1993 and over $68.4 billion in mandatory savings proposals for fiscal years 1992–1997. Any of these mandatory outlay reduction proposals would be acceptable to the Administration as an offset. More specifically, however, the Administration would propose to finance this legislation by adopting reforms to: (a) place the Medicare hospital update on a calendar year basis and (b) reform payment of laboratory services by lowering the cap from 88% to 76% of the median, updated to reflect market factors. The mandatory outlay savings from these two proposals in each of the next five years exceed the costs of our proposal to expand the health insurance deduction for the self-employed. These proposals were included in the "Medicare Budget Amendment of 1992," transmitted to Congress by Secretary Sullivan on February 21, 1992.

Thank you for your consideration. We look forward to working with the Congress on this legislation.

Sincerely,

NICHOLAS F. BRADY.

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S. 2732

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Health Insurance Market Reform Act of 1992".

**SEC. 2. IMPROVED ACCESS TO AFFORDABLE HEALTH INSURANCE.**

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—REQUIREMENTS CONCERNING HEALTH INSURANCE

"PART A—GENERAL PROVISIONS

"TABLE OF CONTENTS

"SEC. 2101. The table of contents of this title is as follows:

"TITLE XXI—REQUIREMENTS CONCERNING HEALTH INSURANCE

"PART A—GENERAL PROVISIONS

"Sec. 2101. Table of contents.
"Sec. 2102. Purposes.
"Sec. 2103. Establishment of health insurance requirements.
"In general.
"(b) Establishment and implementation of requirements.
"(1) Role of NAIC.
"(2) Federal and State regulations.
"(3) State responsibilities.
"(A) In general.
"(B) Effect on other laws.
"(4) Federal responsibilities.
"(5) Waiver authority.
"(6) Oversight of State programs.
"(A) Reports required.
"(B) Periodic reviews.
"(C) Finding of noncompliance.
"Sec. 2104. Noncompliance with Federal implementation of part B or C.
"Sec. 2105. Definitions.
"(1) Coordinated care plan.
"(2) Eligible employee.
"(3) Employee welfare benefit plan; plan sponsor.
"(4) Employer
"(5) Employer-based health insurance.
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"PURPOSES

"SEC. 2102. The purposes of this title are to increase the availability, portability, and affordability of health insurance, particularly to small employers and their employees and dependents, by seeking to ensure, among other things, that—

"(1) affordable health insurance is available to individuals and groups in every State, and premiums do not vary substantially on the basis of health status or claims experience,

"(2) States regulating health insurance do not place an undue burden on small employers, and

"(3) insurers, providers, purchasers and consumers are encouraged to contain costs of health care and health insurance.

"ESTABLISHMENT OF HEALTH INSURANCE REQUIREMENTS

"SEC. 2103. (a) IN GENERAL.—The provisions of this title shall apply to health insurance plans offered in any State, and to insurers offering such plans.

"(b) ESTABLISHMENT AND IMPLEMENTATION OF REQUIREMENTS.—(1) Role of NAIC.—The Secretary shall request the NAIC, by three months after the enactment of this section, to recommend model standards for compliance with the requirements of parts B and C.

"(2) FEDERAL AND STATE REGULATIONS.—

"(A) FEDERAL REGULATIONS.—The Secretary shall publish proposed and final regulations implementing this section. These regulations shall be based on the NAIC model standards, if made available by the NAIC pursuant to paragraph (1) on a timely basis, with such revisions as the Secretary finds necessary. The final regulations shall become effective as of the date specified in section 2106.

"(B) STATE PROGRAM.—The Secretary shall determine, with respect to each State, whether the State has established regulatory requirements and enforcement authority adequate to ensure compliance by insurers and health insurance plans with the requirements of parts B and C. A State regulatory program may establish standards more stringent than those required under this title, if the Secretary finds that they are not inconsistent with the purposes of this title.

"(3) STATE RESPONSIBILITIES.—

"(A) IN GENERAL.——A State program approved by the Secretary pursuant to subparagraph (2)(B) shall take effect, in lieu of the Federal regulations under paragraph (2)(A), as of the date specified in section 2106—

"(i) for purposes of part B, with respect to all insurers and health insurance plans subject to the provisions of that part, and

"(ii) for purposes of part C, with respect to all insurers and health insurance plans subject to the provisions of that part other than employee welfare benefit plans which are not multiple employer welfare arrangements (MEWAs).

"(B) EFFECT ON OTHER LAWS.—State laws or regulations under a State program approved by the Secretary pursuant to subparagraph (2)(B) shall apply as provided in subparagraph (A), notwithstanding section 514(a) of the Employee Retirement Income Security Act of 1974 or any other provision of law.

"(4) FEDERAL RESPONSIBILITIES.—The Secretary shall implement a program pursuant to paragraph (2)(A)—

"(A) for purposes of part C, in consultation with the Secretary of Labor, in all States with respect to those insurers and health insurance plans not subject to State regulation pursuant to paragraph (3)(A)(ii), and

"(B) for purposes of parts B and C (but subject to the provisions of paragraph (5)(C)), with respect to all insurers and health insurance plans in each State which does not have a program approved by the Secretary pursuant to paragraph (2)(B).

"(5) WAIVER AUTHORITY.—The Secretary may waive, with respect to a State or with respect to all States, any provision of this title, title XVIII, or title XIX, to such extent and for such period as he finds likely to promote the purposes or facilitate the administration of this title.

"(6) OVERSIGHT OF STATE PROGRAMS.—

(A) REPORTS REQUIRED.—The Secretary shall not find that a State program meets the requirements of this title unless it provides for submission to the Secretary, one year after the effective date specified in section 2106 and biennially thereafter, a report on the implementation and enforcement of such regulatory program.

"(B) PERIODIC REVIEWS.—The Secretary shall periodically review State programs in effect under paragraph (3) to determine whether they meet the requirements under this title.

"(C) FINDING OF NONCOMPLIANCE.—The Secretary, before finding that a State program under paragraph (3) fails to meet requirements under this title, shall notify the State of a preliminary finding of noncompliance, afford it an opportunity to correct deficiencies (which shall not be less than 30 days, and may be such longer period as the Secretary finds appropriate in the circumstances), and provide notice of a final determination of noncompliance to the State and to insurers in the State.

"NONCOMPLIANCE WITH FEDERAL IMPLEMENTATION OF PART B OR C

"SEC. 2104. For provisions imposing an excise tax with respect to noncompliance with Federal implementation of part B or C, see section 5000A of the Internal Revenue Code of 1986, as added by section 4 of the Health Insurance Market Reform Act of 1992.

"DEFINITIONS

"SEC. 2105. For purposes of this title—

"(1) COORDINATED CARE PLAN.—The term 'coordinated care plan' means a health insurance plan that provides for the financing and delivery of health care services to individuals enrolled in such plan through—

"(A) arrangements, with participating providers selected pursuant to explicit standards, to furnish health care items and services,

"(B) organizational arrangements for ongoing quality assurance and utilization review programs, and

"(C) financial incentives for enrollees to use the participating providers and procedures provided for the plan.

"(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. For purposes of this definition, the term 'employee' includes an individual who is an employer.

"(3) EMPLOYEE WELFARE BENEFIT PLAN; PLAN SPONSOR.—The term 'employee welfare benefit plan' and 'plan sponsor' have the meanings given those terms in sections 3(1) and 3(16)(B), respectively, of the Employee Retirement Income Security Act of 1974.

"(4) EMPLOYER.—The term 'employer' means any person acting as an employer, or in the interest of an employer, in relation to a health insurance plan, and includes a group or association of employers (including a health insurance network (HIN) and a multiple employer welfare arrangement (MEWA)) acting for an employer in such capacity.

"(5) EMPLOYMENT-BASED HEALTH INSURANCE.—The term 'employment-based health insurance' means group health insurance (including self-insurance by an employer or other entity) obtained through any arrangement connected with the employment (including self-employment) of some or all of the individuals eligible for coverage, including insurance offered to an employer, a group of employers, a labor or trade union or other employees' association, a professional association, or an entity (including a HIN or a MEWA) acting in the interest of any such person or group for the purpose of obtaining health insurance.

"(6) HEALTH INSURANCE NETWORK (HIN).—The term 'health insurance network' (HIN) means an entity certified by the Secretary pursuant to part E.

"(7) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any contract or arrangement under which an insurer bears all or part of the cost or risk of providing health care items and services, including a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract (including any self-insured health insurance plan), but does not include—

"(A) coverage only for accident, dental, vision, disability, or long term care, medicare supplemental health insurance, or any combination thereof,

"(B) coverage issued as a supplement to liability insurance,

"(C) (except for purposes of part D) workers' compensation or similar insurance, or

"(D) automobile medical-payment insurance.

"(8) HEALTH MAINTENANCE ORGANIZATION (HMO).—The term 'health maintenance organization' includes entities meeting the definition of a health maintenance organization under section 1301(a) of the Public Health Service Act, or of an eligible organization under section 1876 of this Act, or recognized as a health maintenance organization under State law.

"(9) INSURER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'insurer' means any person (as defined in section 3(9) of the Employee Retirement Income Security Act of 1974), including a HMO and a MEWA, that offers an individual or group health insurance plan under which such person is at risk for all or part of the cost of benefits under the plan, and includes any agent of such person.

"(B) EXCEPTION.—For purposes of part B, the term 'insurer' does not include an employee welfare benefit plan (other than a MEWA) which is offered to more than 50 eligible employees, or which is one of a group of employee welfare benefit plans (other than MEWAs) offered by a single plan sponsor to a group totaling more than 50 eligible employees, or the plan sponsor of such a plan.

"(10) MULTIPLE EMPLOYER WELFARE ARRANGEMENT (MEWA).—The term 'multiple employer welfare arrangement' (MEWA) has the meaning given that term in section 3(40) of the Employee Retirement Income Security Act of 1974.

"(11) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(12) PARTICIPATING PROVIDER.—The term 'participating provider' means a provider that has entered into an agreement with an insurer or another provider to provide health care items or services to patients enrolled in a specified health insurance plan.

"(13) PROVIDER.—The term 'provider' means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

"(14) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than one but less than 51 eligible employees on a typical business day.

"(15) STATE.—The term 'State' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(16)(A) UTILIZATION REVIEW.—The term 'utilization review' means review of the medical necessity, appropriateness, and quality of health care items and services.

"(B) UTILIZATION REVIEW PROGRAM.—The term 'utilization review program' means a system of utilization review, which may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"EFFECTIVE DATE OF PARTS A, B, AND C

"SEC. 2106. (a) IN GENERAL.—Except as otherwise specifically provided, the requirements under this title shall apply with respect to health insurance plans offered, issued, or renewed in a State—

"(1) on or after January 1, 1994, or, if later,

"(2) in the case of a State whose legislature does not meet in 1993 in a session which may consider legislation necessary to establish the regulatory program described in paragraph (2)(A), the first day of the first calendar quarter beginning after the close of the first session of the State legislature (or, if the State has a two-year legislative session, the close of the first year of such session) beginning on or after January 1, 1994.

"(b) EXCEPTION FOR EXISTING COVERAGE.—In the case of a health insurance plan in effect in a State before the effective date specified in subsection (a), the provisions of section 2115(c) (concerning variation of premiums among and within blocks of business, and rate of premium increases) shall not apply to a renewal of such plan before the date two years after such effective date.

"PART B—REQUIREMENTS APPLICABLE TO SMALL EMPLOYER HEALTH INSURANCE

"REGISTRATION WITH SECRETARY AND STATES

"SEC. 2111. Each insurer shall register with the Secretary, and with the State commissioner or superintendent of insurance for each State in which it issues or offers any health insurance plan to a small employer.

"REQUIREMENT TO MAKE HEALTH INSURANCE PLANS AVAILABLE TO SMALL EMPLOYERS

"SEC. 2112. (a) GENERAL REQUIREMENT.—Except as provided in subsection (b), each insurer offering a health insurance plan to any small employer in a State (or to any small employer in a local service area within the State, in the case of an insurer licensed to offer, or customarily offering, health insurance only within such area)—

"(1) shall make such plan available to every small employer in the State (or, as applicable, in the local service area),

"(2) in the case of a State electing the option under section 2114, shall make available to every small employer in the State (or, as applicable, in the local service area) a basic insurance plan in accordance with the provisions of State law and of such section 2114, and

"(3) shall not cancel or refuse to renew any such plan made available to a small employer.

"(b) EXCEPTIONS.—(1) HINs and MEWAs.—A HIN or a MEWA shall make health insurance plans available only to its members, and shall not be required to offer a basic insurance plan pursuant to section 2114.

"(2) HMOS AND OTHER COORDINATED CARE PLANS.—A HMO offering a health insurance plan (or any insurer offering a coordinated care plan) to small employers—

"(A) may limit the employers that may apply for coverage to those with eligible employees or dependents residing in the service area of the plan, and

"(B) may deny coverage to employers described in subparagraph (A) if it demonstrates that—

"(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations under current agreements, and

"(ii) it is applying this clause uniformly to all employers without regard to the health status, claims experience, or duration of coverage of those employers or their employees.

"(3) ASSIGNED RISKS.—An insurer may decline to provide coverage under a health insurance plan to a small employer in a State, or to an individual eligible for enrollment in a health insurance plan offered to that small employer, to the extent permitted under a program in the State in accordance with section 2115(b)(1)(B).

"(4) INSURER REQUIREMENT OF MINIMUM PARTICIPATION.—An insurer may condition issuance, continuation, or renewal of a small employer health insurance plan on the enrollment of a minimum percentage of those of the employer's eligible employees who are not otherwise covered under a health insurance plan, provided that any such condition—

"(A) is imposed uniformly on all employers of comparable size, and

"(B) is consistent with the purpose of this part to ensure the availability of health insurance to small employers.

"(5) TERMINATION FOR CAUSE.—An insurer may cancel or refuse to renew a small employer health insurance plan—

"(A) for nonpayment of premiums,

"(B) for fraud or other misrepresentation by the insured small employer, or

"(C) for substantial noncompliance with plan provisions.

"(6) WITHDRAWAL FROM MARKET.—An insurer may cancel or refuse to renew a small employer health insurance plan in a State, after affording at least 180 days of prior notice of such termination to the State, the Secretary, and to each covered small employer, if the insurer is ceasing to provide any small employer health insurance plan in the State (or, in the case of a HMO or other coordinated care plan, in the service area of the plan). An insurer that terminates a small employer health insurance plan for this reason may not offer any health insurance plan to any small employer in such State or service area earlier than 5 years after the effective date of such termination

"(c) REQUIREMENTS CONCERNING RENEWAL OF EXPIRING PLAN—An insurer providing a health insurance plan to a small employer shall provide notice to such employer, at least 60 days before the date of expiration of the 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.

"GUARANTEED ELIGIBILITY OF EMPLOYEES OF SMALL EMPLOYERS

"SEC. 2113. (a) GENERAL REQUIREMENT.—

(1) WITH RESPECT TO INSURERS.—Except as provided in subsection (b), each health insurance plan offered to a small employer shall accept for enrollment, on the same terms as any other enrollee, every individual for whom application is made for enrollment on a timely basis and who is—

"(A) (in the case of an individual plan) such employer's eligible employee, or

"(B) (in the case of a family plan) such employer's eligible employee, or such employee's spouse, or such employee's dependent child (whether or not residing with the eligible employee) who is under 19 years of age or, if older, is under 25 years of age and a full-time student.

"(2) WITH RESPECT TO EMPLOYERS.—A small employer may not use criteria related to health status or claims experience to determine eligibility for, benefits under, or terms of health insurance made available to individual employees or dependents.

"(b) EXCEPTIONS.—

(1) HMOS AND OTHER COORDINATED CARE PLANS.—A health insurance plan offered by a HMO (or a coordinated care plan offered by any insurer) to a small employer may limit the individuals who may be enrolled under the plan to those who reside in the service area of the plan.

"(2) ASSIGNED RISKS.—An insurer may decline to provide coverage under a health insurance plan to an individual eligible for enrollment in a health insurance plan offered to a small employer, to the extent permitted under a program in the State in accordance with section 2115(b)(1)(B).

"(3) INDIVIDUALS SEEKING LATE ENROLLMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer shall not be required to enroll an individual in a health insurance plan, if the insurer—

"(i) provides an initial enrollment period of at least 30 days, and

"(ii) provides at least annually an open season of at least 30 days during which any eligible individual may enroll, and the individual failed to enroll during such period.

"(B) EXCEPTIONS.—Notwithstanding subparagraph (A), an insurer shall be required to enroll—

"(i) INDIVIDUAL LOSING OTHER EMPLOYER COVERAGE.—An individual who—

"(I) declined enrollment during the initial enrollment period on the basis of coverage under another health insurance plan,

"(II) lost such other coverage involuntarily (including by moving out of the service area of a health insurance plan), and

"(III) applies for enrollment within 60 days after termination of such other coverage, and

"(ii) COVERAGE REQUIRED BY COURT OF ADMINISTRATIVE ORDER.—A spouse or minor child of an employee, if such coverage is required by a judicial or administrative order and application for such coverage is made within 60 days after issuance of such order (or, if later, within 60 days after such spouse, or the custodial parent of such minor child, knows or should have known of the availability of such coverage).

"(4) WAITING PERIOD FOR PRE-EXISTING CONDITION.—An insurer may limit coverage with respect to a pre-existing condition to the extent permitted under section 2132.

"(5) TERMINATION FOR FRAUD.—An insurer may cancel or refuse to renew the coverage of an individual under a small employer health insurance plan for fraud or other misrepresentation by or on behalf of such individual covered under the plan.

"BASIC HEALTH INSURANCE PLAN FOR SMALL EMPLOYERS

"SEC. 2114. A State may define a basic benefit plan under State law, and may require insurers (other than HINs and MEWAs) offering health insurance plans to small employers in the State to offer such basic benefit plans to all small employers. The characteristics of a basic benefit plan (including coverage limits and premium and other cost sharing requirements) shall be subject to review and approval by the Secretary for the purpose of ensuring that the plan is affordable by small employers.

"INTERIM REQUIREMENTS FOR RISK POOLING AND PREMIUM RATES

"SEC. 2115. (a) GENERAL REQUIREMENT.—A program established with respect to a State

under section 2103 shall require all insurers offering health insurance plans to small employers, during the period specified in subsection (e)—

"(1) to participate in a mechanism meeting the requirements of this section designed to pool among all such insurers the risk of high costs presented by any of the individuals covered under such health insurance plans, and

"(2) to comply with the requirements of this section designed to limit the variations among and increases in premium rates for such health insurance plans.

"(b) INTERIM RISK POOLING.—

"(1) ALTERNATIVE MECHANISMS.—A program with respect to a State under section 2103(b)(3) may use, as the interim risk pooling mechanism required under this section—

"(A) a reinsurance program that—

"(i) requires an insurer offering a health insurance plan to any small employer in the State to offer the same plan to all other small employers in the State,

"(ii) requires the participation of all such insurers in a small employer reinsurance program, and requires contributions to a reinsurance fund under a formula that ensures payment of a total amount of contributions adequate to insure the solvency of the fund, and

"(iii) entitles all such insurers to receive payments from the reinsurance fund under a formula designed to allocate among all such insurers the excess costs of coverage for those individuals whose claims substantially exceed actuarially established amounts, or

"(B) an assigned risk program that requires any insurer offering a health insurance plan to a small employer in the State to participate in a program for assigning high-risk small employers, or individuals insured under plans offered to small employers, among all such insurers.

"(2) FUNDING.—The interim risk pooling mechanism with respect to a State shall include requirements for mandatory contributions by insurers offering health insurance plans to small employers in the State to the extent necessary to ensure the financial solvency of the interim risk pooling program.

"(3) FEDERAL ASSUMPTION OF RISK PROHIBITED.—No Federal entity shall be at risk, as a guarantor of the solvency of a reinsurance fund or otherwise, for all or any part of the cost of health insurance plans subject to the risk pooling mechanism adopted, pursuant to this section, with respect to such plans in any State.

"(c) INTERIM LIMITS ON VARIATIONS IN PREMIUM RATES.—

(1) DEFINITIONS.—For purposes of this section—

"(A) BASE PREMIUM RATE.—The term 'base premium rate' means, with respect to health insurance plans with the same or similar coverage offered in a rating period to a group of small employers within a block of business whose insured populations have similar demographic characteristics (including age, Sex, geographic location, and any other appropriate characteristic approved by the Secretary), the lowest per capita premium rate which could be charged to any employer in the group under the methodology used by the insurer.

11(B) BLOCK OF BUSINESS.—(i) The term 'block of business' means, with respect to an insurer—

"(I) all small employers covered by a health insurance plan issued by the insurer (or all small employers other than those included in distinct groups under clause (ii), or

"(II) as provided in clause (ii), a distinct group of small employers, or

"(III) as provided in clause (iii), a subdivision of a group identified under subclause (I) or clause (ii).

"(ii) An insurer may treat a distinct group of small employers as a block of business if all of the insurer's health insurance plans issued to such group either—

"(I) are marketed and sold through individuals an organizations that do not participate in the marketing or sale of plans of the insurer to members of other distinct groups,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through a HIN or MEWA or another association with membership of not less than 100 small employers formed for purposes of obtaining health insurance or for any other business-related purpose.

"(iii)(I) Subject to subclause (II), an insurer may divide each group described under clause (i) or under subclause (I), (II), or (III) of clause (ii) into up to three blocks of business as appropriate to reflect differences among health insurance plans (other than differences in plan benefits) that are expected to produce substantial variations in health costs.

"(II) An insurer may not group small employers covered by health insurance plans issued by the insurer into a total of more than six blocks of business.

"(2) LIMIT ON VARIATION OF PREMIUM RATES AMONG BLOCKS OF BUSINESS.—For any rating period, no base premium rate for any small employer block of business of an insurer may exceed the equivalent base premium rate for any other block of business of the insurer by more than 20 percent.

"(3) LIMIT ON VARIATION OF PREMIUM RATE WITHIN A BLOCK OF BUSINESS.—The highest premium rate for a specific health insurance plan that an insurer charges (or could charge) any small employer in a block of business for a rating period shall not exceed the base premium rate for such plan by more than—

"(A) 50 percent for a rating period (or portion thereof) ending before January 1, 1997, and

"(B) 35 percent for a rating period (or portion thereof) beginning on or after January 1, 1997.

"(4) LIMIT ON VARIATION IN PREMIUM INCREASES.—the percentage increase in the premium rate charged to a small 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.

"(d) REQUIREMENTS CONCERNING RATE-SETTING METHODOLOGY.—

(1) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(A) an insurer shall apply rating factors consistently to all small employers,

"(B) no insurer may use as a rating factor a geographic area that is smaller than the smaller of (i) a county or (ii) an area for which the first three digits of the postal zip code are identical.

"(2) LIMIT ON TRANSFER OF EMPLOYERS BETWEEN BLOCKS OF BUSINESS.—An insurer may not transfer a small employer from one block of business to another unless—

"(A) the employer consents to the transfer, and

"(B) the insurer makes the same offer of transfer to all other employers in the same block of business, without regard to demographic characteristics, claims experience, health status, or duration of coverage since issue.

"(3) FULL DISCLOSURE OF RATING PRACTICES.—At the time an insurer shall fully disclose to the employer its rating practices for small employer health plans, including rating practices for different industries, populations, and benefit designs.

"(4) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the State insurance commissioner or equivalent official for each State in which it offers health insurance plans to small employers, and with the Secretary, a statement by a member of the American Academy of Actuaries (or such other individual as the commissioner or the Secretary may permit) 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 small employer health insurance plans—

"(A) the insurer is in compliance with the applicable provisions of this section, and

"(B) the rating methods are actuarially sound. Each insurer shall retain a copy of such statement for examination at its principal place of business.

"(e) EFFECTIVE PERIOD.—

"(1) BEGINNING AND TERMINATION DATES.—The provisions of this section shall become effective with respect to a State on the date specified in section 2106, and shall cease to apply with respect to that State as of the date specified in section 2116(b)(2).

"(2) PHASE-OUT.—During the four-year period preceding the latter date specified in paragraph (1), the provisions of this section shall be phased out with respect to each State as specified by the Secretary.

"(f) WAIVER AUTHORITY.—The Secretary may waive any or all of the requirements of this section with respect to a State, in order to permit the use of an alternative mechanism to achieve one or both of the purposes specified in subsection (a), if he finds that such alternative mechanism is consistent with the purposes of this title, as specified in section 2102, and (in the case of an alternative risk pooling mechanism) makes adequate provision for the solvency of such mechanism.

"HEALTH RISK POOLING

"SEC. 2116. (a) REQUIREMENTS FOR STATE HEALTH RISK POOLING SYSTEM.—A program under this part in a State—

"(1) shall require each insurer that provides employment-based health insurance to small employers in the State to participate in a system for health risk pooling,

"(2) shall directly administer the system, or provide for its administration by a private non-profit entity whose directors are chosen by the chief executive officer of the State,

"(3) shall, subject to paragraph (7), require that each participant in the system pay into a common fund, for each below average risk individual eligible for health care benefits from that participant, a percentage (to be the same for all participants) of the health risk differential for that individual,

"(4) shall, subject to paragraph (7), provide that each participant in the system receive from the common fund, for each above average risk individual eligible for health care benefits from that participant, the percentage (determined for purposes of paragraph (3)) of the health risk differential for that individual,

"(5) may provide that participants in the system receive additional payments for individuals whose costs exceed a particular threshold (which may vary by health risk category), and may require additional contributions to offset these additional payments,

"(6) shall provide for a method of measuring the health risk differential of individuals that meets the requirements of sections 3(c) of the Health Insurance Market Reform Act of 1992, and

"(7) may provide for appropriate incentives to encourage continuous coverage of individuals and groups.

"(b) EFFECTIVE DATE AND PHASE-IN.—(1)(A) The provisions of subsection (a) apply in a State as of the beginning of the fourth year period that begins after the effective date under section 2106(a).

"(B) The Secretary may uniformly postpone the effective dates specified in subparagraph (A) if he finds that this postponement would be appropriate.

"(2) As of the beginning of the fifth year period that begins after the date applicable in a State under paragraph (1), the percentage under paragraphs (3) and (4) of subsection (a) shall be 100 percent.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEMOGRAPHIC CLASS.—The term 'demographic class' means a class of individuals with certain characteristics in common (that shall include age and may include sex, geographic location, and such other demographic factors as may be approved by the Secretary, but may not include characteristics related to claims experience, health status, occupation, or to duration of health care coverage).

"(2) HEALTH RISK DIFFERENTIAL.—The term 'health risk differential' means the difference between the expected costs of a specified set of health care benefits for an individual and the average expected costs of that set for all individuals within that individual's demographic class.

"(3) ABOVE AVERAGE RISK INDIVIDUAL.—The term 'above average risk individual' means an individual whose health risk differential is positive.

"(4) BELOW AVERAGE RISK INDIVIDUAL.—The term 'below average risk individual' means an individual whose health risk differential is negative.

"CONTINUATION COVERAGE FOR CERTAIN STUDENTS

"SEC. 2117. (a) REQUIREMENT WITH RESPECT TO EDUCATIONAL INSTITUTION.—An institution of higher education in a State that offers coverage to its students under a health insurance plan shall continue to make such coverage available, to each student who leaves the institution, for not less than six months thereafter. The institution may require individuals enrolled in such continuation coverage to pay all costs to the institution of such coverage.

"(b) REQUIREMENT WITH RESPECT TO INSURERS.—An insurer offering group health insurance covering students of an institution specified in subsection (a) shall offer under such group insurance continuation coverage as described in subsection (a).

"PART C—REQUIREMENTS APPLICABLE TO ALL EMPLOYMENT-BASED HEALTH INSURANCE

"PROHIBITION OF DENIAL OF COVERAGE BASED ON HEALTH STATUS

"SEC. 2131. (a) GENERAL RULE.—Except as provided in subsection (b), in insurer may not refuse to offer, refuse to renew, cancel, or condition the coverage under any employment-based health insurance plan on the basis of the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of one or more individuals.

"(b) EXCEPTION WITH RESPECT TO ASSIGNED RISKS.—In the case of small employer health insurance, an insurer may decline to provide employment-based health insurance to an individual or entity to the extent permitted under a program in the State in accordance with section 2115(b)(1)(B).

"LIMITATION ON EXCLUSIONS OF PRE-EXISTING CONDITIONS

"SEC. 2132. (a) GENERAL RULE.—Except as provided in subsection (b), no employment-based health insurance plan may impose (or permit or require the insured entity to impose), through a waiting period for coverage or similar requirement, a limitation or exclusion of benefits for an individual on the basis of a condition of the individual pre-existing the date of the application for coverage of the individual.

"(b) EXCEPTIONS.—

(1) LIMITED EXCLUSION PERMITTED.—Subject to paragraphs (2) and (3), a limitation or exclusion, for a period of not more than six months from the date of application for coverage, may be imposed with respect to a condition diagnosed or treated within three months preceding such date.

"(2) NO EXCLUSION FOR PREGNANCY OR FOR INFANT UNDER AGE.—No limitation or exclusion may be imposed with respect to pregnancy, or on a child under one year of age.

"(3) CREDITING OF PREVIOUS COVERAGE.—

(A) IN GENERAL.—In the case of an individual who had health insurance under title XVIII or XIX or a health insurance plan (including an individual who lost such coverage less than 60 days prior to the date of application (or less than 180 days prior to such date, in the case of an individual who lost such coverage as a result of loss of employment with respect to which the individual was entitled to receive payments under the State unemployment compensation program) prior to the date of application)—

"(i) if such prior health insurance included coverage relating to treatment of the condition, no exclusion may be imposed, and

"(ii) if such prior health insurance limited or excluded coverage for the condition, the period of limitation or exclusion permitted pursuant to paragraph (1) shall be reduced by one month for each month such prior insurance was in effect.

"(B) TREATMENT OF LAPSED PRIOR COVERAGE.—For purposes of this paragraph, prior health insurance coverage of an individual that lapsed as of a date preceding the date of application to an insurer for alternative health insurance coverage by not more than—

"(i) 180 days, in the case of coverage that ceased as a result of involuntary loss of employment with respect to which the individual received unemployment compensation, or

"(ii) 60 days, in any other case, shall be treated as continuous prior health insurance coverage for purposes of this paragraph.

"(C) DISCLOSURE OF COVERAGE.—An insurer that has provided health insurance benefits to an individual during a period of previous coverage described in subparagraph (A) shall be required to disclose, upon request by such individual (or another person legally authorized to act on behalf of such individual), information with respect to such coverage needed by an insurer offering employment-based health insurance for the purpose of complying with this paragraph.

"PART D—PREEMPTION OF CERTAIN STATE LAWS RELATING TO HEALTH INSURANCE

"REQUIREMENTS CONCERNING COVERAGE

"SEC. 2141. Except to the extent that such a provision is specifically permitted under this title (or permitted by the Secretary based on a determination of consistency with the purposes of this title), no effect shall be given to any provision of State law that requires the offering, as part of any health insurance plan, of any services, category of care, or services of any class or type of provider.

"REQUIREMENTS CREATING BARRIERS TO MANAGED CARE

"SEC. 2142. No effect shall be given to any provision of State law described below:

"(1) RESTRICTION ON PAYMENT AMOUNT OR METHOD.—Any law that restricts the flexibility of any private entity to negotiate the amount or terms of payment to a provider of health care items or services.

"(2) RESTRICTIONS ON PROVIDER PARTICIPATION LIMITS.—Any law that prohibits or limits restrictions by an insurer or its agent on the location, number, type, or professional qualifications of providers participating in a health insurance plan.

"(3) RESTRICTIONS ON INCENTIVES FOR CONSUMERS TO USE PARTICIPATING PROVIDERS.—Any law that prohibits or limits provisions in a health insurance plan relating to coverage for non-emergency services—

"(A) restricting coverage to services provided or authorized by a participating provider,

"(B) requiring that services be authorized by a primary care physician selected by the enrollee from a list of available participating providers, or

"(C) providing financial incentives for enrollees to use the services of participating providers.

"(4) RESTRICTIONS ON UTILIZATION REVIEW.—Any law that—

"(A) prohibits or limits utilization review of any or all treatments or conditions,

"(B) prohibits, limits, or directs the use of particular procedures or criteria by a utilization review program,

"(C) requires disclosure of the criteria used under a utilization review program,

"(D) requires that utilization review be conducted by a resident of the State in which the health care services under review are provided, or by an individual licensed in such State,

"(E) defines utilization review as the practice of medicine or another health care profession, or requires that utilization review be conducted by a physician with the same board certified or other specialty as the physician providing or ordering the services subject to review (but the State may impose such a requirement with respect to any appeal from such a review),

"(F) restricts the amount of payment that may be made to a utilization review program, or requires payment to providers for their costs of responding to requests by a utilization review program,

"(g) establishes restrictions or requirements with respect to the location or hours of operation of utilization review, so long as preadmission approval and other utilization review requirements are inapplicable to emergency services furnished during hours when the utilization review program is not in operation,

"(H) restricts access by a utilization review program to medical information or personnel required to conduct utilization review, or

"(I) restricts limitations on coverage or benefits to persons enrolled under a health insurance plan who fail to cooperate with utilization review procedures required under such plan.

"(5) OTHER RESTRICTIONS ON UTILIZATION REVIEW OR COORDINATED CARE.—Any other re-

striction on utilization review that the Secretary finds inconsistent with the purposes of this title.

"EFFECTIVE DATE

"SEC. 2143. The provisions of this part shall become effective upon enactment.

"PART E—CERTIFICATION OF HEALTH INSURANCE NETWORKS (HIN'S)

"CONDITIONS OF CERTIFICATION

"SEC. 2151. (a) IN GENERAL.—An entity meeting the requirements of this part shall be entitled to certification by the Secretary as a health insurance network (HIN).

"(b) ORGANIZATION AND MEMBERSHIP.—An entity meeting the requirements of this part—

"(1) shall be organized as a membership organization with a board of directors elected by the members;

"(2) shall have a membership that includes small employers (but also include other members) with an affinity based on one or more of—

"(A) geographic location, or

(B) a common trade, profession, industry, or other business- or community-related characteristic recognized by the Secretary,

so long as membership criteria are applied uniformly, and do not have the effect of excluding groups or individuals presenting a risk of high cost;

"(3) shall not deny membership to any small employer that shares the affinity used as a membership criterion, and

"(4) may restrict membership to employers in a single State, within a single State or multi-State local area, or in specified States.

"(c) NEGOTIATIONS AND ARRANGEMENTS WITH INSURERS AND PROVIDERS.—An entity meeting the requirements of this part—

"(1) shall arrange for the purchase of health insurance by its members through negotiations with insurers, and shall bear no financial risk associated with the provision of health care.

"(2) shall only negotiate or arrange for provision to its members of health insurance offered by insurers meeting all applications requirements of Federal and State law in each State in which the insurer offers such insurance, and

"(3) may engage in negotiations and enter into arrangements with providers of health care services with respect to matter such as payment rates and selective provider contracts, for the purpose of obtaining favorable health insurance rates for its members.

"(d) MARKET SHARE.—(1) IN GENERAL.—An entity meeting the requirements of this part shall demonstrate to the satisfaction of the Secretary that it is (or reasonably expects to be) arranging for health insurance on behalf of a sufficient number of individuals to enable it to negotiate for coverage at favorable rates.

"(2) SHOWING REQUIRED.—The Secretary shall find that an entity—

"(A) meets the requirements of this subsection if it demonstrates that it represents a group of small employers that has a significant share of the health insurance market in a State, a group of States, or a local area (including a multi-State metropolitan area), or meets such other standard as the Secretary may establish, or

"(B) provisionally meets the requirements of this subsection, if it cannot make the showing required under subparagraph (A), but can demonstrate that the current and projected numbers of members, and of their employees and dependents, support a reasonable expectation that it will be able to make such showing not later than three years after the date of certification.

Standards established by the Secretary under this paragraph may vary depending on whether the market area encompasses more than one State, a single State, or a local area.

"(e) FIDUCIARY RESPONSIBILITIES.—An entity meeting the requirements of this part—

"(1) shall comply with the fiduciary responsibility provisions of part 4 of title I of the Employee Retirement Income Security Act of 1974 as if it were an employee welfare benefit plan, and

"(2) shall provide to its members, before the members are enrolled under a health insurance plan offered by the entity, information on the benefits under the plan (including a summary of the plan and the applicable premium rates and cost-sharing requirements), and such other matters as the Secretary may require.

"CERTIFICATION PROCESS

"SEC. 2152. (a) APPLICATION.—An entity meeting the requirements of this part may apply to the Secretary for certification under this section as a HIN. Such application shall be in such form and submitted in such manner as the Secretary may require.

"(b) CERTIFICATION.—The Secretary shall certify as a HIN an entity meeting the requirements of section 2151 that submits an application in accordance with subsection (a). If the Secretary fails to make a determination, within 180 days after receipt of an application under subsection (a), and of all information necessary to the Secretary's determination under this subsection, that the entity does not meet the requirements of this part, the entity shall be deemed to be certified under this section.

"(c) REPORTS AND RECERTIFICATION.—(1) IN GENERAL.—A certification of an entity under this section shall be valid for a period of three years, and may be renewed upon application by the entity. The application for recertification shall be accompanied by a report demonstrating the entity's continued compliance with the conditions for certification. The entity shall be deemed to be recertified under this section unless the Secretary, within 90 days after receipt of such application and report, notifies the entity of the basis for denial of recertification.

"(2) SPECIAL RULE FOR PROVISIONAL HINS.—An entity described in section 2151(d)(2)(B) shall not be entitled to recertification unless it demonstrates satisfactory progress toward meeting the applicable standard of paragraph (1) or (2) of such subsection (d), and may not be recertified for a period beginning more than six years after the date of initial certification.

"(d) REVOCATION OF CERTIFICATION.—If the Secretary determines at any time that an entity certified as an HIN is no longer in compliance with the requirements of this part, the Secretary, after affording notice to the entity and to each member, and affording the entity the opportunity for a hearing, shall revoke the entity's certification under this part.

"APPLICATION OF INSURER RULES

"SEC. 2153. (a) IN GENERAL.—Except as otherwise provided, for purposes of application of the requirements of parts B and C, a HIN certified under this part shall be considered to be an insurer, and a health insurance plan offered by or through such a HIN shall be considered to be a health insurance plan offered by an insurer.

"(b) EFFECT OF NONCOMPLIANCE WITH INSURER RULE.—Noncompliance of a HIN, or of a health insurance plan offered by or through a HIN, with applicable requirements of parts B and C, in addition to being subject to any sanction imposed under this title or any other provision of law, shall be a basis for revocation of certification or denial of recertification under this part.

"LIMITED APPLICATION OF STATE LAWS

"SEC. 2154. (a) IN GENERAL.—Except as otherwise provided in subsection (b) or section 2103(b)(3)(B), in the case of a HIN certified under this part, no provision of State or local law inapplicable to an employee welfare benefit plan (other than a MEWA) under section 514(a) of the Employee Retirement Income Security Act of 1974 shall apply with respect to a HIN certified under this part, or with respect to any health insurance plan provided through the HIN, including any provision of State law imposing a tax or assessment on premiums paid under such a plan.

"(b) EXCEPTION.—Subsection (a) shall not apply to a premium tax or other assessment to the extent that the uses of revenues from such assessment are limited to—

"(1) financing (and administering) a fund specifically designated to insure against the insolvency of insurers, and

"(2) funding (and administering) an insurance pool specifically designated to provide for health insurance coverage of above average risk individuals in the State.

"EFFECTIVE DATE

"SEC. 2155. The provisions of this part shall become effective January 1, 1993.".

**SEC. 3. HEALTH RISK POOLING DEMONSTRATIONS.**

(a) GRANTS.—The Secretary of Health and Human Services may make grants to as many as four States for the establishment of health risk pooling demonstrations.

(b) MODEL HEALTH RISK POOLING SYSTEM.—The Secretary may develop model health risk pooling systems that meet the requirements of section 2116 of the Social Security Act.

(c) HEALTH RISK MEASUREMENT METHODS.—The Secretary shall develop methods for measuring the health risk differential of individuals. The methods shall rely on diagnosis or other health related information that is predictive of individual health care needs, and may rely upon information routinely collected in the process of making payments under group health insurance. The methods may provide for such random, sample audits of records as may be necessary to verify the accuracy of measurements.

(d) REQUIREMENTS FOR STATE HEALTH RISK POOLING SYSTEM.—A State that receives a grant under this section shall meet the requirements of section 2116 of the Social Security Act (except that the system for health risk pooling may, with the approval of the Secretary, apply to only part of the State).

(e) APPROVAL BY SECRETARY.—The Secretary may approve an application for a grant under this section only if the Secretary finds that the proposed health risk pooling system is likely to achieve the goal of maximizing consumer choice while minimizing the selection of individuals based on individual health status.

(f) WAIVER OF CERTAIN PROVISIONS OF LAW.—The Secretary may waive the applicability of some or all of the provisions of section 2115 of the Social Security Act for a State conducting a demonstration under this section.

(g) EVALUATION.—The Secretary shall evaluate demonstrations that are supported by grants under this section.

(h) APPROPRIATION AUTHORIZATIONS.—To carry out this section there are authorized to be appropriated $20,000,000 for each of the fiscal years 1994 through 1996.

**SEC. 4. FAILURE TO SATISFY CERTAIN HEALTH PLAN 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 HEALTH PLAN REQUIREMENTS.**

"(a) GENERAL RULE.—There is hereby imposed on any insurer subject to Federal regulation pursuant to section 2103(b)(4) of the Social Security Act—

"(1) a tax on any failure to comply with a requirement under part C of title XXI of such Act, and

"(2) a tax on any failure to comply with a requirement under part B of title XXI of such Act.

The Secretary of Health and Human Services shall determine whether any person meets the requirements of such parts.

"(b) AMOUNT OF TAX.—

"(1) PLAN SPONSORS THAT FAIL TO COMPLY WITH PART C.—In the case of an insurer that is a plan sponsor of an employee welfare benefit plan (other than a MEWA), the amount of tax imposed by subsection (a)(1) for a taxable year in which such plan fails to comply with a requirement under part C of title XXI of the Social Security Act shall be equal to $1,000 for each eligible employee covered by such plan at any time during such taxable year.

"(2) OTHER INSURERS THAT FAIL TO COMPLY WITH PART C.—In the case of any insurer (other than an insurer described in paragraph (1)) that fails to comply with all requirements of part C of title XXI of the Social Security Act with respect to all employment-based health insurance plans in any State, the amount of tax imposed by subsection (a)(1) for the taxable year in which such failure occurs shall be equal to $1,000 for each insured in such State covered by such plans at any time during such taxable year.

"(3) INSURERS THAT FAIL TO COMPLY WITH PART B.—In the case of any insurer that fails to comply with all the requirements of part B of title XXI of the Social Security Act with respect to all health insurance plans for small employers in any State, the amount of tax imposed by subsection (a)(2) for a taxable year in which such failure occurs shall be equal to $1,000 for each insured in such State covered by such plans at any time during such taxable year.

"(4) PERSONS RECEIVING DEPENDENT COVERAGE.—For purposes of paragraphs (2) and (3), all persons receiving the same family coverage are treated as one insured.

"(c) CONTROLLED GROUPS.—

"(1) PLAN SPONSORS.—In the case of an insurer described in subsection (b)(1), for purposes of this section all persons that are treated as part of the same employer (within the meaning of section 414) as the insurer shall be treated as the same person.

"(2) OTHER INSURERS.—In the case of an insurer described in subsections (b)(2) or (b)(3), for purposes of this section—

"(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 businesses (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).

"(d) LIMITATIONS 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 liable for tax did not know, and by exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on 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 the person liable for the tax knew, or by 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.

"(e) DEFINITIONS.—For purposes of this section, the terms 'eligible employee', 'employee welfare benefit plan', 'employment-based health insurance', 'insurer', 'health insurance plan', 'multiple employer welfare arrangement (MEWA)', 'plan sponsor', 'small employer', and 'State' have the meanings given to such terms by section 2105 of the Social Security Act."

(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 health plan requirements."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
*Washington, DC, May 8, 1992.*

The Hon. DAN QUAYLE,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: On February 6th, the Administration released the "President's Comprehensive Health Reform Program." The document provides extensive detail on the President's plans for reforming the health care system, including the Administration's approach to health insurance market reform, expanded access to affordable health care, cost containment, and substantial reform of the Medicaid program.

Today, I am transmitting the "Health Insurance Market Reform Act of 1992," which implements the President's proposal to reform the health insurance market to make coverage more secure, available, and less costly for millions of Americans. In particular, the bill will expand the availability of more affordable health insurance products to all workers, but particularly to those who are employed by small businesses.

This proposal has four major components:

All Americans will benefit from the increased availability of health insurance, regardless of health status. Coverage will be renewable and preexisting condition limits will be eliminated for those who maintain coverage. Workers can change jobs without fearing they will be denied insurance coverage based on their health status.

Coverage for individuals and small businesses, which otherwise would face excessively costly insurance because of their health status, will be more affordable through broad risk pooling. Insurers will participate in broad pooling arrangements to spread health risks evenly across insurers and thereby allow insurers to charge uniform premiums for the sick and the healthy. On an interim basis, pending phased implementation of this new system, insurers will be subject to limits on their ability to vary premiums because of non-demographic characteristics.

Group purchasing of health insurance by small employers will enable small employers to have the same cost advantage and market power enjoyed by larger employers. They can pool their purchasing power through Health Insurance Networks (HINs).

Health plans will have increased flexibility to control costs; they will be protected from mandated benefit and anticoordinated care laws that drive up costs and hinder designing cost-effective benefits tailored to individual and family needs.

Section 4 of the "Health Insurance Market Reform Act of 1992" could result in increased receipts to the Federal Government. Therefore, the bill is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. The Office of Management and Budget estimates that the pay-as-you-go effect of this bill would be less than $500,000 annually.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress, and that its enactment would be in accord with the program of the President.

We urge the prompt enactment of the "Health Insurance Market Reform Act of 1992."

Sincerely,

LOUIS W. SULLIVAN, M.D.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES,
*Washington, DC, May 8, 1992.*

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

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LOUIS W. SULLIVAN, M.D.

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SECTION-BY-SECTION SUMMARY OF THE HEALTH INSURANCE MARKET REFORM ACT OF 1992

Sec. 2. Improved access to affordable health insurance.

Section 2 of the bill would add to the Social Security Act a new title XXI, entitled "REQUIREMENTS CONCERNING HEALTH INSURANCE", with the following provisions:

PART A—GENERAL PROVISIONS

Table of Contents

Section 2101 provides a table of contents for the title.

Purposes

Section 2102 states that the purposes of this title are to increase the availability, portability, and affordability of health insurance, particularly to small employers and their employees and dependents, by seeking to ensure, among other things, that—

(1) Affordable health insurance is available to individuals and groups, and premiums do not vary substantially, regardless of health status or claims experience,

(2) States regulating health insurance do not place an undue burden on small employers, and

(3) Insurers, providers, purchasers, and consumers are encouraged to contain costs of health care and health insurance.

Establishment of Health Insurance Requirements

*In general*

Section 2103(a) would make the provisions of title XXI applicable to health insurance plans offered in any State, and to insurers offering such plans.

*Establishment and implementation of requirements*

Section 2103(b) would provide for the establishment of Federal and State regulatory programs implementing the requirements of parts B and C. The Secretary of Health and Human Services ("the Secretary") would be required to request that the National Association of Insurance Commissioners (NAIC) recommend model standards by three months after enactment of the bill. Using these model standards, with revisions as necessary, the Secretary would publish implementing regulations. The Secretary would also determine whether each State had established a regulatory program adequate to ensure compliance with the provisions of parts B and C, and would periodically review State programs for continuing compliance. State programs could be more stringent than parts B and C if the Secretary found them consistent with the purposes of title XXI.

Health insurance offered, issued, or renewed in a State on or after the applicable effective date specified in section 2106 would be subject to the provisions of parts B and C. In the case of a State with an approved regulatory program, the State would enforce—

(1) The provisions of part B (concerning the small employer market) with respect to *all* insurers (including those otherwise exempt from State regulation pursuant to the Employee Retirement Income Security Act of 1974 (ERISA)), and

(2) The provisions of part C (concerning all employment-based insurance) with respect to all insurers other than self-insured employment-based plans, offered by a single employer or other plan sponsor to more than 51 eligible employees, which were exempt from State regulation pursuant to ERISA (hereinafter "self-insured single sponsor plans").

The Secretary would enforce—

(1) In all States, the provisions of part C with respect to self-insured single sponsor plans, and

(2) In States without an approved regulatory program, all provisions of parts B and C.

(The Secretary of Labor will shortly be sending to the Congress, as a companion bill to this legislative proposal, a bill amending provisions of ERISA with respect to MEWAs and related matters. That bill will clarify that some plans, such as certain franchise arrangements and affiliated groups of employers, are to be treated as single sponsor plans for purposes of ERISA and, by extension, of this new title XXI.)

The Secretary could waive, with respect to a State or with respect to all States, any provision of this title, or of Medicare or Medicaid, to the extent and for the period he found likely to promote the purposes or facilitate the administration of title XXI.

Noncompliance With Federal Implementation of Part B or C

Section 2104 would contain a cross-reference to a new section in the Internal Revenue Code of 1986 (added by section 4 of this draft bill), that would impose an excise tax for noncompliance with the requirements of part B or C when implemented by the Secretary.

Definitions

Section 2105 defines terms used in title XXI, as follows:

(1) "Coordinated care plan" means a health insurance plan that provides for the financing and delivery of health care services to enrollees through arrangements with participating providers, arrangements for ongoing quality assurance and utilization review, and financial incentives for enrollees to use services of participating providers.

(2) "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. For purposes of this definition, the term "employee" includes the employer.

(3) "Employee welfare benefit plan" and "plan sponsor" have the meanings given those terms in sections 3(1) and 3(16)(B) of ERISA.

(4) "Employer" means any person acting as an employer, or in the interest of an employer, in relation to a health insurance plan, and includes a health insurance network (HIN), a multiple employer welfare arrangement (MEWA), or other group or association of employers acting for an employer in such capacity.

(5) "Employment-based health insurance" means group health insurance (including self-insurance) obtained through any arrangement connected with the employment (including self-employment) of the individuals eligible for coverage.

(6) "Health insurance network" (HIN) means an entity certified by the Secretary under part E.

(7) "Health insurance plan" means any contract or arrangement under which an insurer bears all or part of the cost or risk of providing health care items and services, including a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract (including any self-insured health insurance plan). The term does not include insurance limited to accident, dental, vision, disability, long term care, medicare supplemental insurance, or any combination thereof; coverage supplementing liability insurance; or medical coverage under automobile insurance. Except for purposes of part D (providing for preemption of certain State laws), the term does not include workers' compensation.

(8) "Health maintenance organization" (HMO) includes entities meeting the definition of a HMO under the Public Health Service Act, or the corresponding definition for purposes of Medicare, or recognized as a HMO under State law.

(9) "Insurer" means any person (as defined in ERISA), including a HMO and a MEWA, that offers an individual or group health insurance plan under which such person is at risk for the cost of benefits under the plan, except that the term does not include, for purposes of part B, a self-insured single sponsor plan.

(10) "Multiple employer welfare arrangement" (MEWA) has the meaning given that term in section 3(40) of ERISA.

(11) "NAIC" means the National Association of Insurance Commissioners.

(12) "Participating provider" means a provider that has entered into an agreement with an insurer or another provider to provide health care items or services to patients enrolled in a specified health insurance plan.

(13) "Provider" means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

(14) "Small employer" means, with respect to a calendar year, an employer that nor-

mally employs more than one but less than 51 eligible employees on a typical business day.

(15) "State" means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(16) "Utilization review" means review of the medical necessity, appropriateness, and quality of health care items and services. "Utilization review program" means a system of utilization review, which may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

Effective Date of Parts A, B, and C

*In general*

Section 2106(a) would make the requirements of parts A, B, and C generally effective with respect to health insurance plans offered, issued, or renewed in a State on or after January 1, 1994 (or such later date necessary to allow for enactment of State legislation).

*Exception for existing coverage*

Under section 2106(b), certain provisions of section 2115 (concerning variations in premium rates among and within blocks of business, and the rate of premium increases) would not apply, until two years after the general effective date, to a renewal of a health insurance plan that was in effect on that date.

PART B—REQUIREMENTS APPLICABLE TO SMALL EMPLOYER HEALTH INSURANCE

Registration With Secretary and States

Section 2111 would require each insurer to register with the Secretary and with the commissioner or superintendent of insurance for each State in which it issues or offers any health insurance plan to a small employer.

Requirement to Make Health Insurance Plans Available to Small Employers

*General requirement*

Section 2112(a) would require (subject to exceptions below) that any insurer offering a health insurance plan to any small employer in a State (or to any small employer in a local service area within the State, in the case of an insurer offering health insurance only within such area) (1) make such plan available to every small employer in the State or local service area, (2) make available to every small employer a basic insurance plan (where one is specified under State law), and (3) not cancel or refuse to renew any small employer health insurance plan.

*Exceptions*

Section 2112(b) would establish the following exceptions to the general requirement:

(1) a HIN or MEWA could make health insurance plans available only to its members, and could not be required to offer a State's basic insurance plan;

(2) A HMO or other coordinated care plan could limit availability to applicants in its geographic service area, and could deny coverage upon demonstration that it lacked the capacity to provide services and that its exclusionary rule was applied uniformly to all employers without regard to health status, claims experience, or duration of coverage;

(3) An insurer could decline coverage of an individual or small employer to the extent permitted under a State-assigned risk program;

(4) An insurer could condition availability on enrollment of a minimum percentage of a small employer's eligible employees, if the condition was imposed uniformly and was consistent with the goal of ensuring availability of health insurance to small employers;

(5) An insurer could cancel or refuse to renew coverage for nonpayment of premium, fraud or other misrepresentation, or substantial noncompliance with plan provisions, and

(6) An insurer could cancel or refuse to renew coverage if it was ceasing to provide any small employer health insurance in the State (or service area, in the case of a HMO or other coordinated care plan), but it could not then reenter the small employer market in that State for five years.

*Requirements concerning renewal of expiring plan*

Section 2112(c) would require an insurer providing small employer health insurance to notify the employer, at least 60 days prior to expiration, of the terms for renewal, and the extent to which any premium increase was based on actual or expected claims experience of covered individuals.

Guaranteed Eligibility of Employees of Small Employers

*General Requirement*

Section 2113(a) would require (subject to exceptions below) that each health insurance plan offered to any small employer in a State accept for enrollment, on the same terms as any other enrollee, every eligible employee and (in the case of a family plan) such employee's spouse and any dependent child who is under age 19 or, if older, under age 25 and a full-time student.

A small employer that made health insurance available to employees could not use criteria related to health status or claims experience to determine eligibility for, benefits under, or terms of such health insurance for individual employees.

*Exceptions*

Section 2113(b) would establish the following exceptions to the general requirement:

(1) a HMO or other coordinated care plan could limit availability to applicants in its geographic service area,

(2) an insurer could decline coverage of an individual to the extent permitted under a State assigned risk program;

(3) an insurer that provided an initial enrollment period and an annual open season of at least 30 days each would generally not be required to enroll an individual who failed to enroll during such periods, but would be required to enroll such an individual who—

(A) had declined because of coverage under another health insurance plan, lost such other coverage involuntarily, and applied for coverage within 60 days after such involuntary termination, or

(B) was a spouse or minor child of an eligible employee, if such coverage was required by court or administrative order and application for coverage was made within 60 days after such order (or, if later, within 60 days after the spouse, or the custodial parent or guardian of the minor child, knew or should have known of the availability of coverage);

(4) an insurer could limit coverage with respect to a pre-existing condition to the extent permitted under section 2131; and

(5) an insurer could cancel or refuse to renew coverage of an individual for fraud or other misrepresentation by or on behalf of that individual.

Basic Health Insurance Plan for Small Employers

Section 2114 would permit a State to define a basic benefit plan, and to require that it be offered to all small employers in the State by insurers (other than HINs or MEWAs) offering any health insurance plans to any small employers in the State. The plan would be subject to review and approval by the Secretary to ensure that the plan was affordable by small employers.

Interim Requirements for Risk Pooling and Premium Rates

*General Requirement*

Section 2115(a) would require that the regulatory program with respect to a State require all insurers offering health insurance plans to small employers, during the period specified in subsection (e), (1) to participate in an interim risk pooling mechanism, and (2) to comply with requirements designed to limit variations among and increases in premium rates for such health insurance plans.

*Interim risk pooling*

Section 2115(b) would permit the interim risk pooling mechanism to be either a reinsurance program or an assigned risk program. The provisions for funding such a mechanism would have to include provisions for mandatory contributions by insurers to the extent necessary to ensure its financial solvency. No Federal entity could be at risk, as a guarantor of the solvency of a reinsurance fund or otherwise, for any part of the cost of health insurance plans subject to interim risk pooling.

*Interim limits on variations in premium rates*

Definitions

Section 2115(c)(1) would define terms used in this section, as follows:

(A) "Base premium rate" would mean, with respect to health insurance plans with the same or similar coverage offered in a rating period to a group of small employers within the same block of business whose insured populations had similar demographic characteristics (including age, sex, geographic location, and any other appropriate characteristic approved by the Secretary as a rating factor), the lowest per capita premium rate which could be charged to any employer in the group under the methodology used by the insurer.

(B) "Block of business" would mean all small employers covered by a health insurance plan issued by an insurer, or, at the insurer's option, a distinct group of such employers, or a subdivision of one of the preceding groups. An insurer could treat as a distinct group all small employers whose health insurance plans (1) were sold through individuals and organizations that do not participate in marketing of the insurer's plans to other groups, (2) were acquired from another insurer as a distinct group, or (3) were provided through HIN, MEWA, or other association, with at least 100 small employer members, formed for any business- or community-related purpose. An insurer could subdivide each block described above into up to three blocks of business, but could not divide its small employer business into a total of more than six blocks.

Limit on variation of premium rates among blocks of business

Section 2115(c)(2) would provide that, for any rating period, no base premium rate for any small employer block of business could exceed the equivalent rate for any other block of the insurer by more than 20 percent.

Limit on variation of premium rates within a block of business

Section 2115(c)(3) would provide that the highest premium rate for a specific health insurance plan that an insurer can charge any small employer in a block of business for

a rating period could not exceed the corresponding base premium rate by more than (1) 50 percent, for a period ending before January 1, 1997, and (2) 35 percent, for a period thereafter.

Limit on variation in premium increases

Section 2115(c)(4) would limit annual percentage increases in the premium rate charged to a small employer to the sum of the percentage charge in the base premium rate plus 5 percent.

*Requirements concerning rate-setting methodology*

Consistent application of rating factors

Section 2115(d)(1) would require that (1) an insurer apply rating factors consistently to all small employers, and (2) a geographic area smaller than the smaller of a county or the first three digits of a postal zip code not be used as a rating factor.

Limit on transfer of employers between blocks of business

Section 2115(d)(2) would prohibit transfer of a small employer from one block of business to another unless (1) the employer consented to the transfer and (2) the same offer was made to all other employers in the block, without regard to demographic characteristics, claims experience, health status, or duration of coverage since issue.

Full disclosure of rating practices

Section 2115(d)(3) would require an insurer, at the time it offered a health insurance plan to a small employer, to fully disclose its rating practices for small employer health plans, including rating practices for different industries, populations, and benefit designs.

Actuarial certification

Section 2115(d)(4) would require each insurer to file annually with each appropriate State insurance commissioner and with the Secretary a statement by a member of the American Academy of Actuaries (or other individual acceptable to the commissioner or the Secretary) that the insurer was in compliance with this section, and its rating methods were actuarially sound.

*Effective period*

Section 2115(e) would provide that, with respect to each State, (1) the provisions of this section would become effective on the date specified in section 2106, and cease to apply as of the date specified in section 2116(b)(2), and (2) during the four-year period preceding the latter date, the provisions of this section would be phased out as specified by the Secretary.

*Waiver authority*

Section 2115(f) would authorize the Secretary to waive requirements of this section with respect to a State, in order to permit the use of alternative mechanisms to achieve its purposes, if he found that the alternative was consistent with the purposes of title XXI and (in the case of a risk pooling mechanism) made adequate provision for its solvency.

Health Risk Pooling

Section 2116 would establish the requirements for the permanent health risk pool system in a State.

*Requirements for State health risk pooling system*

Section 2116(a) would require all insurers covering small employers in a State to participate in the system. An insurer would pay into the pool for below average risk individuals (those whose expected health care costs were lower than those of other individuals of similar age and other permissible categories), and would receive funds from the pool for above average risk individuals. Additional special payments could be made for outlier cases whose costs exceeded a particular threshold. The system would be administered by the State or by a non-profit board appointed by the State's governor.

*Effective date and Phase-in*

Section 2116(b) would provide that these provisions would take effect after the preceding provisions of this title had been in effect for three years (unless the Secretary found that it would be appropriate to postpone the effective date). At first the amounts to be paid to (or received from) the pool could be based on a percentage of the expected health care cost differentials, but after four years the full differentials would be the basis.

*Definitions*

Section 2116(c) would define the terms "demographic class", "health risk differential", "above average risk individual", and "below average risk individual", for purposes of this section.

Continuation Coverage for Certain Students

Section 2117 would require each institution of higher education that offers coverage to its students under a health insurance plan, and insurers providing such coverage to the institution, to continue to make such coverage available for six months after a student left the institution. The institution could require its former students to pay all costs of such continuation coverage.

PART C—REQUIREMENTS APPLICABLE TO ALL EMPLOYMENT-BASED HEALTH INSURANCE

Prohibition of Denial of Coverage Based on Health Status

Section 2131 would provide that, except to the extent permitted under an assigned risk program in a State pursuant to section 2115(b)(1)(B), an insurer could not refuse to offer, refuse to renew, cancel, or condition the coverage under any employment-based health insurance plan on the basis of the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of one or more individuals.

Limitation on Exclusions of Pre-Existing Conditions

*General rule*

Section 2132(a) would provide that, except to the extent permitted by subsection (b), no employment-based health insurance plan could impose (or permit or require an insured entity to impose) a limitation or exclusion of benefits for an individual on the basis of a condition of the individual pre-existing the date of the application for coverage of the individual.

*Exceptions*

Section 2132(b) would permit limitation or exclusion, for not more than six months from the date of application, with respect to a condition diagnosed or treated within three months preceding that date. However, no limitation or exclusion could be imposed with respect to pregnancy, or on a child under one year of age.

If an individual previously had health insurance under Medicare or Medicaid or a health insurance plan—

(1) if such prior insurance included coverage relating to treatment of the condition, no further exclusion could be imposed under the new health insurance plan, and

(2) if such prior insurance excluded coverage for the condition, the period of limitation or exclusion permitted under the new health insurance plan would be reduced by one month for each month such prior insurance was in effect.

For purposes of this provision, an individual who had lost prior health insurance would be treated as if no break in coverage had occurred, if the period from the loss of coverage to the date of application for new coverage did not exceed—

(1) 180 days, if coverage had ceased as a result of involuntary loss of employment with respect to which the individual had received unemployment compensation, or

(2) 60 days, in any other case.

Insurers that provided such prior coverage would be required to disclose, upon request by or on behalf of an insured individual, information needed by an insurer in order to comply with this requirement.

PART D—PREEMPTION OF CERTAIN STATE LAWS RELATING TO HEALTH INSURANCE

Requirements Concerning Coverage

Section 2141 would provide that, except to the extent specifically permitted under title XXI (or permitted by the Secretary based on a determination of consistency with title XXI), no effect could be given to any provision of State law requiring the offering, as part of any health insurance plan, of any services, category of care, or services of any class or type of provider.

Requirements Creating Barriers to Managed Care

Section 2142 would provide that no effect could be given to any provision of State law that—

(1) restricted the flexibility of any private entity to negotiate the amount or terms of payment to a provider of health care items or services,

(2) prohibited or limited restrictions by an insurer or its agent on the location, number, type, or professional qualifications of providers participating in a health insurance plan,

(3) prohibited or limited provisions in a health insurance plan (other than for emergency services) (A) restricting coverage to services provided or authorized by a participating provider, (B) requiring that services be authorized by a participating primary care physician, or (C) giving enrollees financial incentives to use only participating providers,

(4) created specified barriers to use of utilization review, including—

(A) restrictions on utilization review of any or all treatments or conditions,

(B) restrictions on the use of particular procedures or criteria,

(C) requirements to disclose criteria used,

(D) requirements that reviewers be residents of or licensed by the State,

(E) requirements that reviewers have certain specialties,

(F) restrictions on the amount of payment that could be made to a utilization review program, or requirements to pay providers their costs of responding to utilization review requests,

(G) dictating the location or hours of operation of utilization review (subject to an exception for emergency treatment),

(H) restricting reviewers' access to medical information or personnel, or

(I) restricting coverage limitations with respect to enrollees failing to cooperate with utilization review.

(5) Any other restriction on utilization review that the Secretary finds inconsistent with the purposes of this title.

Effective Date

Section 2143 provides that the provisions of part D would become effective upon enactment.

PART E—CERTIFICATION OF HEALTH INSURANCE NETWORKS (HINS)

Conditions of Certification

*In general*

Section 2151(a) would provide that an entity meeting the requirements of part E would be entitled to certification by the Secretary as a health insurance network (HIN).

*Organization and membership*

Section 2151(b) would require that a HIN be a membership organization with an elected board of directors; include small employers (although it may also include other members) with an affinity based on geographic location or a common trade, profession, industry, or other business- or community-related characteristic recognized by the Secretary, and not deny membership to any small employer that shares the affinity used as a membership criterion; and apply membership criteria uniformly, and not use criteria which would exclude groups or individuals presenting a risk of high cost. A HIN could restrict membership to employers in a single State, within a single State or multi-State local area, or in specified States.

*Negotiations and arrangements with insurers and providers*

Section 2151(c) would require that a HIN arrange for the purchase of insurance rather than provide it directly and bear no financial risk associated with the provision of health care, and that it deal only with insurers meeting all applicable requirements of Federal and State law in each State in which they offer such insurance. A HIN could also engage in negotiations and enter into arrangements with providers of health care services with respect to matters such as payment rates and selective provider contracts, for the purpose of obtaining favorable health insurance rates for its members.

*Market share*

Section 2151(d) would require that a HIN demonstrate to the Secretary's satisfaction that it was (or reasonably expected to be) representing a sufficient number of individuals to enable it to negotiate for coverage at favorable rates. This requirement would be met if the entity could show—

(1) that it represented a group of small employers with a significant share of the health insurance market in a State, a group of States, or a local area (including a multi-State metropolitan area), or met such other standard as the Secretary might establish, or

(2) in the case of an entity unable to make such a showing, that the current and projected numbers of members, and of their employees and dependents, supported a reasonable expectation that it would be able to make such showing by three years after certification.

Standards established by the Secretary for this purpose could vary depending on whether the market area encompassed more than one State, a single State, or a local area.

*Fiduciary responsibilities*

Section 2151(e) would require a HIN (1) to comply with the fiduciary responsibility provisions applicable to employee welfare benefit plans under part 4 of title I of ERISA, and (2) to provide to its members, before enrolling them under a health insurance plan, information on plan benefits, premium rates, cost-sharing requirements, and such other matters as the Secretary required.

Certification Process

*Application*

Section 2152(a) would entitle an entity meeting the requirements of part may E apply to the Secretary for certification as a HIN.

*Certification*

Section 2152(b) would require the Secretary to certify as a HIN an entity meeting the requirements of section 2151 that made application in accordance with subsection (a). If the Secretary failed to make a determination of noncompliance within 180 days after receipt of an application and necessary supporting information, the entity would be deemed to be certified under this section.

*Reports and recertification*

Section 2152(c) would provide that certification of a HIN would be valid for three years. It could be renewed upon application accompanied by a report demonstrating the entity's continued compliance with the conditions for certification. The entity would be deemed recertified unless the Secretary notified the entity, within 90 days, of the basis for denial of recertification. An entity certified on the basis of expectations of growth to a sufficient size could not be recertified unless it demonstrated satisfactory progress toward this goal, and could not be recertified for a period beginning more than six years after the date of initial certification

*Revocation of certification*

Section 2152(d) would require the Secretary, if he determined at any time that a certified entity no longer met the requirements of part E, to revoke the entity's certification after affording notice to the entity and to each member, and affording the entity the opportunity for a hearing.

Application of Insurer Rules

Section 2153 would provide that, for purposes of parts B and C, an entity certified as a HIN would be considered to be an insurer, and a health insurance plan offered by or through such a HIN would be considered to be a health insurance plan offered by an insurer. Noncompliance of such a HIN or health insurance plan with parts B and C would be a basis for revocation or denial of recertification.

Limited Application of State Laws

Section 2154 would generally exempt HINs, their members, and insurers with whom they dealt on their members' behalf, from regulation under States laws (other than laws implementing title XXI) to the same extent a self-insured single sponsor plans would be exempt under ERISA. The sole exception would be State laws imposing premium taxes or other assessments on health insurance plans provided through HINs, to the extent that revenues from such taxes or assessments would be used to finance (or administer) a fund specifically designated to insure against the insolvency of insurers, or to fund (or administer) an insurance pool specifically designated to provide for health insurance coverage of above average risk individuals in the State.

Effective date

Section 2155 would make the provisions of part E effective January 1, 1993.

Health Risk Pooling Demonstrations

Section 3 would permit the Secretary to fund health risk pooling demonstrations in as many as four States. The Secretary could develop model health risk pooling systems, and would develop methods for measuring the difference between the expected health care costs of particular individuals (based on diagnosis or other predictors of individual health care needs) and the expected health care costs of other individuals in the same demographic group (such as age and sex). A State could receive funding under this section only if its system met the requirements of proposed section 2116 of the Social Security Act (in section 2 of this bill). The Secretary would have to find that the State's proposed system was likely to achieve the goal of maximizing consumer choice while minimizing the selection of individuals based on individual health status. Appropriations of $20 million for each of the fiscal years 1994 through 1996 would be authorized.

Failure to Satisfy Certain Health Plan Requirements

Section 4 would provide that any insurer subject to Federal regulation pursuant to section 2103 is subject to an excise tax on any failure to comply with a requirement under part C of title XXI of the Social Security Act (as added by the bill), and an excise tax on any failure to comply with a requirement under part B of such title. The excise tax imposed on self insurers with a plan that fails to comply with part C would be $1,000 for each person covered by the insurer under plans subject to part C in the State in which the violation occurs. The tax on insurers that fail to comply with part B would be $1,000 for each person covered by the insurer under plans subject to part B in the State in which the violation occurs.

The excise tax would generally not apply if the violation could not have been discovered through the exercise of reasonable diligence or if the violation were corrected within 30 days after it is discovered. In addition, the Secretary would be given authority (to be exercised in consultation with the Secretary of Health and Human Services) to waive the tax if the violation were due to reasonable cause and not willful neglect to the extent payment of the tax would be excessive relative to the failure involved.

Mr. CHAFEE. Mr. President, I am pleased to join the distinguished Republican leader in introducing two pieces of health care reform legislation on behalf of the administration. The first addresses the issues of small market insurance reform and health insurance purchasing groups. The second provides for 100 percent tax deductibility of health insurance costs for the self-employed.

While many of us have been focusing on significant health care reform for years, it is only recently that a widespread consensus has developed on the need for change, setting the stage for real action. In all levels of society, the message is clear: Despite the fact that we spend a greater percentage of our gross national product [GNP] on health care than any other country, there are approximately 37 million uninsured Americans; those who are insured are finding it increasingly difficult to pay for their coverage; and the resources of businesses and government alike are being consumed at an ever increasing rate by health care costs.

One might think, given this impetus, that we at the Federal level might be able to enact meaningful legislation in this area. Unfortunately, to this date, that has not been the case. Rather, all concerned parties have managed to turn health care reform into an election year political issue, thus producing a great deal of righteous rhetoric

and finger pointing, but very little in the way of action.

Throughout this debate, I have argued that if both parties will concentrate on the extraordinary similarities that exist among the principal health reform proposals—submitted by the President, by the Senate Republican Health Care Task Force, which I have chaired for the past 2 years, by the Senate Democratic leadership, and by Senator BENTSEN, chairman of the Senate Finance Committee—we could enact significant legislation this calendar year which would slow the rate of growth in health care expenditures and increase overall access to health care.

I am delighted to say that recent events indicate that we are finally moving in that direction. Not long ago, the Republican leader and I met with the distinguished majority leader, Senator MITCHELL, and I was heartened by his desire to focus upon the vast common ground we all share rather than the differences among the various proposals. And by sending up these two bills, the President has improved the outlook for action.

While I do not agree with every single aspect of the President's proposals, as leader of the Republican Health Care Task Force, I believe it is extremely important to have the administration's ideas on the table as we begin our discussions.

Mr. President, it is clear that reforming our health care system is the most critical challenge facing our Nation in this decade. Our economic prosperity and our ability to control Federal spending hinge on whether we can solve the health care puzzle. But this will never be accomplished without bipartisan cooperation. I applaud the President for submitting his proposals and wholeheartedly welcome him aboard. Perhaps with everyone's participation and commitment to action, we will achieve something in which we can all take satisfaction.

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By Mr. ROTH (for himself, Mr. BIDEN, Mr. THURMOND, Mr. CHAFEE, Mr. STEVENS, Mr. HEFLIN, Mr. AKAKA, Mr. D'AMATO, Mr. KASTEN, Mr. KOHL, Mr. LAUTENBERG, Mr. SEYMOUR, and Mr. SPECTER):

S.J. Res. 304. A joint resolution designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

• Mr. ROTH. Mr. President, I am pleased to introduce today, along with my colleague from Delaware, Senator BIDEN, a joint resolution to designate January 3, 1993 through January 9, 1993, as "National Law Enforcement Training Week."

The law enforcement personel of the Nation, at all levels, deserve and must have the best available training for their increasingly difficult jobs. We all know that the mission of those dedicated to training our law enforcement personnel is becoming increasingly important. Not only is crime on the rise, but the criminal of today is more violent and more sophisticated than ever before.

Law enforcement training is necessary to protect the lives of the people who are on the front lines of our country's fight against crime. At the same time, effective law enforcement training gives law enforcement personnel the skills necessary to better protect our citizens. Our communities deserve the best-trained law enforcement personnel that we can put into the field.

"National Law Enforcement Training Week" recognizes the efforts and contributions of those persons dedicated to assuring that the law enforcement personnel of this country are trained to win the fight against crime and to protect our citizens.

I urge my colleagues to show their support by cosponsoring National Law Enforcement Training Week.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution and ordered to be printed in the RECORD, as follows:

S.J. RES. 304

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That January 3, 1993, through January 9, 1993, is designated as "National Law Enforcement Training Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.•

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By Mr. SIMON (for himself, Mr. DIXON, Mr. ADAMS, Mr. BIDEN, Mr. BRADLEY, Mr. BURDICK, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. HEFLIN, Mr. JEFFORDS, Mr. KASTEN, Mr. KERRY, Mr. LIEBERMAN, Mr. LEVIN, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. RIEGLE, Mr. SARBANES, Mr. SPECTER, and Mr. ROTH):

S.J. Res. 305. Joint resolution to designate October 1992 as "Polish-American Heritage Month"; to the Committee on the Judiciary.

POLISH-AMERICAN HERITAGE MONTH

• Mr. SIMON. Mr. President, today I am introducing a joint resolution to designate October 1992 as Polish-American Heritage Month, along with 23 of my colleagues. This resolution, as it has in the past, honors our Polish-Americans and celebrates the close ties between the United States and Poland.

Polish-Americans have been in the United States since the first settlement at Jamestown and now are a crucial piece of the American mosaic. Polish-Americans have always been noted for their hard work, academic achievement, and close family ties. This resolution recognizes the special achievements of all Polish-Americans.

As this joint resolution acknowledges the contributions of Polish-Americans to the United States, it also commemorates the country from which these valued immigrants came from. After many years of foreign domination, two world wars and the cold war, Poland is a phoenix rising from the ashes. Poland was the first Warsaw Pact country to hold free democratic elections and the first Communist country to move boldly ahead with democratic reforms. As Poles forge a new future in an unfamiliar and sometimes unstable world, the assistance we and other nations are extending will help all members of the world community. It will take years for Poland to overcome the destruction that communism left in their country, but if there is any group of people who can make something from nothing, it is the people of Poland.

By designating October 1992 as Polish-American Heritage Month, we in Congress show our appreciation to all Polish-Americans and assure the people of Poland of our continued support.

Mr. President, I ask unanimous consent that the joint resolution on Pol-

ish-American Heritage Month be printed in the RECORD.

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

S.J. RES. 305

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Koschiuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contribution to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas, the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor in the greatest son of Poland, his Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader and now President Lech Walesa in fighting for freedom, human rights, and economic reform in Poland;

Whereas the Polish American Congress is observing its forty-eighth anniversary this year and is celebrating October 1992 as "Polish-American Heritage Month": Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That October 1992 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.●

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By Mr. D'AMATO:

S.J. Res. 306. A joint resolution designating October 1992, as "Italian-American Heritage and Culture Month"; to the Committee on the Judiciary.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution proclaiming the month of October, 1992, as "Italian-American Heritage and Culture Month."

I can think of no better month to pay tribute to the people of this proud heritage than October. It was on October 12, 1492, that an Italian first set foot on this continent, the great explorer, Christopher Columbus. He discovered the New World and opened the door for worldwide immigration to this country. It was the famous Italian navigator, Amerigo Vespucci, that our Nation was named for.

Italians have also made countless contributions in every field of human endeavor. In the field of music, they have hailed such masters as Puccini, Verdi, Vivaldi, and Scarlatti; the literary world is blessed with the works of Dante; and the art world has the awe-inspiring works of Michaelangelo, Leonardo da Vinci, and Giotto. In the field of science, it was Marconi who made modern radio communications possible.

We can also take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our country and lives. New Yorkers will never forget Fiorello LaGuardia, who was the beloved mayor of New York City for 11 years. In 1986, Antonin Scalia was confirmed as an Associate Justice of the U.S. Supreme Court. Also, Enrico Fermi was the winner of the 1938 Nobel Prize for Physics. In the world of sports, we will never forget the immortal Joe DiMaggio.

As the grandson of Italian immigrants, I am proud of my heritage and cultural background. America is truly a melting pot of cultures and that is what makes our country so unique and great. For all of these reasons I urge my colleagues to support this resolution.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S.J. RES. 306

Whereas Italians and Italian-Americans have contributed to the United States in all aspects of life, including art, science, civil service, military service, athletics, education, law, and politics;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas in recognition of the accomplishments of Christopher Columbus, recognized as one of the greatest explorers in world history and the first to record the discovery of the Americas, a national observance day was established in October of every year;

Whereas 1992 is the quintcentennial commemoration of the historic voyage of Christopher Columbus to the Americas;

Whereas the phrase in the Declaration of Independence "All men are created equal," was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history such as Fiorello La Guardia, the beloved Mayor of New York City, and Enrico Fermi, who won the 1938 Nobel Prize in Physics;

Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the Breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;

Whereas the Americas were named after the Italian explorer Amerigo Vespucci;

Whereas Guiseppe Verdi, one of the world's most renowned opera composers, was born October 10, 1813;

Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and

Whereas during October 1992 special attention will be directed at National, State, and local programs that promote Italian heritage and culture: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* that October 1992 is designated as "Italian-American Heritage and Culture Month." the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.●

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## ADDITIONAL COSPONSORS

S. 25

At the request of Mr. CRANSTON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 199

At the request of Mr. GLENN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 199, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 1851

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor 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. 1931

At the request of Mr. STEVENS, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2009

At the request of Mr. PACKWOOD, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2009, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 2027

At the request of Mr. CHAFEE, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 2027, a bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare program.

S. 2113

At the request of Mr. SMITH, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S.

2113, a bill to restore the second amendment rights of all Americans.

S. 2362

At the request of Mr. MCCAIN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Florida [Mr. GRAHAM], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians.

S. 2374

At the request of Mr. SEYMOUR, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2374, a bill to amend the Child Nutrition Act of 1966 to establish a breastfeeding promotion program.

S. 2389

At the request of Mr. BRADLEY, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on tamoxifen citrate.

S. 2624

At the request of Mr. GLENN, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2660

At the request of Mr. WOFFORD, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2660, a bill to amend the Agriculture Trade Act of 1978 to make modifications in the Market Promotion Program.

S. 2670

At the request of Mr. SANFORD, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2670, a bill to identify Federal programs and agencies that are obsolete and should be eliminated or which are duplicative and should be consolidated with similar operations in other departments to promote efficiency in operation and uniformity of governmental action.

S. 2699

At the request of Mr. DOLE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2699, a bill to extend the period for which unemployment benefits are payable under title I of the emergency Unemployment Compensation Act of 1991, and for other purposes.

SENATE JOINT RESOLUTION 182

At the request of Mr. KASTEN, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. GLENN], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], the Senator from Nebraska [Mr. EXON], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 292

At the request of Mr. SMITH, the names of the Senator from Indiana [Mr. COATS], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of Senate Joint Resolution 292, a joint resolution to provide for the issuance of a commemorative postage stamp in honor of American prisoners of war and Americans missing in action.

SENATE JOINT RESOLUTION 295

At the request of Mr. DECONCINI, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 295, a joint resolution designating September 10, 1992, as "National D.A.R.E. Day."

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 118, a concurrent resolution declaring the ratification of the twenty-seventh article of amendment to the Constitution of the United States.

## SENATE CONCURRENT RESOLUTION 119—STATING THE FINDING OF CONGRESS ON RATIFICATION OF THE CONSTITUTIONAL AMENDMENT RELATIVE TO CONGRESSIONAL PAY

Mr. COCHRAN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 119

*Resolved by the Senate (the House of Representatives concurring)*, That the Congress finds that—

(1) the Amendment to the Constitution of the United States, proposed by the Congress in the resolution of September 25, 1789 (1 Stat. 97) (relating to the prohibition to vary the compensation of Members of Congress until an intervening election of representatives) has been duly ratified;

(2) the Archivist of the United States has stated that he shall cause such Amendment to be published with his certificate as a part of the Constitution of the United States in accordance with section 106b of title 1, United States Code; and

(3) the Congress shall enact all laws relating to compensation of Members of Congress in accordance with such Amendment.

## SENATE RESOLUTION 296—RELATING TO THE RESCUE OF THE INTELSAT VI SATELLITE

Mr. GARN (for himself, Mr. GLENN, Mr. HOLLINGS, Mr. GORE, and Mr. DOLE) submitted the following resolution; which was considered and agreed to as follows:

S. RES. 296

Whereas the crew of the Space Shuttle Endeavour has successfully completed its assignment to rendezvous, capture, and deploy the stranded INTELSAT VI telecommunications satellite;

Whereas the successful capture of the INTELSAT VI satellite represents the first simultaneous spacewalk by 3 astronauts in the history of manned space flight and is the 100th spacewalk in the history of both the United States and Soviet space programs;

Whereas the capture of the INTELSAT VI satellite involved both the longest spacewalk in the history of the United States space program and the first time 3 such spacewalks have been conducted on a single shuttle flight;

Whereas, in overcoming the initial malfunction of the capture device, the crew of the Endeavour, and the mission support teams, quickly conceived and designed an alternative strategy to secure the INTELSAT VI satellite utilizing Space Station Freedom structural components, which were readily deployed to serve as a base enabling the 3 astronauts to capture the satellite;

Whereas this mission brilliantly demonstrates the unique ability of astronauts to perform complex and challenging tasks in space with resourcefulness, ingenuity, and flexibility far beyond the capabilities of machines and other robotic devices; and

Whereas this flight of the Space Shuttle Endeavour is its maiden voyage as the latest addition to the National Aeronautics and Space Administration's orbiter fleet which was fully funded in 1986, and was built and delivered as initially scheduled, under its estimated cost: Now, therefore, be it

*Resolved*, That—

(1) the Senate commends and congratulates the crew of the Space Shuttle Endeavour for their magnificent rescue of the INTELSAT VI satellite and for making the maiden voyage of this orbiter so memorable and successful; and

(2) the Secretary of the Senate is directed to deliver certified copies of this resolution to Daniel Goldin, Administrator of the National Aeronautics and Space Administration and to Daniel C. Brandenstein, Commander of the Space Shuttle Endeavour STS-49 mission crew.

## SENATE RESOLUTION 297—AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS BY AND REPRESENTATION OF AN EMPLOYEE OF THE SENATE

Mr. FORD (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas, in the case of *United States* v. *Charles E. Hughes, Sr.*, No. 3-91-00194, pending in the United States District Court for the Middle District of Tennessee, the United States Attorney has caused a subpoena for testimony and documents production at trial to be served upon Shannon Langlois, an employee of the Senate on the staff of Senator J. Bennett Johnston;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rules XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Shannon Langlois is authorized to testify and to produce documents in *United States* v. *Charles E. Hughes, Sr.*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Shannon Langlois in connection with her testimony in *United States* v. *Charles E. Hughes, Sr.*

## AMENDMENTS SUBMITTED

## NATIONAL VOTER REGISTRATION ACT

### SPECTER AMENDMENT NOS. 1818 AND 1819

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to amendment No. 1813 proposed by Mr. SPECTER to the reported amendment (in the nature of a substitute) to the bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes, as follows:

AMENDMENT NO. 1818

In lieu of the matter proposed to be inserted, insert the following:

(2) require that—

(A) the appropriate State election official shall send notice to each applicant of the disposition of the application, which notice—

(i) if the State election official determines that the applicant has properly completed the application and is legally qualified to register, shall indicate that the application has been accepted and indicate the effective date of the applicant's registration; and

(ii) if the State election official determines that the applicant has not properly completed the application or is not legally qualified to register, shall indicate that the application has been rejected and state the reason for rejection;

(B) a notice of acceptance of an application shall be sent by first class mail to the applicant's address as it appears on the application and shall be marked "do not forward, address correction requested"; and

(C)(i) if the United States Postal Service returns a notice marked "undeliverable" or otherwise to that effect, the State election official shall mail to the applicant a notification letter stating that failure by the applicant to respond to the letter within 10 business days after the date of the notification letter shall cause the applicant's application to be rejected; and

(ii) the notification letter shall be sent by first class mail, marked "please forward", to the address reflected in the application, with a copy, marked "please forward", sent to the applicant's forwarding address if that address is provided to the State election official by the United States Postal Service;

AMENDMENT NO. 1819

Strike the matter proposed to be inserted and insert the following:

(2) require that—

(A) the appropriate State election official shall send notice by registered mail, return receipt requested, delivery limited to applicant, to each applicant of the disposition of the application, which notice—

(i) if the State election official determines that the applicant has properly completed the application and is legally qualified to register, shall indicate that the application has been accepted and indicate the effective date of the applicant's registration; and

(ii) if the State election official determines that the applicant has not properly completed the application or is not legally qualified to register, shall indicate that the application has been rejected and state the reason for rejection; and

(B) if a notice of acceptance of an application is returned as undelivered or as unclaimed after it is mailed, the State election official shall reject the application;

### SPECTER AMENDMENT NO. 1820

(Ordered to lie on the table.)

Mr. SPECTER submitted amendment intended to be proposed by him to the reported amendment (in the nature of a substitute) to the bill S. 250, supra, as follows:

On page 28, line 7, strike "5" and insert "20".

### STEVENS (AND OTHERS) AMENDMENT NO. 1821

Mr. STEVENS (for himself, Mr. DOLE and Mr. GRASSLEY) proposed an amendment to the reported amendment (in the nature of a substitute) to the bill S. 250, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Voter Registration Enhancement Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the right to vote is a fundamental right;

(2) it is the responsibility of each citizen to exercise that right;

(3) it is the duty of the Federal, State, and local governments to promote the exercise of that right;

(4) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office;

(5) such laws and procedures can disproportionately harm voter participation in such elections by members of various groups, including racial minorities;

(6) all citizens of the United States are entitled to be protected from vote fraud and from voter registration lists that contain the names of ineligible or nonexistent voters, which dilute the worth of qualified votes honestly cast; and

(7) all citizens of the United States are entitled to be governed by elected and appointed public officers who are responsible to them and who govern in the public interest without corruption, self-dealing, or favoritism.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase registration of citizens as voters in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to enhance voter participation in elections for Federal office;

(3) to protect the integrity of the electoral process;

(4) to ensure the maintenance of accurate and current official voter registration lists; and

(5) to guarantee to the States, and to their citizens, a republican form of government, including elections conducted free of fraud, and governmental processes conducted free of corruption, self-dealing, or favoritism.

**TITLE I—VOTER REGISTRATION ENHANCEMENT**

**SEC. 101. FEDERAL COORDINATION AND BIENNIAL ASSESSMENT.**

The Attorney General—

(1) shall be responsible for coordination of Federal functions under this Act;

(2) shall provide information to the States with respect to State responsibilities under this Act; and

(3) shall, not later than June 30 of each even-numbered year, submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2 calendar years and providing recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act.

**SEC. 102. RESPONSIBILITY OF CHIEF STATE ELECTION OFFICIAL.**

The chief State election official of each State shall be responsible for coordination of State functions under this title.

**SEC. 103. VOTER REGISTRATION ENHANCEMENT BLOCK GRANTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General—

(1) for making grants under this section for fiscal years 1992, 1993, and 1994, a total of $25,000,000; and

(2) such additional sums as may be necessary for administrative expenses of the Attorney General in carrying out this title.

(b) BLOCK GRANTS.—(1) From the amounts appropriated under subsection (a) for any fiscal year, the Attorney General shall make grants to States, through chief State election officials, for the purposes of supporting, facilitating, and enhancing voter registration.

(2) To qualify for a grant under paragraph (1), a State shall match any amount of Federal funds dollar for dollar with State funds for voter registration enhancement activities, including—

(A) providing for voter registration for elections for Federal office at State departments of motor vehicles;

(B) providing for designation of, and the carrying out of, voter registration activities at State-related and (upon agreement with nongovernmental entities) appropriate private-sector locations for voter registration for elections for Federal office; and

(C) providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State, including the use of change-of-address information supplied by the Postal Service.

(c) ALLOCATION OF GRANTS.—(1) The Attorney General shall by regulation establish criteria for allocation of grants among States based on—

(A) the number of residents of each State;

(B) the percentage of eligible voters in each State not registered to vote; and

(C) other appropriate factors.

(2) In promulgating criteria pursuant to paragraph (1), the Attorney General shall give special consideration to State-sponsored programs designed to improve registration in counties with voter registration percentages significantly lower than that for the State as a whole.

(d) ADMINISTRATIVE REQUIREMENTS.—(1) The Attorney General shall by regulation establish administrative requirements necessary to carry out this section.

(2) To be eligible to receive a grant under this section, a State shall certify that the State—

(A) has in place legislative authority and a plan to implement procedures to promote and facilitate, to an extent and in such manner as the Attorney General may deem adequate to carry out the purposes of this title, voter registration for Federal elections—

(i) in connection with applications for driver's licenses; and

(ii) if the State so elects, at voter registration centers located conveniently to prospective voter registration applicants;

(B) agrees to use any amount received from a grant under this section in accordance with the requirements of this section;

(C) agrees that any amount received through a grant under this section for any period will be used to supplement and increase any State, local, or other non-Federal funds that would, in the absence of the grant, be made available for the programs and activities for which grants are provided under this section and will in no event supplant such State, local, and other non-Federal funds; and

(D) has established fiscal control and fund accounting procedures to ensure the proper disbursement of, and accounting for, grants made to the State under this section.

(e) REPORTS.—(1) The chief State election official of a State that receives a grant under this section shall submit to the Attorney General annual reports on its activities under this section.

(2) A report required by paragraph (1) shall be in such form and contain such information as the Attorney General, after consultation with chief State election officials, determines to be necessary to—

(A) determine whether grant amounts were expended in accordance with this section;

(B) describe activities under this section; and

(C) provide a record of the progress made toward achieving the purposes for which the block grants were provided.

**SEC. 104. DEFINITIONS.**

For the purpose of this title—

(1) the term "chief State election official" means, with respect to a State, the officer, employee, or entity with authority, under State law, for election administration in the State;

(2) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(3) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)); and

(4) the term "State" has the meaning stated in section 301(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(12)).

## TITLE II—PUBLIC CORRUPTION

**SEC. 201. ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.**

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 225. Public corruption**

"(a) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the honest services of an official or employee of the United States or the State, political subdivision, or Indian tribal government shall be fined under this title, imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the jurisdiction in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned for not more than 20 years, or both.

"(c) Whoever, being a public official or an official or employee of the United States, a State, a political subdivision of a State, or an Indian tribal government, in a circumstance described in subsection (d), defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the right to have the affairs of the United States, the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title, imprisoned for not more than 20 years, or both.

"(f) 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, a State, a political subdivision of a State, or an Indian tribal government, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) For the purposes of this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or 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, author-

ity, 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 such person will be so nominated, appointed, or selected;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201(a) and shall also include any person acting or pretending to act under color of official authority;

"(3) 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

"(4) the term 'under color of official authority' includes any person who represents that such person controls, is an agent of, or otherwise acts on behalf of an official, a public official, or a person who has been selected to be a public official.".

(b) TECHNICAL AMENDMENTS.—(1) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (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 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

**SEC. 202. FRAUD IN INTERSTATE COMMERCE.**

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—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 "in connection with intrastate, interstate, or foreign commerce, engages the use of a 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 striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

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## GRAMM AMENDMENT NOS. 1822 AND 1823

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed to the bill S. 250, supra, as follows:

AMENDMENT NO. 1822

At the end of the amendment, add the following:

DIVISION B—CRIME CONTROL ACT OF 1992

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this division:


Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.
Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.

Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children To Distribute Drugs Near Schools and Playgrounds

Sec. 501. Strengthened Federal penalties.

Subtitle B—Antigang Provisions

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.
Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.
Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
Sec. 772. Disclosure of records of arrests by campus police.
Sec. 773. National baseline study on campus sexual assault.
Sec. 774. Sense of Congress concerning child custody and visitation rights.

TITLE VIII—EQUAL JUSTICE ACT

Sec. 801. Short title.
Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
Sec. 804. Federal capital cases.
Sec. 805. Extension of protection of civil rights statutes.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 901. Short title.
Sec. 902. Grants to State and local agencies.
Sec. 903. Continuation of Federal-State funding formula.
Sec. 904. Grants for multi-jurisdictional drug task forces.

Subtitle B—Retired Public Safety Officer Death Benefit

Sec. 911. Retired public safety officer death benefit.

Subtitle C—Study on Police Officers' Rights

Sec. 921. Study on police officers' rights.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 931. Short title.
Sec. 932. Purposes.
Sec. 933. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 934. Designation of lead agency and submission of State plan.

Subchapter A—Police Corps Program

Sec. 935. Definitions.
Sec. 936. Scholarship assistance.
Sec. 937. Selection of participants.
Sec. 938. Police corps training.
Sec. 939. Service obligation.
Sec. 940. State plan requirements.
Sec. 941. Authorization of appropriations.

Subchapter B—Law Enforcement Scholarship Program

Sec. 942. Short title.
Sec. 943. Definitions.
Sec. 944. Allotment.
Sec. 945. Program established.
Sec. 946. Scholarships.
Sec. 947. Eligibility.
Sec. 948. State application.
Sec. 949. Local application.
Sec. 950. Scholarship agreement.
Sec. 951. Authorization of appropriations.

Subchapter C—Reports

Sec. 952. Reports to Congress.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

Sec. 961. Short title.
Sec. 962. Cop-on-the-beat grants.

Subtitle E—Rural Crime Prevention Strategy

Sec. 971. Findings.
Sec. 972. Strategy to address rural crime.
Sec. 973. National Institute of Justice national assessment.
Sec. 974. Pilot programs.
Sec. 975. Funding.

Subtitle F—National Commission to Support Law Enforcement

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Establishment of commission.
Sec. 984. Duties.
Sec. 985. Membership.
Sec. 986. Experts and consultants.
Sec. 987. Powers of commission.
Sec. 988. Report.
Sec. 989. Termination.
Sec. 989A. Repeals.

Subtitle G—Other Provisions

Sec. 991. Missing Alzheimer's disease patient alert program.
Sec. 992. Authorization of appropriations for Bureau of Justice Assistance discretionary grants.
Sec. 993. Law enforcement family support.
Sec. 994. Mandatory literacy program.
Sec. 995. Trauma centers and crime-related violence.
Sec. 996. Study and assessment of alcohol use and treatment.
Sec. 997. Notice of release of prisoners.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Sec. 1001. Drug testing of Federal offenders on post-conviction release.
Sec. 1002. Drug testing in State criminal justice systems.

Subtitle B—Precursor Chemicals

Sec. 1011. Short title.

Sec. 1012. Definition amendments.
Sec. 1013. Registration requirement.
Sec. 1014. Reporting of listed chemical manufacturing.
Sec. 1015. Reports by brokers and traders; criminal penalties.
Sec. 1016. Exemption authority; additional penalties.
Sec. 1017. Amendments to list I.
Sec. 1018. Elimination of regular supplier status and creation of regular importer status.
Sec. 1019. Administrative inspections and authority.
Sec. 1020. Threshold amounts.
Sec. 1021. Management of listed chemicals.
Sec. 1022. Attorney General access to the National Practitioner Data Bank.
Sec. 1023. Regulations and effective date.

Subtitle C—Interdiction

Sec. 1031. Sanctions for failure to land or to bring to.
Sec. 1032. FAA revocation authority.
Sec. 1033. Coast Guard air interdiction authority.
Sec. 1034. Coast Guard civil penalty provisions.
Sec. 1035. Customs orders.
Sec. 1036. Customs civil penalty provisions.
Sec. 1037. Information exchange and assistance.
Sec. 1038. Assistance to foreign governments and international organizations.
Sec. 1039. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.

Subtitle D—Rural Drug Crime

Sec. 1051. Rural drug enforcement task forces.
Sec. 1052. Cross-designation of Federal officers.
Sec. 1053. Rural drug enforcement training.
Sec. 1054. Authorization of appropriations for rural law enforcement agencies.
Sec. 1055. Rural substance abuse treatment and education grants.
Sec. 1056. Clearinghouse program.

Subtitle E—Grant Programs

Sec. 1061. Drug emergency areas.
Sec. 1062. Department of Justice community substance abuse prevention.
Sec. 1063. Grants for substance abuse treatment.
Sec. 1064. Drug testing upon arrest.

Subtitle F—Other Provisions

Sec. 1071. Strengthened Federal penalties relating to crystalline methamphetamine.
Sec. 1072. Advertisements of controlled substances.
Sec. 1073. Increased penalties for distribution of controlled substances at truck stops and rest areas.
Sec. 1074. Enhancement of penalties for drug trafficking in prisons.
Sec. 1075. Seizure of vehicles with concealed compartments.
Sec. 1076. Closing of loophole for illegal importation of small drug quantities.
Sec. 1077. Undercover operations—churning.
Sec. 1078. Drug paraphernalia amendment.
Sec. 1079. Conforming amendments concerning marijuana.
Sec. 1080. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 1081. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 1082. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
Sec. 1083. Elimination of outmoded language relating to parole.
Sec. 1084. Conforming amendment to provision punishing a second offense of distributing drugs to a minor.
Sec. 1085. Life imprisonment without release for criminals convicted a third time.
Sec. 1086. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
Sec. 1087. Drug paraphernalia.
Sec. 1088. Mandatory penalties for illegal drug use in Federal prisons.
Sec. 1089. Drug distribution to pregnant women.
Sec. 1090. Drugged or drunk driving child protection.
Sec. 1091. Penalties for drug dealing in public housing authority facilities.
Sec. 1092. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 1093. Increased penalties for drug dealing in "drug-free" zones.
Sec. 1094. Anabolic steroids penalties.
Sec. 1095. Program to provide public awareness of the provisions of law that condition portions of a State's Federal highway funding on the State's enactment of legislation requiring the revocation of the driver's licenses of convicted drug abusers.
Sec. 1096. Drug abuse resistance education programs.
Sec. 1097. Misuse of the words "Drug Enforcement Administration" or the initials "DEA".

TITLE XI—PUBLIC CORRUPTION

Sec. 1101. Short title.
Sec. 1102. Public corruption.
Sec. 1103. Interstate commerce.
Sec. 1104. Narcotics-related public corruption.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1201. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 1202. Increase in maximum penalty for assault.
Sec. 1203. Increased maximum penalty for manslaughter.
Sec. 1204. Violent felonies against the elderly.
Sec. 1205. Increased penalty for Travel Act violations.
Sec. 1206. Increased penalty for conspiracy to commit murder for hire.

Subtitle B—Civil Rights Offenses

Sec. 1211. Increased maximum penalties for civil rights violations.

Subtitle C—White Collar and Property Crimes

Sec. 1221. Receipt of proceeds of a postal robbery.
Sec. 1222. Receipt of proceeds of extortion or kidnapping.
Sec. 1223. Conforming addition to obstruction of civil investigative demand statute.
Sec. 1224. Conforming addition of predicate offenses to financial institutions rewards statute.
Sec. 1225. Definition of savings and loan association in bank robbery statute.
Sec. 1226. Conforming definition of "1 year period" in 18 U.S.C. 1516.
Sec. 1227. Professional and amateur sports protection.
Sec. 1228. Criminal sanctions for violation of software copyright.
Sec. 1229. Financial institutions fraud.
Sec. 1230. Wiretaps.
Sec. 1231. Thefts of major art works.
Sec. 1232. Military medals and decorations.
Sec. 1233. Motor Vehicle Theft Prevention Act.
Sec. 1234. Knowledge requirement for stolen or counterfeit property.
Sec. 1235. Mail fraud.
Sec. 1236. Fraud and related activity in connection with access devices.
Sec. 1237. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
Sec. 1238. Increased penalties for trafficking in counterfeit goods and services.
Sec. 1239. Computer Abuse Amendments Act of 1992.
Sec. 1239A. Notification of law enforcement officers of discoveries of controlled substances or large amounts of cash in weapons screening.

Subtitle D—Sentencing and Procedure

Sec. 1241. Imposition of sentence.
Sec. 1242. Technical amendment to mandatory conditions of probation.
Sec. 1243. Revocation of probation.
Sec. 1244. Supervised release after imprisonment.
Sec. 1245. Authorization of probation for petty offenses in certain cases.
Sec. 1246. Trial by a magistrate in petty offense cases.
Sec. 1247. Conforming authority for magistrates to revoke supervised release in addition to probation in misdemeanor cases in which the magistrate imposed sentence.
Sec. 1248. Availability of supervised release for juvenile offenders.
Sec. 1249. Immunity.
Sec. 1250. Extended service of members of the Sentencing Commission.

Subtitle E—Immigration-Related Offenses

Sec. 1251. Exploitation of aliens.
Sec. 1252. Criminal alien identification and removal fund.
Sec. 1253. Aliens convicted of felony drunk driving.

Subtitle F—United States Marshals

Sec. 1261. Short title.
Sec. 1262. Establishment and purpose of association.
Sec. 1263. Board of directors of the association.
Sec. 1264. Membership.
Sec. 1265. Rights and obligations of the association.
Sec. 1266. Administrative services and support.
Sec. 1267. Volunteer status.
Sec. 1268. Restrictions.
Sec. 1269. Audits, report requirements, and petition of Attorney General for equitable relief.
Sec. 1270. Liability of the United States.
Sec. 1271. Nondiscrimination.

Sec. 1272. Acquisition of assets and liabilities of existing association.
Sec. 1273. Amendment and repeal.
Subtitle G—Other Provisions
Sec. 1281. Optional venue for espionage and related offenses.
Sec. 1282. Definition of livestock.
Sec. 1283. Court to be held at Lancaster.
Sec. 1284. Authorization of funds for construction of a United States Attorney's Office in Philadelphia, Pennsylvania.
Sec. 1285. Award of attorney's fees for employees of Department of Justice.
Sec. 1286. Required reporting by criminal court clerks.
Sec. 1287. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds and report to Congress on administrative expenses.
Sec. 1288. DNA identification.
Sec. 1289. Safe schools.
TITLE XIII—TECHNICAL CORRECTIONS
Sec. 1301. Amendments relating to Federal financial assistance for law enforcement.
Sec. 1302. General title 18 corrections.
Sec. 1303. Corrections of erroneous cross references and misdesignations.
Sec. 1304. Obsolete provisions in title 18.
Sec. 1305. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 1306. Elimination of redundant penalty.
Sec. 1307. Corrections of misspellings and grammatical errors.
TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES
Sec. 1401. Short title.
Sec. 1402. Authorization of appropriations for Federal law enforcement agencies.
TITLE XV—FEDERAL PRISONS
Sec. 1501. Authorization of appropriations for new prison construction.

## TITLE I—DEATH PENALTY

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Federal Death Penalty Act of 1992".

**SEC. 102. DEATH PENALTY PROCEDURES.**

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

**"CHAPTER 228—DEATH PENALTY PROCEDURES**

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

**"§ 3591. Sentence of death**

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

**"§ 3592. Factors to be considered in determining whether a sentence of death is justified**

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section

902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

**"§ 3593. Special hearing to determine whether a sentence of death is justified**

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any

time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided. The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

**"§ 3594. Imposition of a sentence of death**

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

**"§ 3595. Review of a sentence of death**

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

**"§ 3596. Implementation of a sentence of death**

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

**"§ 3597. Use of State facilities**

"A United States Marshal charged with supervising the implementation of a sentence

of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

**"§ 3598. Appointment of counsel**

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

**"§ 3599. Collateral attack on judgment imposing sentence of death**

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

**"§ 3600. Application in Indian country**

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

**"228. Death penalty procedures ..... 3591.".**

**SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.**

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.**

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

**SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.**

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.**

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.**

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.**

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

**SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.**

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

**SEC. 110. MURDER BY FEDERAL PRISONER.**

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 1118. Murder by a Federal prisoner**

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

**SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.**

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

**SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.**

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

**SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.**

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.**

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

**SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.**

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

**SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.**

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

**SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.**

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.**

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

**SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.**

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

**SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.**

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

**SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.**

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

**SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.**

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

**SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.**

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

**SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.**

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

**SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.**

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

**SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.**

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

**SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.**

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 36. Violence at international airports**

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

**SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.**

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

**SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.**

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

**"§ 2280. Violence against maritime navigation**

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

**"§ 2281. Violence against maritime fixed platforms**

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12

nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

**SEC. 130. TORTURE.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

**"CHAPTER 113B—TORTURE**

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

**"§ 2340. Definitions**

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

**"§ 2340A. Torture**

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

**"§ 2340B. Exclusive remedies**

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

**"113B. Torture ..... 2340.".**

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**SEC. 131. WEAPONS OF MASS DESTRUCTION.**

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

**"§ 2339A. Use of weapons of mass destruction**

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

**SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.**

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

**SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.**

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

**SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.**

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

**SEC. 135. DRIVE-BY SHOOTINGS.**

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 931. Drive-by shootings**

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a

drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

**SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.**

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

**SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.**

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

**"§ 2245. Sexual abuse resulting in death**

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

**SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.**

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

**SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.**

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

**SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.**

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

**SEC. 141. MURDER BY ESCAPED PRISONERS.**

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

**"§ 1119. Murder by escaped prisoners**

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

**SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.**

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

**"§ 1118. Capital punishment for murders in the District of Columbia**

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)-(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted with-

out a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after

judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

## TITLE II—HABEAS CORPUS REFORM

### Subtitle A—General Habeas Corpus Reform

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Habeas Corpus Reform Act of 1992".

**SEC. 202. PERIOD OF LIMITATION.**

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

**SEC. 203. APPEAL.**

Section 2253 of title 28, United States Code, is amended to read as follows:

**"§ 2253. Appeal**

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

**SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.**

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"*Rule 22. Habeas corpus and section 2255 proceedings*

"(*a*) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(*b*) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

**SEC. 205. SECTION 2254 AMENDMENTS.**

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect

the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

**SEC. 206. SECTION 2255 AMENDMENTS.**

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

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

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

**Subtitle B—Death Penalty Litigation Procedures**

**SEC. 211. SHORT TITLE FOR SUBTITLE B.**

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

**SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.**

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

**"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES**

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

**"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

**"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

**"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules**

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

**"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

**"§ 2260. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2261. Application to State unitary review procedure**

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

**"§ 2262. Limitation periods for determining petitions**

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

**"§ 2263. Rule of construction**

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

**"154. Special habeas corpus procedures in capital cases ..... 2256.".**

**Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding**

**SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

**TITLE III—EXCLUSIONARY RULE**

**SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.**

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 3509. Admissibility of evidence obtained by search or seizure**

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

## TITLE IV—FIREARMS AND RELATED AMENDMENTS

### SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

### SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

### SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

### SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

### SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

### SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

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

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

### SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

### SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

### SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

### SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

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

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

### SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under this chapter shall be

subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

**SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.**

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

**SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.**

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

**SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.**

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

**SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.**

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or 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 or pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

**SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.**

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

**SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.**

Section 924(e)(2) of title 18, United States Code, is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

## TITLE V—JUVENILES AND GANGS

### Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

**SEC. 501. STRENGTHENED FEDERAL PENALTIES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

### Subtitle B—Antigang Provisions

**SEC. 511. GRANT PROGRAM.**

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

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

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(10) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such programs to serve as national, regional, or local models that could be used, in whole or in part, by other public and private juvenile justice programs; and

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

**SEC. 512. CONFORMING REPEALER AND AMENDMENTS.**

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

**SEC. 513. CRIMINAL STREET GANGS.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

**"CHAPTER 26—CRIMINAL STREET GANGS**

"Sec.

"521. Criminal street gangs.

**"§ 521. Criminal street gangs**

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

**"26. Criminal street gangs ..... 521".**

**Subtitle C—Juvenile Penalties**

**SEC. 521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.**

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

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

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

**SEC. 522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.**

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

**SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.**

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

**"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS**

**"SEC. 1601. GRANT AUTHORIZATION.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

**"SEC. 1602. STATE APPLICATIONS.**

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 1603. REVIEW OF STATE APPLICATIONS.**

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

**"SEC. 1604. LOCAL APPLICATIONS.**

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief execu-

tive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

**"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

**"SEC. 1606. EVALUATION.**

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

**Subtitle D—Other Provisions**

**SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.**

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

**SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.**

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

**SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.**

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

**TITLE VI—TERRORISM AND INTERNATIONAL MATTERS**

**SEC. 601. TERRORISM CIVIL REMEDY.**

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

**"§ 2332. Criminal penalties";**

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

**"§ 2331. Definitions**

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

**"§ 2333. Civil remedies**

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

**"§ 2334. Jurisdiction and venue**

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

**"§ 2335. Limitation of actions**

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action occurred.

"(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 written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

**SEC. 616. EXTRADITION.**

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

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

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

**SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.**

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) IN GENERAL.—" before "It shall be unlawful"; and

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

"(b) APPLICATION OF SUBSECTION (a).—

"(1) EXCEPTION.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) VOYAGES AND SEGMENTS BEGINNING AND ENDING IN THE SAME STATE OR POSSESSION.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

**SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.**

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

## TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

### Subtitle A—Sexual Violence and Child Abuse

**SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.**

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass,

degrade, or to arouse or gratify the sexual desire of, any person;".

**SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.**

(a) PENALTY.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

**"§ 2246. Penalties for subsequent offenses**

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.
"2247. Definitions for chapter.".

**SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.**

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

**SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

**"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty**

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this 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 (3) 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 currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 744 of this Act.

**Subtitle E—Jacob Wetterling Crimes Against Children Registration Act**

**SEC. 751. SHORT TITLE.**

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

**SEC. 752. ESTABLISHMENT OF PROGRAM.**

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

**SEC. 753. STATE COMPLIANCE.**

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

**Subtitle F—Domestic Violence**

**SEC. 761. DOMESTIC VIOLENCE GRANTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

**"Part Q—Domestic Violence Intervention**

**"SEC. 1701. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

**"SEC. 1702. USE OF FUNDS.**

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.

**"SEC. 1703. APPLICATIONS.**

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1702;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill those gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

**"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.**

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

**"SEC. 1705. AWARD OF GRANTS.**

"The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

**"SEC. 1706. REPORTS.**

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

"(3) an evaluation of programs established under this part.

**"SEC. 1707. DEFINITIONS.**

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DOMESTIC VIOLENCE INTERVENTION

"Sec. 1701. Grant authorization.
"Sec. 1702. Use of funds.
"Sec. 1703. Applications.
"Sec. 1704. Allocation of funds; limitations on grants.
"Sec. 1705. Award of grants.
"Sec. 1706. Reports.
"Sec. 1707. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.".

**SEC. 762. REPORT ON BATTERED WOMEN'S SYNDROME.**

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of battered women's syndrome and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

**Subtitle G—Other Provisions**

**SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.**

(a) FINDINGS.—The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 21. Inducement of minor to commit an offense**

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Inducement of minor to commit an offense.".

**SEC. 772. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.**

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

**SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.**

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

**SEC. 774. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.**

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

## TITLE VIII—EQUAL JUSTICE ACT

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Equal Justice Act".

**SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.**

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

**SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.**

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

**SEC. 804. FEDERAL CAPITAL CASES.**

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

**SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.**

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

## TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

### Subtitle A—Safer Streets and Neighborhoods

**SEC. 901. SHORT TITLE.**

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

**SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.**

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

**SEC. 903. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.**

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

**SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.**

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

### Subtitle B—Retired Public Safety Officer Death Benefit

**SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.**

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

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

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

### Subtitle C—Study on Police Officers' Rights

**SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.**

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

### Subtitle D—Community Policing

### CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

**SEC. 931. SHORT TITLE.**

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

**SEC. 932. PURPOSES.**

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

**SEC. 933. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.**

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

**SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.**

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

### Subchapter A—Police Corps Program

**SEC. 935. DEFINITIONS.**

For the purposes of this subchapter—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 937;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 940.

**SEC. 936. SCHOLARSHIP ASSISTANCE.**

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 938, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 938; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (C) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 938.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section, the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

**SEC. 937. SELECTION OF PARTICIPANTS.**

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 939, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 939, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter that there shall be no more than 20,000 partici-

pants 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 Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

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

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

**SEC. 1013. REGISTRATION REQUIREMENT.**

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

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

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

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

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

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

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

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

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

"(2) Compliance with applicable Federal, State and local law.

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

"(4) Past experience in the manufacture and distribution of chemicals.

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

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

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

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

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

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

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

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

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

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

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

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

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

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

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

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

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

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

**SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.**

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

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

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

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

**SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.**

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

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

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

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

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

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

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

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

of the country to which the chemical is exported,

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

**SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.**

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

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

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

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

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

**SEC. 1017. AMENDMENTS TO LIST I.**

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

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

**SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.**

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

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

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

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

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

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

**SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.**

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

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

**SEC. 1020. THRESHOLD AMOUNTS.**

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

**SEC. 1021. MANAGEMENT OF LISTED CHEMICALS.**

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

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

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

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

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

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

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

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

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

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

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

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

**SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.**

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

**"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.**

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

**SEC. 1023. REGULATIONS AND EFFECTIVE DATE.**

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enact-

ment 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 o. title 14, United States Code, is amended by ıdding at the end the following new section:

**"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land**

"(a) INTENTIONAL FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) NEGLIGENT FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

**SEC. 1035. CUSTOMS ORDERS.**

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

**SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.**

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

**"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.**

"(a) INTENTIONAL FAILURE TO COMPLY.—The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $25,000, which may be assessed by the appropriate customs officer.

"(b) NEGLIGENT FAILURE TO COMPLY.—The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

**SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.**

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) EXCHANGE OF INFORMATION.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) USE OF PERSONNEL AND FACILITIES.—The Coast Guard may, when so requested by the Secretary of State, use its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

**SEC. 1038. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.**

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

**"§ 149. Assistance to foreign governments and international organizations**

"(a) IN GENERAL.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance.

"(b) DETAIL OF PERSONNEL.—(1) Utilization of members may include the detail of such members.

"(2) Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 to read as follows:

"149. Assistance to foreign governments and international organizations.".

**SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.**

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

## Subtitle D—Rural Drug Crime

**SEC. 1051. RURAL DRUG ENFORCEMENT TASK FORCES.**

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

**SEC. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.**

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

**SEC. 1053. RURAL DRUG ENFORCEMENT TRAINING.**

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out subsection (a).

**SEC. 1054. AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O.".

(b) AMENDMENT OF BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

**SEC. 1055. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.**

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

**"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.**

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section, a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of

such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetrpolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period of not to exceed 3 years, except that the Director may establish a procedure for the renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

**SEC. 1056. CLEARINGHOUSE PROGRAM.**

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

**Subtitle E—Grant Programs**

**SEC. 1061. DRUG EMERGENCY AREAS.**

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) If a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare the State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or by any other law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, to protect property and public health, and to promote safety.

"(2) PROCEDURE FOR DECLARATION.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving the application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of the assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

**SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.**

(a) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

**"Subpart 4—Community Coalitions on Substance Abuse**

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that includes—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such an application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan described in subsection (b)(5) and to report on the plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

**SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.**

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

**"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS**

**"SEC. 2001. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

**"SEC. 2002. STATE APPLICATIONS.**

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 2003. REVIEW OF STATE APPLICATIONS.**

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

**"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

**"SEC. 2005. EVALUATION.**

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

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

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

**SEC. 1064. DRUG TESTING UPON ARREST.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

**"PART U—GRANTS FOR DRUG TESTING UPON ARREST**

**"SEC. 2101. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

**"SEC. 2102. STATE APPLICATIONS.**

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 2103. LOCAL APPLICATIONS.**

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

**"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

**"SEC. 2105. REPORT.**

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

**Subtitle F—Other Provisions**

**SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.**

(a) LARGE AMOUNT.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

**SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.**

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

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

**SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 1 year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING COMMISSION GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) IMPLEMENTATION OF SUBSECTION (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) OFFENSES THAT COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

**SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.**

Section 1791(c) of title 18, United States Code, is amended—

(1) in subsection (c) by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A) by inserting "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

**SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.**

(a) HEADING FOR SECTION 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) AMENDMENT OF SECTION 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) VESSELS, VEHICLES, AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE.—Whenever";

(2) by striking "(b) Every" and inserting "(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE, OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or is a hovering vessel, or that a vessel fails at any place within the customs waters of the United States or within a customs-enforcement area to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

**SEC. 1076. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.**

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

**SEC. 1077. UNDERCOVER OPERATIONS—CHURNING.**

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

**SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.**

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

**SEC. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.**

(a) LESS THAN 50 KILOGRAMS.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marihuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marihuana" and inserting "with respect to less than 50 kilograms of a mixture or substance

containing a detectable amount of marihuana".

(b) 100 OR MORE PLANTS.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marihuana plants" and inserting "except in the case of 50 or more marihuana plants".

**SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.**

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), and (3)).".

**SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.**

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

**SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

(a) SECTION 401(b)(1) (B), (C), AND (D) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b) (1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

**SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.**

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

**SEC. 1084. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.**

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

**SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.**

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

**SEC. 1086. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.**

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

**SEC. 1087. DRUG PARAPHERNALIA.**

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant

that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips (that is, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

**SEC. 1088. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.**

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph.

**SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.**

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

**SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.**

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

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

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

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

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

**SEC. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

**SEC. 1092. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.**

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

**SEC. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

**SEC. 1094. ANABOLIC STEROIDS PENALTIES.**

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

**SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.**

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

**SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.**

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

**SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".**

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publica-

tion, 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 amend-

ed by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

**SEC. 1205. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.**

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

**SEC. 1206. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.**

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

**Subtitle B—Civil Rights Offenses**

**SEC. 1211. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.**

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

**Subtitle C—White Collar and Property Crimes**

**SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.**

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

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

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

**SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.**

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

**"§ 880. Receipt of proceeds of extortion**

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

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

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

**SEC. 1223. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.**

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

**SEC. 1224. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.**

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

**SEC. 1225. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.**

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

**SEC. 1226. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.**

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

**SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.**

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

**"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION**

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

**"§ 3701. Definitions**

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

**"§ 3702. Unlawful sports gambling**

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

**"§ 3703. Injunctions**

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

**"§ 3704. Applicability**

"(a) EXCEPTIONS.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) INDIAN LANDS.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) TECHNICAL AMENDMENTS.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

**"176. Federal Debt Collection Procedure ..... 3001";**

and

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

**"178. Professional and Amateur Sports Protection ..... 3701".**

**SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.**

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; and"; and

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

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

**SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.**

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

**SEC. 1230. WIRETAPS.**

Section 2511(1) of title 18, United States Code, is amended—

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

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

**SEC. 1231. THEFTS OF MAJOR ART WORKS.**

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 668. Theft of a major art work**

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

**SEC. 1232. MILITARY MEDALS AND DECORATIONS.**

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

**SEC. 1233. MOTOR VEHICLE THEFT PREVENTION ACT.**

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

**"§ 160. Motor vehicle theft prevention program**

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the 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, ob-

structs, 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 injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

**SEC. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.**

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

**Subtitle D—Sentencing and Procedure**

**SEC. 1241. IMPOSITION OF SENTENCE.**

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

**SEC. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.**

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

**SEC. 1243. REVOCATION OF PROBATION.**

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

**SEC. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.**

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release,

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

**SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.**

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) PETTY OFFENSES.—Subsection (a)(3) does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

**SEC. 1246. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.**

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

**SEC. 1247. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.**

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

**SEC. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.**

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

**SEC. 1249. IMMUNITY.**

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

**SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.**

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

**Subtitle E—Immigration-Related Offenses**

**SEC. 1251. EXPLOITATION OF ALIENS.**

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

**"§ 23. Exploitation of aliens**

"(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

"(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought by the Attorney General in a civil action before a United States district court.

"(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

**SEC. 1252. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.**

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 1251 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into the Fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony; and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 (104 Stat. 5052) that have not been funded.

(2) Ten percent of the monies covered into the Fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)); and

(B) modifying a plan described in section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

**SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.**

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

**Subtitle F—United States Marshals**

**SEC. 1261. SHORT TITLE.**

This subtitle may be cited as the "United States Marshals Association Establishment Act".

**SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.**

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

**SEC. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.**

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute em-

ployment 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:*ERR08*

"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.".*ERR08*

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

**TITLE XIII—TECHNICAL CORRECTIONS**

**SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.**

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

**"PART M—REGIONAL INFORMATION SHARING SYSTEMS".**

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

**"PART O—RURAL DRUG ENFORCEMENT".**

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

**SEC. 1302. GENERAL TITLE 18 CORRECTIONS.**

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101-123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

**SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.**

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) SENTENCING COMMISSION.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

**SEC. 1304. OBSOLETE PROVISIONS IN TITLE 18.**

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

**SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.**

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

**SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.**

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

**SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.**

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

**TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES**

**SEC. 1401. SHORT TITLE.**

This title may be cited as the "Federal Law Enforcement Act of 1992".

**SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.**

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip, and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

**TITLE XV—FEDERAL PRISONS**

**SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.**

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

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AMENDMENT NO. 1823

At the end of the amendment, add the following:

**SEC. 7. VOTER REGISTRATION AGENCIES.**

(a) DESIGNATION.—(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Not withstanding any other provision of this Act, each State shall designate as voter registration agencies—

(A) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designed under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance; or

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 9(a)(2); or

(ii) the office's own form if it is substantially equivalent to the form described in section 9(a)(2),

unless the applicant, in writing, declines to register to vote;

(B) to the greatest extent practicable, incorporate in application forms and other forms used at those offices for purposes other than voter registration a means by which a person who completes the form may decline, in writing, to register to vote in elections for Federal office; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.

(7) No information relating to a declination to register to vote in connection with an applicant made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) FEDERAL GOVERNMENT AND PRIVATE SECTOR CO-OPERATION.—All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days, after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

**SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.**

(a) IN GENERAL.—In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 5, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or

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## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on issues pertaining to the refining sector of the petroleum industry.

The hearing will take place on Thursday, May 28, 1992, at 9:30 a.m. at the Laramie County Community College, 1400 East College Drive, Cheyenne, WY.

Because of the limited time available for the hearing, witnesses may testify

by invitation only. However, those wishing to submit written testimony for inclusion in the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Don Santa.

For further information, please contact Don Santa of the committee staff at 202/224-4820.

Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on sea level rise resulting from global climate change, and its consequences for the Pacific Islands. The hearing will take place on Tuesday, May 26, 1992, at the Keoni Auditorium, the East-West Center, Honolulu, HI, beginning at 9 a.m.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black.

For further information, please contact Leslie Black of the committee staff at 202/224-9607.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, May 14, at 9:30 a.m. for a hearing on S. 2624, reauthorization of the Emergency Food and Shelter National Board Program and the Interagency Council on the Homeless.

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

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, May 14, at 2 p.m. for a nominations hearing on the following nominees: Stephanie Duncan-Peters; Ann O'Regan Keary; Judith E. Retchin; and William M. Jackson, to be associate judges of the Superior Court of the District of Columbia.

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

### COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 14, 1992, at 10 a.m. to hold a hearing on the nomination of Michael Boudin, to be U.S. circuit judge for the First Circuit, Morris S. Arnold, to be U.S. circuit judge for the Eighth Circuit, Jerome B. Simandle, to be U.S. district judge for the District of New Jersey and Richard G. Kopf, to be U.S. district judge for the District of Nebraska.

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

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, May 14, 1992, at 9:30 a.m. to conduct a hearing on urban affairs, the recent violence in Los Angeles and the crisis facing urban America.

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 14, 1992, at 2 p.m. on pending transactions under Exon-Florio amendment.

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 14, 1992, at 2 p.m. on nomination of Arthur J. Rothkopf of the District of Columbia to be Deputy Secretary of Transportation and Michael James Toohey of Virginia to be Assistant Secretary of Transportation and Gen. Thomas C. Richards to be Administrator of the Federal Aviation Administration.

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

### COMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, May 14, 1992, at 10 a.m., for a hearing on S. 2491, Endangered Species Employment Transition Assistance Act.

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

### COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., May 14, 1992, to receive testimony on S. 2607, a bill to authorize regional integrated resource planning by registered holding companies and State regulatory commissions.

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

### SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. 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 p.m., May 14, 1992, to receive testimony on S. 1624, to amend the Alaska National Interest Lands Conservation Act to improve the management of Glacier Bay National Park, and for other purposes; and S. 2321, to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes.

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

### SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE

Mr. FORD. Mr. President, I ask that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, May 14, beginning at 10 a.m., to conduct a hearing on the Judicial Space and Facilities Management Act of 1992 (substitute) and GSA Oversight.

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

### SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet on Thursday, May 14, 1992, at 2:30 p.m., in open session, to receive testimony on the impact of the defense build-down on the ability of the United States industrial and technology base to meet national security requirements, in review of S. 2629, the Department of Defense authorization bill for fiscal year 1993.

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

### SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on Thursday, May 14, 1992, beginning at 2 p.m., in 485 Russell Senate Office Building, to consider for report to the Senate a substitute bill to S. 1687, the Indian Tribal Government Waste Management Act.

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

### SUBCOMMITTEE ON GOVERNMENT CONTRACTING AND PAPERWORK REDUCTION

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Subcommittee on Government Contracting and Paperwork Reduction be authorized to meet during the session of the Senate on Thursday, May 14, 1992, at 10 a.m. The subcommittee will hold a hearing on the Small Business Competitiveness Demonstration Program.

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

SUBCOMMITTEE ON TERRORISM, NARCOTICS, AND INTERNATIONAL OPERATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, May 14, at 9 a.m. and to continue at 2 p.m. with a hearing on oversight of BCCI and cooperation under the plea agreements.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 14, at 2 p.m. to hold a hearing on U.S. assistance to the new independent states.

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

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 14, 1992, at 1:30 p.m. to conduct a hearing on reauthorization of the Export-Import Bank.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 14, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 14, 1992, at 9:30 a.m., in open session, to consider the nominations of the Honorable G. Kim Wincup to be Assistant Secretary of the Air Force for Acquisition; Gen. George L. Butler, USAF, to be reappointed to the grade of general, and to be commander in chief, U.S. Strategic Command; Lt. Gen. Charles A. Horner, USAF, to be general, and to be commander in chief, North American Aerospace Defense Command, commander in chief, U.S. Space Command, commander, Air Force Space Command, and Department of Defense manager for Space Transportation System Contingency Support Operations; and Rear Adm. (lower half) John M. McConnell, USN, to be vice admiral, and to be Director, National Security Agency/Chief, Central Security Service.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 14, 1992, at 10 a.m. to consider a bill to make the former Soviet Republics eligible for trade benefits under the Generalized System of Preferences Program and to hear and consider the nominations of Jerome Powell to be Under Secretary for Finance and John C. Dugan to be Assistant Secretary for Domestic Finance of the Department of the Treasury.

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

## ADDITIONAL STATEMENTS

### S. 2964—INCINERATION OF LETHAL CHEMICAL AGENTS AT ABERDEEN PROVING GROUND, MD

• Ms. MIKULSKI. Mr. President, I ask that the text of S. 2694 be inserted in the RECORD.

The text of S. 2694 is as follows:

S. 2694

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

**SECTION 1. LIMITATION RELATING TO INCINERATION OF CHEMICAL AGENTS AT ABERDEEN PROVING GROUND, MARYLAND**

(a) LIMITATION OF CONTRACTING ACTIONS.—The Secretary of the Army may not solicit a bid or proposal for the construction of an incinerator of lethal chemical agents at Aberdeen Proving Ground, Maryland—

(1) until—

(A) the Administrator of the Environmental Protection Agency—

(i) has monitored the incineration of mustard gas on Johnston Island in the Pacific Ocean continuously for a period considered by the Administrator as sufficient to evaluate fully whether the emissions resulting from such incineration meet the applicable environmental standards; and

(ii) has made such a determination; and

(B) the National Academy of Sciences has issued the report on alternative chemical demilitarization technologies; and

(2) unless the conditions in subsection (b) are met.

(b) CONDITIONS FOR PROCEEDING.—The Secretary may proceed with the solicitation of a bid or proposal referred to in subsection (a) if—

(1) the Administrator of the Environmental Protection Agency, after having monitored the emissions referred to in paragraph (1)(A) of that subsection in accordance with that paragraph, determines that the emissions meet the applicable environmental standards; or

(2) the Committee on Alternative Chemical Demilitarization Technologies of the National Academy of Sciences has determined, and stated in the report on alternative chemical demilitarization technologies, that there is no viable alternative to incineration as a technology for disposing of lethal chemical agents.

(c) CONDITIONS REQUIRING TERMINATION OF INCINERATION PROGRAM.—The Secretary shall terminate the development of an incinerator for the disposal of lethal chemical agents at Aberdeen Proving Ground, Maryland, if—

(1) the Administrator of the Environmental Protection Agency, after having monitored the emissions referred to in paragraph (1)(A) of subsection (a) in accordance with that paragraph, determines that the emissions do not meet the applicable environmental standards; and

(2) the Committee on Alternative Chemical Demilitarization Technologies of the National Academy of Sciences determines, and states in the report on alternative chemical demilitarization technologies, that there is at least one technology for use in the disposal of such agents that is a viable alternative to incineration of such agents.

(d) DEFINITIONS.—In this section:

(1) The term "applicable environmental standards" means—

(A) the standards for emissions from incinerators of hazardous waste prescribed in section 264.343 of title 40 of the Code of Federal Regulations; and

(B) any other applicable standard, requirement, criteria, or limitation that relates to emissions from incinerators of hazardous waste under—

(i) any Federal environmental law or regulation, including the Clean Air Act (42 U.S.C. 7401 et seq.), subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); or

(ii) any State environmental law.

(2) The term "report on alternative chemical demilitarization technologies" means the report on the independent study of alternative chemical demilitarization technologies conducted by the Committee on Alternative Chemical Demilitarization Technologies of the National Academy of Sciences pursuant to the letter of the Assistant Deputy for Chemical Demilitarization, Office of the Assistant Secretary of the Army for Installations, Logistics and Environment, to the Executive Director of the National Research Council, dated November 8, 1991.•

## VINTON L. HILL TRIBUTE

• Mr. ROTH. Mr. President, the future belongs to those who are willing to work for it. This single truth has been at the foundation of our Nation's blessed past, and if we are to endure the challenges before us, it must be at our foundation tomorrow. We are strong as a Nation because our predecessors worked to make us strong. Their examples of service and responsibility not only reached out to care and provide for others, but to serve as lasting examples of what can be done when we forget ourselves and go to work.

As President Richard von Weizäcker, of the Federal Republic of Germany, told us last week—April 30:

There are convincing examples given by American citizens which are admired in Germany. Time and again when traveling in (America) we come across a pursuit of happi-

ness that is not confined to satisfying selfish desires and amassing material riches. It embraces neighborly support, social engagement, and public responsibility. The term "charity begins at home" includes the readiness to give help instead of calling for higher authority or legislation. Your communities are full of private initiative and life. (And it) is this sense of personal dedication that will help us to stand up to the epochal changes and challenges of our time.

Mr. President, today I want to bring to the attention of my colleagues—and frankly to the attention of all Americans—one such example. His name is Vinton L. Hill, a man from New Castle County, DE, who worked for more than 30 years as a part of our Nation's proud railroad heritage. Vinton Hill started working for the Pennsylvania Railroad back in 1958—at the tender age of 20—and what is remarkable, Mr. President, is that in 34 years of service he was absent only 1 day, only 1 day in 34 years of employment.

In the community, Vinton and his wonderful wife, Kathy, demonstrated an equal determination to serve. They raised a family—two boys who are now successful professionals; they were actively involved in the schools, little leagues, and other community organizations, especially those that served the elderly and infirm. Indeed, it might be said, that Vinton and Kathy gave back more than they ever cared to receive.

At the moment, Vinton is waging a courageous battle for his health. Once again, his example is an inspiration to those who know him. I am proud to announce that Amtrak has created a national award in the name of Vinton L. Hill to annually honor Amtrak employees who achieve perfect attendance on the job. The Vinton L. Hill Award will be one that not only serves as an incentive for excellence, but one that will sustain his inspiring legacy and dedicated example for decades to come.

I add my sincere congratulations to Vinton and Kathy Hill, and I am proud of the opportunity I have to recognize this quiet example of personal dedication to the values that have built—and that will continue to sustain—America.●

## COSPONSORSHIP OF S. 2384

● Mr. GLENN. Mr. President, I rise today to talk about trash. Specifically, garbage. Or, as some are disposed to call it, solid waste. But no matter the name, garbage is still garbage and it currently threatens both the safety and health of our environment and our citizens.

We all remember the infamous garbage-barge incident during the summer of 1987. We had a good chuckle as the barge spent a hapless 162 days at sea trying to find somewhere to dump its garbage. The story even took on an international significance when the poor barge traveled down to Belize in an attempt to dispose of its cargo.

But this really is not a laughing matter. The garbage-barge incident served as a vivid illustration of the solid waste disposal problem in our country. Now, it is nearly 5 years later and the situation has gotten worse.

And this enormous problem boils down to: Where are we going to continue to put all the garbage Americans throw out? Well, it seems to be in places like my home State of Ohio, whether we like it or not.

In 1990 alone, Ohio received 1.8 million tons of imported waste. According to the Ohio Environmental Protection Agency [OEPA], if Ohio continues to take in garbage at this rate, all its landfills could be filled by the year 2000.

One can visualize a type of domino effect: As more States like Ohio are forced to accept outside garbage, they will be less able to dispose of their own garbage and, inevitably, will be forced to send their garbage elsewhere for disposal. The new recipient States will have to then safely dispose of not only their own solid waste but the waste of other States, as well.

What happens when the landfills of these new recipient States reach their capacity? Where will it, or can it, end? Are we prepared to leave our future generations with mounds of garbage and no place to put it? I, for one, think it is time to begin addressing this serious problem so that our children, and their children, will not be confronted by environmental horrors due to our neglect.

That is why I rise today to cosponsor S. 2384 which will help us avert this potentially disastrous scenario I outlined above. S. 2384 would give States and localities the authority to regulate out-of-State waste. But we can also do more.

Today I am also calling on the General Accounting Office [GAO] to begin evaluating the management, transportation, and disposal of solid waste. If we are going to get a handle on this problem, we need long-range solutions. The study I am asking for today will give us the necessary overview of the waste situation so that we can effectively implement long-term solutions.

Mr. President, let me give you a little history on what my State has done about this problem. In 1988, Ohio enacted a comprehensive solid waste management law. Since enactment of that legislation, 34 of the 48 solid waste districts in Ohio have submitted waste management plans to the U.S. Environmental Protection Agency [EPA]. The State has also set the admirable goal of reducing and recycling 25 percent of its waste by June 1994.

These numbers clearly indicate that Ohio is taking significant steps toward resolving its own waste crisis. However, the rapidly dwindling landfill capacity in Ohio is threatened further by the vast quantities of waste hauled from out-of-State, primarily from the east coast.

As I pointed out before, Ohio received 1.8 million tons of imported waste in 1990. This type of influx has forced Ohio's back up against the wall. Out of 88 counties, 28 have no landfills and 35 have landfills with 5 years or less capacity remaining.

How can we expect a State such as Ohio to implement its own environmental objectives while having to deal with thousands of tons of imported trash? Requiring my State and others to handle their own solid waste problems as well as other States' problems is neither fair nor possible.

As it stands, States that are successful in implementing environmentally conscious ways of dealing with waste are punished. But there also are not any incentives for States to develop these types of plans, as long as their garbage can be shipped elsewhere.

S. 2384 will help remedy this unequitable situation. The bill gives States and localities the authority to refuse solid waste transported from other States. It is important to note, though, that this authority is linked to a State's ability to demonstrate the planning and siting of environmentally sound capacity within its own borders.

So the bill does not give States a free ride. States must prove that they care about protecting our environment and citizens. Only then, can they benefit under this law.

But, simply banning out-of-States waste is definitely not a substitute for long-term and comprehensive solid waste management plans. The authority to reject imported trash is a crucial piece of the overall puzzle of how to deal with garbage in an environmentally responsible manner.

Another crucial piece in this puzzle is an overall evaluation of where we stand now and where are we headed on this issue. Today, I am asking the GAO to undertake just such an evaluation.

Specifically, we need to know what sort of options exist for Federal and State governments to deal with transporting and disposing of all this waste. What sort of inter- and intrastate methods work? Will regional compacts work? That is an open question because as Ohioans know all too well, we have experienced some problems in getting the Low-Level Radioactive Waste Compacts off to a fair and effective start.

Another issue I want the GAO to tackle is whether certain communities, from a racial and/or economic class perspective, have been subject, for whatever reasons, to having a disproportionate share of solid waste landfills. And, if so, have there been any adverse effects as a result?

In addition, although I would not want to put this question to every citizen in Ohio, I am going to be asking GAO to examine how much garbage is generated by the Federal Government.

Where does it go, what are the disposal costs, and can we be doing a better job, from both an economic and environmental angle?

Finally, the GAO needs to look at the U.S. EPA and its role. Have the EPA's programs been successful? Are the States receiving enough guidance and coordination?

We owe it to future generations not to simply act in the short term, or just sweep all this garbage under the rug. Yet, until we have the answers to some important questions, we will not be able to create effective long-term solutions to this problem.

America is in trouble. Garbage is piling up across this country and right now we are losing the ability to deal with it. Our environment is too fragile for us to continue to ignore the ever-increasing piles.

S. 2384 is a very big step in the right direction. So is getting a comprehensive evaluation of what more needs to be done. I urge my colleagues to also support this legislation.

Mr. President, I would ask that my request letter to GAO be printed in the RECORD following my remarks.

The letter follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
*Washington, DC, May 14, 1992.*

Hon. CHARLES A. BOWSHER,
*Comptroller General, U.S. General Accounting Office, Washington, DC.*

DEAR MR. BOWSHER: One of the major problems this nation faces in the coming years is having sufficient capacity for the safe disposal of municipal solid waste. A growing number of cities, towns, and municipalities are dangerously close to exhausting present landfill capacities, without new disposal sites ready to come on line. Some communities are already finding it necessary to transport their solid waste, at substantial cost and at some risk to public health and safety, to other landfills within or outside of the State. This has led to tensions between the residents of areas with available landfills and those communities, particularly out-of-State, which are dependent on access to these landfills.

I know that you are aware that Congress is beginning to grapple with some of these matters in the context of reauthorization of the Resource Conservation and Recovery Act (RCRA). However, much long-range planning must be done to ensure that our solid waste management regime is safe, fair, and effective. As Chairman of the Senate Committee on Governmental Affairs, I would like you to examine several issues on this front, relating to overall government management and intergovernmental relations, over which this Committee has jurisdiction:

(1) What are the most practical and prudent options facing the Federal and State governments, alone and collectively, for the safe disposal of municipal solid waste, including the use of inter- and intra-state shipments and regional compacts?

(2) Have certain communities, from a racial and/or economic class perspective, borne a disproportionate share of solid waste landfill sites, and what adverse effects, if any, have these communities experienced as a result? Are there fair and sufficient opportunities for public input in siting decisions, and are health and safety issues adequately addressed?

(3) To what extent is solid waste being shipped across the border from Canada, where tipping fees are higher, to northern U.S. landfills, and is the regulation and control of these shipments sufficient?

(4) How useful are state waste management plans in addressing state and local waste problems? How useful has EPA's guidance been to states in providing outreach, education, and technical assistance relating to the management and control of non-hazardous waste?

I am also interested in a couple other related issue areas, which could be addressed in these or subsequent reports. For instance, I would like to know whether private, on-site, incinerators, which can be used for both solid and hazardous waste, provide the same level of protection as commercial incinerators. In addition, I am interested in how effectively EPA has implemented its 1981 requirement for hazardous waste land disposal facilities to install adequate groundwater monitoring systems.

I recognize that the scope of this request is broad and its focus and priorities might change as your work progresses. Therefore, I would like to be kept abreast with periodic briefings as your work proceeds. Should you have any questions, please do not hesitate to contact me or Brian Dettelbach (224-4751) of the Committee staff, or Susan Carnohan (224-3353) of the personal staff.

Thank you for your prompt attention and consideration.

Sincerely,

JOHN GLENN,
*Chairman.*●

## THE AMERICAN BANKRUPTCY INSTITUTE

● Mr. GRASSLEY. Mr. President, hardly a day passes without news of a new major bankruptcy filing, or a story related to the rising tide of bankruptcy cases. During calendar year 1992, we expect more than 1 million individuals and businesses will seek protection from creditors under the bankruptcy code.

The Senator from Alabama, Mr. HEFLIN and I have introduced legislation, S. 1985, to make some needed changes in the bankruptcy law. This bill was reported by the Senate Judiciary Committee and will hopefully soon be considered by the full Senate. It is the product of a consensus effort led by the chairman of the Subcommittee on Courts, and was developed after a series of hearings last year. The first title of the bill calls for the creation of a National Bankruptcy Review Commission, to thoroughly study the existing framework and to make technical recommendations on changes in the law.

One of the premier organizations for the study of bankruptcy law and policy is the American Bankruptcy Institute [ABI]. The ABI is celebrating its 10th anniversary this year. Over the years, the ABI has assisted our subcommittee in identifying the issues that need further study. We on the Judiciary Committee are especially grateful for their thoughtful and nonbiased input.

Tomorrow, May 15, begins the annual spring meeting of the ABI here in Washington. More than 300 insolvency professionals will gather for a comprehensive program of current trends in the law. I note specifically on the ABI's program, a closing luncheon address on Monday by the Chief Justice. This event will also mark the occasion for the presentation of the ABI's Second Annual Congressional Service Award. The first recipient of the award last year was our colleague from Arizona, Senator DECONCINI. This year the award is being presented to the ranking member of the House Committee on the Judiciary, Representative HAMILTON FISH of New York.

I congratulate Representative FISH on this award in recognition of his service to sound bankruptcy policy, and salute the ABI on its decade of service to the study of bankruptcy.●

## COSPONSORSHIP OF S. 2407

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2407, a bill to amend the Board for International Broadcasting Act of 1973.

As democracy prevails throughout the Eastern bloc and the former Soviet Union, dictatorships continue to rule Asia, specifically Vietnam, Laos, North Korea, and the People's Republic of China. These governments continue to exert total control over their populations through a tight grip on information.

Radio Free Europe is an outstanding example of how open channels of communication can lead to revolutionized ways of thinking, as shown by its role in the fall of communism in the Eastern bloc and the lands formerly known as the Soviet Union.

Let us not underestimate the aggressive nature and repressive policies of Vietnam, Laos, North Korea, and the People's Republic of China. The Vietnamese and Laotian leaderships have retreated to hardline Communist Party politics. Social repression has not abated in Vietnam. The Pathet Lao in Laos have reaffirmed their commitment to the Socialist path, remaining steadfast in their antidemocratic attitudes, while continuing to deprive their people of the most basic human rights.

The People's Republic of China imprisoned Catholic Bishop Fan because he refused to accept the Catholic Patriotic Association. He died a broken man, a victim of the harsh and tyrannical Chinese system. China has also imprisoned students and intellectuals, for short terms as well as for life, for among other things, their participation in the Tiananmen Square protests. Moreover, China has actively cooperated in a number of areas with the terrorist states of Syria and Iraq. It is not satisfied with abusing its own people, but China seeks to export the means by which to terrorize others.

The evidence shows that these governments have no plans to follow the examples of the Eastern bloc and the former Soviet Union in flowing with the prevailing tide of democracy. As the leading proponent of democracy in the world, the United States should not allow the Asian people to be deprived of information and ideas which could ultimately lead to global cooperation and international understanding.

Therefore, I strongly urge my colleagues to support this bill and help work toward true freedom for the people of Asia.•

## AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of March 31, 1992, 218,301 Americans have been diagnosed with AIDS; 139,269 Americans have died from AIDS; and 79,039 Americans are currently living with AIDS.

POLITICAL COURAGE: IT SAVES LIVES

Sharon Pratt Kelly, Mayor of the District of Columbia, has mounted an attack against the spread of AIDS that is as bold as it is realistic. She proposes to distribute condoms in city high schools, prisons, and jails. She also endorses a trial project to give clean hypodermic needs to drug addicts.

Mayor Kelly's action is based upon the deadly mathematics of AIDS. By the mid-1990's the number of AIDS cases in the District will likely reach 10,000, nearly triple last year's 3,500 cases. The biggest increase will be among heterosexuals who use illegal intravenous drugs, and their sex partners.

The city's teenagers, too, are increasingly vulnerable to AIDS and other sexually transmitted diseases. Studies have shown that over three-quarters of D.C. teenagers are sexually active by the 10th grade, with two-thirds of teenage boys having had four partners or more by then. Many do not use condoms.

Overall, the rate of new HIV infections in the District of Columbia is the highest in the Nation.

Along with many others, Mayor Kelly believes that the most successful protection against AIDS is sexual abstinence. This has been a cornerstone of her anti-AIDS message since the start of her term. But the Mayor is a realist. She knows that moral preachments, however valid or warranted, are demonstrably insufficient to stem the AIDS epidemic. Along with public health officials and a majority of D.C.'s City Council, Mayor Kelly has looked at the facts about the spread of AIDS in the District. Consequently, she has proposed drastic, necessary actions.

Many have called Mayor Kelly's action politically risky, and it may be, if the measure of politics is solely what happens in the polls or at the ballot box. But her courage in discerning what needs to be done to save lives evidences a personal definition of politics that includes leadership and a clean responsibility to tell people the truth about how AIDS is spread, especially those most at risk.•

## COSPONSORING "POLISH-AMERICAN HERITAGE MONTH"

• Mr. D'AMATO. Mr. President, I rise today to cosponsor a resolution designating October 1992 as Polish-American Heritage Month. This legislation recognizes the substantial contributions of Polish-Americans to this country and the world.

Polish-Americans have played an important role in the cultural development of American society. As a land of immigrants, America owes much to the ethnic groups which helped forge this Nation. The 6 million Polish-Americans and their ancestors who came here before them, have steered this country in numerous areas. Polish-Americans participate in the fields of science, education, entertainment, sports, and the arts. Individuals like Josef Hofman, a famous pianist and cofounder of the Curtis Institute in Philadelphia, and Jan Paderewski, a respected statesman and composer, have made great contributions to the growth of this country.

Throughout their history, Poles have espoused democracy but were subjected to tyranny imposed by others. As communism began to wither, Poland became the first of the Eastern bloc countries to establish democratic institutions.

We should honor the perseverance of the Polish people who throughout their history had to fight for their freedom. Now that Poland is free, let us celebrate the stubborn persistence of the Poles who refused to bow to tyranny.

I urge my colleagues to cosponsor this resolution.•

## ACADEMY OF THE SACRED HEART, NEW ORLEANS, LA

• Mr. BREAUX. Mr. President, I rise today to recognize a very talented group of students who have taken an active interest in our American system of government. Students from the Academy of the Sacred Heart in New Orleans recently placed second in the National Competition on the Bicentennial of the Constitution and the Bill of Rights. Having won the State competition, these 28 students earned the privilege of representing Louisiana on the national level. They rose to the challenge and brought home second place honors for their great State of Louisiana.

These bright students possess impressive knowledge of our American system of government, exhibited by their strong showing at this competition. They recognize that it is very important for the citizens of our country to get involved in the system and remain informed of the important issues of our day. In fact, this is the only way in which any democracy can flourish. I applaud the students at Sacred Heart in New Orleans for the interest and zeal with which they tackled this competition.

The team members include: Kim Adams, Katherine Anderson, Erica Andrews, Alice Babst, Julie Brewer, Catherine Brown, Stephanie Casey, Keegan Chopin, Caroline Christy, Nicole Constantin, Kate Crassons, Megan Derbes, Jenny Foley, Dottie Gibbons, Madeline Gorman, Colleen Guste, Aubrey Hardwick, Michelle Kehoe, Diane Killeen, Kristin Klees, Camey Liberto, Simone Mollere, Robyn Neitzschman, Aija Ozols, Katie Ratte', Sara Schmidt, Deme Tsatsoulis, and Nina Wessel.

They deserve to be commended for their dedication and commitment to their educational goals. I know I share the pride of their friends and families in their impressive achievement. These students have represented Louisiana well, and I thank them for their hard work.•

## THE 50TH ANNIVERSARY OF REV. LEOPOLD V. PROZNY

• Mr. D'AMATO. Mr. President, I rise today to recognize an outstanding clergyman, Father Leopold V. Prozny of Rome, NY who is celebrating his 50th anniversary of his ordination to the Roman Catholic Priesthood.

Father Prozny was born in Rome, NY on February 9, 1917, son of John and Frances Muszynski Prozny. His early education was received in the public schools and the Transfiguration School of Rome, NY. Later, Father graduated from Rome Free Academy High School. He earned his bachelor of arts degree from St. John Kanty Prepatory School in Erie, PA, and received his religious training at St. Bernard's Seminary in Rochester, NY.

Father Leopold Prozny was ordained at the Cathedral of the Immaculate Conception, Syracuse, NY on June 6, 1942 by the late Most Reverend Walter A. Forey, Bishop of Syracuse. Father Prozny's first assignment was at St. Stanislaus Church in Utica and then at St. Mary's Church in New York Mills, NY. It was here that Father Prozny became very active with the Boy Scouts and traveled with a group of Scouts to California by train for an unforgettable experience.

From 1958 to 1973 Father Prozny was pastor of St. Casimir's Church in Endicott, NY. In September 1973 Father Prozny was assigned to Holy Trinity Parish in Utica with much experience behind him, ready to serve the people of his new parish. He demonstrated a particular adeptness at maintaining a delicate balance between the old and the new.

Father Prozny has returned to some of the traditional Polish customs, particularly around Eastertime. One custom that Father Prozny has brought to Holy Trinity is having the tomb of Christ at the Main Altar, with St. Michael's Lancers standing vigil on Good Friday through Easter Sunday Resurrection Mass.

Father Leo is vice chaplain of the national organization, the Polish Roman Catholic Union of American and also serves as vice president of the Polish American Congress for the Central and Northern Districts of New York State.

Rev. Leo Prozny has had a long distinguished career in the priesthood. I commend him for his 50 years of faithful service to the people of God and wish him many more years of health and happiness.●

## DEVELOPMENTS IN RETAIL GASOLINE MARKET

● Mr. SIMON. Mr. President, on May 6, my distinguished colleague from Arizona, Senator DECONCINI, presided over a hearing of the Judiciary Committee's Subcommittee on Antitrust, Monopolies, and Business Practices that focused on developments in the retail gasoline market. At that hearing, independent service station dealers, petroleum marketers, convenience store operators, and others told the subcommittee that price inversions in the marketplace had devastated their businesses. They also testified that absent some action by Congress, the major refiners would be successful in driving these independents out of business, thus lessening competition in the retail gasoline market and raising consumer prices. That view was also echoed by a consumer representative.

A price inversion is an action by refiners which renders irrelevant the marketing efficiencies of smaller independent competitors. The clearest example of a price inversion is when a refiner charges a wholesale customer a higher per gallon price for gasoline than the same refiner charges you or me for fuel at a corner station in the same geographic area as the wholesale customer.

Why do these situations occur? The refiners blame the inversions which we all heard about in 1990 and 1991 on the invasion of Kuwait by Iraq and the subsequent war. I am more than a little skeptical of this explanation. While the invasion and war certainly created turmoil in the oil markets, why would it have caused refiners to charge wholesale customers more than retail motorists?

Even if we accept the war theory, how does this explain the price inversions that are occurring today? The war has been over for more than a year. Crude oil prices are stable.

Why would a price inversion occur in a market such as this? Witness after witness gave the subcommittee example after example of price inversions still occurring. One witness, Mr. L.W. Locke of Enfield, NC, said that on the very day he was testifying before Congress, one of his suppliers was selling unleaded, regular gasoline at a station it operates at $1.029, while it charged him $1.047 at the wholesale terminal.

Mr. Locke's testimony cited other examples of inversions:

In February 1992, a marketer in Mobile, AL, said his supplier was selling gasoline at its own retail outlets 2.9 cents below the delivered price into a jobber-owned service station;

An Indiana marketer said his supplier charged him 0.2 cents per gallon more for diesel fuel than the same refiner was retailing diesel fuel at one of its own direct outlets;

In Rhode Island a refiner was offering gasoline to motorists 1 to 2 cents below the wholesale marketer's buying price in the same area.

Mr. Steve Sheetz, a convenience store operator in Altoona, PA, cited several other instances.

As recently as April 1992, a refiner-operated retail outlet in Ohio was offering regular unleaded at 91.9 cents per gallon, while the price to the independent wholesaler was 97.15 cents per gallon—a 5 cents per gallon difference.

Also in April, another integrated oil company was charging its independent wholesalers in South Carolina 96.9 cents per gallon, while selling directly to motorists at its refiner-operated station at 3 cents per gallon less, 93.9 cents per gallon.

Mr. Deane Stewart, a constituent of mine, testified that in the last 2 years, the Illinois Petroleum Marketers Association has experienced a loss of one-sixth of their independent marketer members. He cited the practice of refiners selling to motorists at their direct-operated stations at lower prices than they charge their wholesale customers as a key contributing factor to many of the small-business failures in the marketing segment. Clearly the wholesaler cannot afford to transport product and pay for his other necessary business costs while paying more for the product at wholesale than a motorist does at a refiner-operated retail station down the street.

And, just yesterday, I received a letter from a constituent of mine in Macomb, IL. He gave me another example of the price inversions which continue to occur. In late April 1992, a branded retail outlet was selling gasoline at almost 9 cents per gallon below cost, when taxes and transportation costs are included.

Mr. President, it is time for the Senate to act. There are three different proposals being considered by the subcommittee. Our challenge in the weeks ahead is to forge a broad compromise which will allow us to get something enacted this year.

Until that time, it is my intention not to let this issue go unnoticed. I intend to take to the Senate floor every week to give a report of the latest examples of price inversions in the petroleum market.●

## REV. JOSEPH A. MARTIN 25TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Rev. Joseph A. Martin on the occasion of his silver jubilee. Father Joe Martin is dearly loved by the people of Westchester, NY, with good reason; Father Joe has given 25 years of his life and himself to the service of his people as confessor, counselor, educator, director of vocations, and director of the parish mission. I want to take this opportunity to congratulate and thank Father Joe for his years of dedicated service to the people of New York.

I am proud to stand here today to pay tribute to Father Joe Martin, who personifies the very best of America. He was born to Joseph and Constance Martin on October 6, 1932, in Peekskill, NY. He attended Assumption Elementary School; Peekskill High School; Iona, St. Philip Neri, and Dunwoodie Schools. He was ordained to the priesthood on May 27, 1976, and was stationed at the Church of St. Patrick in Yorktown Heights until January 1975 when he was appointed counsel of conciliation. In the fall of 1977 Father Joe became director of vocations of the archdiocese. Five years later Father Joe found himself back at Dunwoodie as spiritual director at the seminary. In 1988 Father Joe became director of the parish mission team and was reappointed in 1991 for another 3 years.

To speak of the Rev. Joseph Martin as a mere chronology of appointments and job descriptions is not to speak of Father Joe at all. Father Joe is a highly respected and deeply loved priest, who has many abilities, talents, interests, gifts, and attributes, including a fabulous sense of humor. Father Martin is also a great athlete; from basketball and baseball, to skiing, running, tennis, golf, and big game fishing, Father Joe Martin is always on the move.

He has frequently been seen to sport his favorite apparel, his Peekskill parka from L.L. Bean; unless, of course, it's Christmastime, when Father Joe is known to sport his Frosty the Snowman boxers and his corduroy slacks with reindeer on them.

His manner may exude humor always, but Father Joe has a very serious message: You're not loved because you are beautiful, you are beautiful because you are loved. Father Joe is a popcorn chomping, Bermuda hopping, impossible dreamer; but he is also a uniquely talented priest who has been given immense ecclesiastical trust.

Father Joe has spent his life serving others. He has been of service to the

people of God for 25 years now. Joe Martin is a great guy and a super priest and it gives me immense pleasure to salute him today. I ask my colleagues in the Senate to join me today in congratulating Father Joseph Martin on 25 years of life given freely to the service of others. Joe, we wish you many more years of health, happiness, and humor.•

## HAMILTON STANDARD'S SPACESUITS USED IN RESCUE

• Mr. LIEBERMAN. Mr. President, today is not only a proud day for the American space program, it is a proud day for the men and women of Hamilton Standard in Connecticut. They are the ones who made the spacesuits worn by the astronauts who captured the Intelsat satellite yesterday and prepared it for launch today into its proper orbit. It was the most daring and dramatic rescue in space ever, and I am proud that a Connecticut company and its workers played a role in this historic event.

In the midst of a long recession, American technology and even the American work ethic have been under attack, here at home, and from our competitors overseas. This outer space rescue also helps rescue America's prestige, and reputation for hard work, innovation, and determination. The quality of work that Americans are capable of producing is evidenced in the spacesuits that enabled the three brave astronauts to venture from the *Endeavor* during this mission. Those suits worked, as they have in the past, magnificently.

Too often we only seem to pay attention to news that's bad. This is one story that the world paid attention to, and it is good news all the way. The mission of the *Endeavor* lived up to its name, which means "to strive, to reach for something." The astronauts reached, quite literally, for something, and their reach did not exceed their grasp. We have all been uplifted by their otherworldy performance.

I salute our astronauts, NASA, and the men and women at Hamilton Standard for a job well done.•

## INTERNATIONAL CONVENTION OF THE POLISH SINGERS' ALLIANCE OF AMERICA

• Mr. RIEGLE. Mr. President, I rise to announce that the State of Michigan will host the 43d International Convention of the Polish Singers' Alliance of America from May 21 through May 24, 1992.

Since its founding on May 13, 1989, the Polish Singers' Alliance has sponsored a gathering and competition of Polish choral groups every 3 years. This year, the event is hosted by the District IV Association which is based in Hamtramck, MI. Six choruses of this organization will welcome 38 other groups from Michigan, Illinois, New York, New Jersey, Connecticut, Indiana, Ohio, Wisconsin, Pennsylvania, Arizona, and Ontario, Canada. Together, some 1,000 voices will join together in a tribute to the historical achievements of Polish musical tradition.

The assembly will host numerous activities including the exciting choral competition, itself. In past gatherings of the Polish Singers' Alliance, choruses from Michigan and around the country have demonstrated their talents by performing a diverse selection of the rich genre of Polish classical, religious, folk, and modern music.

The International Convention of the Polish Singers' Alliance not only celebrates Polish musical traditions, but it also makes a very important statement about the history of the Polish people. For many generations, especially in the last century, the Polish nation has faced enormous difficulties and tragedies. During these times, music has always been a symbol of the strength of the Polish people. All of the choruses are worthy of congratulations for their efforts to preserve their ancestral inheritance.

Thanks to the strong faith and determination of the Polish people, a new era for that country has begun only recently. The singers participating in the convention certainly appreciate the traditional Polish proverb which proclaims: "He who sings, prays twice." The entire convention can rejoice in this reality.

On behalf of the people of the State of Michigan, I welcome all of the participants of the convention to our State. May their stay be one filled with creativity, health, and happiness. As they enter into the second century of their existence, may the Polish Singers' Alliance be an inspiration to succeeding generations to keep all they have worked for alive. Zycze wszystkim wszystkiego najlepszego. Sto lat.•

## RETIREMENT OF RABBI STANLEY M. KESSLER

• Mr. DODD. Mr. President, I rise to pay tribute to Rabbi Stanley M. Kessler, an eminent religious, intellectual, and humanitarian leader in Connecticut, on the occasion of his retirement in June after 38 years as rabbi of the Beth El Temple of West Hartford. He will fulfill the remainder of his life tenure with that temple as rabbi emeritus.

Born and raised in Pennsylvania, a young Rabbi Kessler flew 18 missions over Europe while serving in the Air Force during World War II. After the war, Kessler's course embraced the positive potential of humanity for moral development and the ingenuity of peace. He entered the Jewish Theological Seminary, where he was ordained as rabbi, in 1951. After continued studies at the seminary, he earned a master of Hebrew literature degree and a doctorate of divinity. His love of knowledge has proven a strong rudder throughout his professional life, leading him to graduate work at Columbia University and the Hebrew University of Jerusalem and, later, a teaching position in the religion department of Trinity College in Hartford.

Rabbi Kessler's commitment to fostering cross-cultural communication and broadening human understanding has characterized much of the last four decades of his career; indeed, his life has been emblematic of practicing what he preaches. He joined the legendary "freedom riders" during the civil rights movement of the 1960's and participated in protests in Birmingham and Selma, AL. He has traveled to Israel 27 times since 1949, becoming a virtual emissary of good will between that country and ours. He has visited Jewish communities throughout the Soviet Union, the Far East, India, South Africa, South America, and the Middle East. His various travels have informed his insight and global perspective, which he has shared from the pulpit, the classroom, and the newspaper column, as an international correspondent for the Hartford Courant.

Sitting on various boards and commissions through the years, all unified by a common optimistic agenda for change, Rabbi Kessler has blended the sacred and the secular in his relationship with the institutions of civilization. Lending his moral training and acuity to the dialog of policymakers and common people worldwide, Rabbi Kessler has succeeded, in ways beyond our capacity to measure, to make this world a better place and to encourage us to risk our proud differences for peace and broader understanding.

As it is written in the Book of Mihnah, "The world stands upon three things: on justice, on truth, on peace." Rabbi Stanley Kessler has labored hard to keep the world standing. For his great contributions, his enlightened mind and heart, and his friendship, I am ever thankful, and wish him greater rewards in the coming years.•

## NEWAYGO COUNTY, MI, PRIDE GROUP NATIONAL RUNNER-UPS

• Mr. RIEGLE. Mr. President, I rise today to honor 24 of our Nation's finest high school students. The students are members of the Newaygo County, MI PRIDE—Parents' Resource Institute for Drug Education—group and have dedicated themselves to spreading a strong antidrug message to their peers.

Before approximately 2,000 people at the recent 1992 PRIDE World Drug Conference in Houston, TX, Newaygo County's PRIDE group became national runner-ups for their death skit

presentation. The play centers on a classmate who has died as a result of drinking and driving. The student asks God for a second chance in life but is rejected. As classmates pass by the casket of their deceased friend, the group's emotional antidrug message is unforgettably conveyed to the audience.

Founded in 1989, Newaygo County's PRIDE group has performed before more than 25,000 students at schools throughout the State of Michigan. To have achieved such high national distinction in such a short timespan is a remarkable achievement, and one that is a true testament to the students' hard work and commitment. I commend their dedication.

Students participating in Newaygo County's PRIDE group for 1991–92 come from the high schools in Fremont, Grant, Hesperia, Newaygo, and White Cloud. This includes the following: Jennie Anderson, Heather Buchanan, Jenny Bullis, Stacey Fischer, Jesse DeKuiper, Mitzi DeKuiper, Amanda Hall, Misty Haught, Matt Hendrie, Roger Hunt, Mandy Kandler, Shaina Kiester, Jeremy Kuhns, Kevin Koenigsknecht, Bethany Lanning, Natasha Lantz, Linda Lemmons, Todd Myers, Renee Nordin, Jolene Norris, Dana Ransom, Chad Swinehart, Kim Van Single, and Sarah Welsh.

The group's success is also attributable to the hundreds of volunteer hours put forth by dedicated adults. Jay DeWispelaere, Don Terrill, Newaygo County Sheriff Roger Altena, Kathy Bullis, Peggy Mercer, and student advisers Brenda Bacon and Jennifer Elworthy are to be congratulated for their efforts and commitment to Newaygo County PRIDE.•

## REMEMBER THE VICTIMS OF AIDS

• Mr. WOFFORD. Mr. President, I would like to take this opportunity to remind my colleagues that this Sunday marks the ninth International AIDS Candlelight Memorial. I particularly want to salute the organizers of the memorial events to be held in Pennsylvania.

Organizers of these events have worked long and hard to honor the memories of those we have lost to AIDS. Our society has slowly come to the understanding that this illness can affect anyone. Although no truly accurate statistics exist, some estimates indicate that over 125,000 individuals in the United States may have already died from AIDS.

I know that many of my colleagues share a commitment to many of the principles enumerated by the groups involved in these remembrance ceremonies. We must pledge ourselves to continue to aggressively research the disease and its possible treatments and cures. While increased medical research is an important component to curing individuals infected with AIDS, it is not the only answer. We must also pledge ourselves to continued educational efforts by government, schools, religious leaders, communities, and families to help us curb the spread of AIDS.

Each life we lose to AIDS costs us not just in dollars but robs us as well of the vitality and spirit that AIDS victims brought to their communities. We must not simply remember these persons, we must mobilize for action, to involve ourselves in the fight against this disease. That is why I, as a longtime advocate of voluntary community and national service, am so pleased to note that organizers of these events are using them as opportunities to enlist memorial service participants in this continued struggle. Once again I salute those involved every day in this struggle and ask my colleagues to remember the many thousands who have died of AIDS.•

## THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT

• Mr. HATFIELD. Mr. President, many in this body have followed the efforts of the Environment and Public Works Committee as it seeks to craft legislation to reauthorize the Resource Conservation and Recovery Act. I want to encourage my colleagues on that committee in their efforts. Passage of effective RCRA legislation is the most important step this body can take toward addressing the growing solid waste crisis facing this country.

Mr. President, I rise briefly this afternoon to highlight for my colleagues a very important vote which took place in the Environment and Public Works Committee. The committee voted on an amendment offered by Senator JEFFORDS that would have included a national beverage container deposit provision in RCRA. While the measure failed by three votes, I see much to be encouraged about and will continue to press for adoption of this effective recycling program.

There appeared to be some confusion on the part of committee members regarding the Commerce Committee's interest in this legislation, which is drafted as an amendment to RCRA and logically belongs on that vehicle. Several members of the Environment Committee apparently voted against the amendment on deposits because they believed that the Commerce Committee intends to take action on the proposal.

However, for the past 10 years, we have politely and patiently requested a hearing in the Commerce Committee on this issue. We have been turned away each year. No hearings have been forthcoming. Hearings would show the undeniable value of beverage container deposits, something opponents of this legislation seek to avoid at all costs.

But opponents have not silenced the three favorable studies conducted by the General Accounting Office. Nor have they silenced a host of other studies published by cities, research groups, and universities. Nor have they silenced the record of success achieved in the States that have deposit systems in place. This record should come across loud and clear anyone skeptical about the effectiveness and value of this proposal.

This proposal belongs on RCRA. RCRA is the leading Federal recycling statute. Any recycling legislation passed by this body that omits the deposits on beverage containers looks like an empty vessel.

I agree with the sentiments of my good friend, Senator JEFFORDS: It is a sad commentary when this body cannot pass environmental legislation that is proven to work and that has the support of the vast majority of Americans. Today, nine States, including Oregon, lead the way with deposits on beverage containers—nine States which the GAO concluded are doing the vast majority of recycling in this country.

Much lamenting occurs on this floor about the low recycling rate we are now achieving. We currently recycle an embarrassing 13 percent of our garbage. Other than offering a goal of reaching a 25-percent recycling rate by the year 2000, I see very little leadership at the Federal level in the area of recycling policy.

Unlike many proposals, a national deposit system would provide tangible benefits the moment it goes into effect. This program alone would increase this Nation's overall recycling rate from 13 to over 17 percent, bringing us one-third of the way to our goal of a 25-percent nationwide recycling rate.

I continue to be dismayed that those in the beverage industry turn up their nose at this 4-percent increase and defend the status quo. But can those of us in Congress afford to take such an arrogant attitude? I do not believe so. To date, the efforts of deposit States translate into an energy savings of over 3.5 billion gallons of oil worth $2.3 billion. If enacted on a nationwide basis, a deposit system would save the equivalent of 4 million gallons each day.

We have a garbage crisis, an energy crisis, and litter continues to be a blight on our roadsides and beaches. Day after day, States with deposit laws prove that such a system works quite effectively on each of these problems. And if there is one thing we need around here it is programs that work.

As a former Governor, I believe that the best legislative ideas are those that evolve at the State level. We are on firm ground when we use the States as laboratories and learn from their experiences. There is no better argument in favor of deposits than to simply point to the experience of deposit States.

Those in the beverage industry have spent millions in States across the country to defeat this proposal. Many will recall the $2.3 million the beverage industry spent to defeat a local referendum on beverage container deposits in Washington, DC a few years ago. Outspending the supporters of deposits is an industry goal and they have done so, often at a rate of 10 to 1.

Well, good ideas do not die quite so easily. The head-in-the-sand industry rhetoric will not retrieve the more than 60 billion beverage containers that will be discarded this year, resulting in an energy loss equivalent to nearly 4 billion gallons of gasoline.

Life without a national deposit system is a luxury we can no longer afford. This is solid environmental legislation with a proven record of success. I want my colleagues to know that I intend to press this issue at every opportunity.●

## APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly spring meeting during the 2d session of the 102d Congress, to be held in Banff, AB, Canada May 14-18, 1992:

The Senator from Alabama [Mr. HEFLIN], chairman; and

The Senator from Hawaii [Mr. AKAKA].

## AUTHORIZATION FOR TESTIMONY AND DOCUMENT PRODUCTION BY AND REPRESENTATION OF EMPLOYEE OF THE SENATE

Mr. FORD. Mr. President, on behalf of Senator MITCHELL and the distinguished Republican leader Mr. DOLE, I send to the desk a resolution to authorize a Senate employee to testify and produce documents and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 297) to authorize testimony and document production by and representation of employee of the Senate in United States v. Charles E. Hughes, Sr.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the U.S. attorney for the Middle District of Tennessee is prosecuting an assault weapon case in federal district court titled United States versus Charles E. Hughes, Sr. The defendant, a resident of Louisiana, furnished materials to Senator JOHNSTON's office in support of his request that the office assist him regarding his allegations of unfair treatment. The Senator's staff forwarded these materials to the Department of Justice, on the understanding that this was in accordance with the constituent's wishes, in order that the allegations could be appropriately reviewed. The U.S. attorney believes that portions of these materials are relevant to the trial of this case and is seeking production of the office's original records and testimony about the facts of their delivery.

It is understood by the U.S. attorney that internal Senate documents and confidential records pertaining to casework performed for the constituent in other areas will not be sought in connection with this matter. This resolution would authorize production of, and testimony about, the original materials that the defendant provided, which were forwarded to the Justice Department. The resolution would also authorize representation.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 297), with its preamble, reads as follows:

S. RES. 297

Whereas, in the case of United States v. Charles E. Hughes, Sr., No. 3-91-00194, pending in the United States District Court for the Middle District of Tennessee, the United States Attorney has caused a subpoena for testimony and document production at trial to be served upon Shannon Langlois, an employee of the Senate on the staff of Senator J. Bennett Johnston;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Shannon Langlois is authorized to testify and to produce documents in United States v. Charles E. Hughes, Sr., except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Shannon Langlois in connection with her testimony in United States v. Charles E. Hughes, Sr.

## APPROPRIATED FUNDS FOR THE MISSISSIPPI SIOUX INDIANS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration Calendar No. 455, S. 2342, a bill relating to the Mississippi Sioux Indians; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table; and that any statements relating to this measure appear at the appropriate place in the RECORD as if read.

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

So the bill (S. 2342) to amend the act entitled "An Act to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes," approved October 25, 1972 (86 Stat. 1168 et seq.) was deemed read the third time, and passed; as follows:

S. 2342

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

**SECTION 1. AMENDMENT TO ACT OF OCTOBER 25, 1972.**

The Act of October 25, 1972 (86 Stat. 1168), is amended by adding at the end thereof the following new sections:

**"SEC. 306. AUTHORITY TO BRING ACTION.**

"Notwithstanding any other provision of law, any action of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, or the Sisseton-Wahpeton Sioux Council of the Assiniboine and Sioux Tribes of Montana filed in the United States District Court for the District of Montana to contest the constitutionality or validity under law of this Act shall not be barred by any statute of limitations, lapse of time, or bar of laches, if the complaint is filed no later than April 1, 1993. Exclusive original jurisdiction over any such action filed on or before such date is hereby vested in the United States District Court for the District of Montana. Nothing in this section or section 307 shall be construed as an inference of liability on the part of the United States.

**"SEC. 307. AUTHORITY TO SETTLE ACTION.**

"Notwithstanding any provision of this Act or any other provision of law, the Attorney General is authorized to settle any action that may be brought pursuant to section 306 of this Act.".

## CONGRATULATING THE CREW OF THE SPACE SHUTTLE "ENDEAVOUR"

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 296, a resolution to congratulate the crew of the space shuttle *Endeavour* for the success of their mission, submitted earlier today by Senator GARN; that the resolution be agreed to and the motion to reconsider laid upon the table; further that any statements appear in the RECORD at the appropriate place.

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

The Senate proceeded to consider the resolution.

Mr. GARN. Mr. President, I thank my colleague for offering this, and the

Senate agreeing to it. I will be very brief.

I would simply like to say how proud I was of the *Endeavour* astronauts yesterday. There have only been six missions that have participated in the either repair or trying to save satellites. The third such mission was the one that I participated in, in 1985.

So I watched with particular interest, last night, the skill of those crew members, particularly Dan Brandenstein. I do not think most people realize what skill it takes to rendezvous at 17,500 miles an hour with a 9,500-pound satellite.

I also recall—I think it is appropriate that Senator FORD is on the floor because he and I were members of the same class of 1974. And in February of 1975, as new members of the then full Senate Space Authorization Committee, we toured NASA's facilities, met General Leonov and the Russian crew of *Soyuz* and the *Apollo-Soyuz* mission.

So he, too, has been involved in the space program for a number of years.

This was such a spectacular mission yesterday, showing the ability of human beings to be smarter than computers and robots, and their ingenuity being able to solve a problem.

I am pleased the Senate has seen fit to pass this resolution commending them for their superior work, and I thank the distinguished Senator from Kentucky.

Mr. FORD. I thank my friend, also.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 296

Whereas the crew of the Space Shuttle *Endeavour* has successfully completed its assignment to rendezvous, capture, and deploy the stranded INTELSAT VI telecommunications satellite;

Whereas the successful capture of the INTELSAT VI satellite represents the first simultaneous spacewalk by 3 astronauts in the history of manned space flight and is the 100th spacewalk in the history of both the United States and Soviet space programs;

Whereas the capture of the INTELAST VI satellite involved both the largest spacewalk in the history of the United States space program and the first time 3 such spacewalks have been conducted on a single shuttle flight;

Whereas in overcoming the initial malfunction of the capture device, the crew of the *Endeavour*, and the mission support teams, quickly conceived and designed an alternative strategy to secure the INTELSAT VI satellite utilizing Space Station Freedom structural components, which were readily deployed to serve as a base enabling the 3 astronauts to capture the satellite;

Whereas this mission brilliantly demonstrates the unique ability of astronauts to perform complex and challenging tasks in space with resourcefulness, ingenuity, and flexibility far beyond the capabilities of machines and other robotic devices; and

Whereas this flight of the Space Shuttle *Endeavour* is it maiden voyage as the latest addition to the National Aeronautics and Space Administration's orbiter fleet which was fully funded in 1986, and was built and delivered as initially scheduled, under its estimated cost: Now, therefore, be it

*Resolved*, That—

(1) the Senate commends and congratulates the crew of the Space Shuttle Endeavour for their magnificent rescue of the INTELSAT VI satellite and for making the maiden voyage of this orbiter so memorable and successful; and

(2) the Secretary of the Senate is directed to deliver certified copies of this resolution to Daniel Goldin, Administrator of the National Aeronautics and Space Administration and to Daniel C. Brandenstein, Commander of the Space Shuttle Endeavour STS-49 mission crew.

## AUTHORITY FOR COMMITTEE TO REPORT

Mr. FORD. Mr. President, I ask unanimous consent that on the Friday, May 15, from 10 a.m. to 12 noon, the Committee on Banking and the Committee on Environment and Public Works may file reported legislative calendar business.

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

## ORDERS FOR MAY 15 AND MAY 19, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. Friday, May 15, that when the Senate meets on Friday, it meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 9:30 a.m., Tuesday, May 19; that on Tuesday, following the prayer, the Journal of proceedings be deemed approved to date; and following the time for the two leaders, there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator GORTON recognized for up to 10 minutes; further that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the regular party conference luncheons.

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

## RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:32 p.m., recessed until Friday, May 15, 1992, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 14, 1992:*ERR08*

DEPARTMENT OF STATE

JOSEPH CHARLES WILSON IV, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC, AND TO SERVE CONCURRENTLY WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

U.S. INSTITUTE OF PEACE

THOMAS E. HARVEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 19, 1993, VICE JOHN NORTON MOORE, RESIGNED.

STATE JUSTICE INSTITUTE

JOHN F. DAFFRON, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994. (REAPPOINTMENT)

DEPARTMENT OF STATE

DONALD HERMAN ALEXANDER, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

JOYCE A. DOYLE, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1998. (REAPPOINTMENT)